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MIDSTATE PROJECT, NEBRASKA

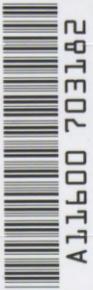
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HEARING
BEFORE THE
SUBCOMMITTEE ON
IRRIGATION AND RECLAMATION
OF THE
COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE
EIGHTY-EIGHTH CONGRESS
SECOND SESSION
ON
S. 388

A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONSTRUCT, OPERATE, AND MAINTAIN THE MIDSTATE RECLAMATION PROJECT, NEBRASKA, AND FOR OTHER PURPOSES

MARCH 4, 1964

Printed for the use of the Committee on Interior and Insular Affairs



MIDSTATE PROJECT, NEBRASKA

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HEARING

OF THE

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MIDSTATE PROJECT, NEBRASKA

WEDNESDAY, MARCH 4, 1964

U.S. SENATE,
IRRIGATION AND RECLAMATION SUBCOMMITTEE
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:07 a.m., in room 3110, new Senate Office Building, Senator Frank E. Moss (chairman of the subcommittee) presiding.

Present: Senators Frank E. Moss (Utah), Quentin N. Burdick (North Dakota), Gordon Allott (Colorado), and Len B. Jordan (Idaho).

Also present: Jerry Verkler, staff director; Stewart French, chief counsel; Roy M. Whitacre, professional staff member; Richard Andrews, minority counsel; and Robert Bendt, staff member.

Senator Moss. The subcommittee will come to order.

The measure to be considered is S. 388, to authorize the Secretary of the Interior to construct, operate, and maintain the midstate reclamation project, Nebraska, and for other purposes.

This project has been before the committee for the past 8 years in various forms.

It was passed by the Senate on September 21, 1961, but was not acted on by the House Interior and Insular Affairs Committee.

The bill and the reports of the Departments concerning this bill will be placed in the record at this point.

(The documents referred to follow:)

[S. 388, 88th Cong., 1st sess.]

A BILL To authorize the Secretary of the Interior to construct, operate, and maintain the midstate reclamation project, Nebraska, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to construct, operate, and maintain in accordance with the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto) the midstate Federal reclamation project, Nebraska, for the principal purposes of furnishing a surface irrigation water supply for approximately one hundred and forty thousand acres of land, aiding in the replenishment of the ground water supply of the area for domestic and agricultural use, controlling floods, conserving and developing fish and wildlife, and producing hydroelectric power. The principal works of the project shall consist of a diversion dam on the Platte River, a main supply canal, an interconnected reservoir system, hydroelectric power facilities, wasteways, pumps, drains, canals, laterals, distribution facilities, and related works, including, on a nonreimbursable basis, minimum basic recreational facilities.

Sec. 2. The midstate project shall be integrated, physically and financially, with the other Federal works in the Missouri River Basin constructed or authorized to be constructed under the comprehensive plans approved by section 9 of the Act of December 22, 1944 (58 Stat. 891), as amended and supplemented, and shall be a

unit of the Missouri River Basin project therein approved and authorized, and the authorization for the appropriation of funds for the accomplishment of the works to be undertaken by the Secretary of the Interior under said authority shall extend to and include funds for the construction of the midstate project.

SEC. 3. The interest rate used for computing interest during construction and interest on the unpaid balance of the capital costs allocated to interest bearing features of the project shall be determined by the Secretary of the Treasury as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due or callable for redemption for fifteen years from date of issue.

SEC. 4. For a period of ten years from the date of enactment of this Act, no water from the project authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 29, 1964.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: This responds to your request for the views of this Department on S. 388, a bill to authorize the Secretary of the Interior to construct, operate, and maintain the midstate reclamation project, Nebraska, and for other purposes.

We recommend enactment of the bill with certain amendments suggested hereinafter.

The purpose of S. 388 is to modify the Missouri River Basin project authorization to include the proposed Nebraska midstate reclamation project as a division of the Missouri River Basin project in order that its construction, operation, and maintenance may be undertaken by the Department of the Interior and it may be integrated physically and financially with the other Federal works of the Missouri River Basin project.

Legislation to accomplish this was introduced in the 86th and 87th Congresses. Our legislative reports on those bills supported inclusion within the Missouri River Basin project of this multiple-purpose development to serve the irrigable lands of the Nebraska Midstate Reclamation District. Those reports (dated April 24, 1959; April 20, 1960; and May 24, 1961) commented favorably and in detail on the physical plan for the project, which was prepared for the district by consulting engineers.

Departmental representatives and the district and its consulting engineers have consulted on the project plan over the years, and this Department is in general agreement with the plan of development as presented in the plan which is before the Congress. Should this legislation be enacted we would expect to construct the project facilities substantially in accordance with the physical plan in the project report, with such minor modifications as detailed postauthorization studies, preliminary to a definite plan report, indicated to be desirable.

Appended to this report is our "Reevaluation Statement, Midstate Project, Nebraska, as a proposed unit of the Missouri River Basin Project"—revised February 1964. This reevaluation statement summarizes an updated economic and financial analysis of the development. Reanalysis was necessary to reflect a rise in estimated project cost and to incorporate procedures and criteria for project analysis and repayment which have undergone revision since we last reported to your committee on this project in May 1961. Within the limits of the basic data available, the studies summarized in the reevaluation statement were performed to the same standards as are normally employed in the preparation of feasibility reports on projects proposed for authorization as a result of investigations by the Bureau of Reclamation.

Estimated project cost has risen from \$81,467,000 (1958 estimate) to \$84,202,000 in consequence of a 5-year, 3.4-percent uptrend in construction costs.

The most significant changes in the economic and financial analysis derive from the "Policies and Procedures in the Formulation, Evaluation, and Review of Plans for the Use and Development of Water and Related Land Resources," approved by the President on May 15, 1962 (S. Doc. 97, 87th Cong., 2d sess.). These changes include ascription of benefits and allocation of costs to area redevelopment, revision in methods of benefit computation for fish and wildlife and recreation, allocation of joint costs to recreation, and determination of the benefit discount rate in accordance with a prescribed formula.

Another important change in the project financial picture derives from adoption of the principles of the administration's proposed Federal Water Project Recreation Act—transmitted to the Congress on November 2, 1963—in the restudy of the project. This is the application of limits upon the nonreimbursability of the aggregate of allocations of joint costs to recreation and fish and wildlife enhancement.

Based upon revised cost estimates and benefit evaluation, and using the applicable discount rate of 3 percent, the \$84,202,000 cost of the project is now allocated as follows:

Purpose:	<i>Amount</i>
Irrigation.....	\$55,431,000
Flood control.....	12,466,000
Fish and wildlife enhancement.....	8,738,000
Area redevelopment.....	3,188,000
Recreation.....	3,161,000
Deferred commercial power.....	1,218,000
Total.....	84,202,000

Of the foregoing, the costs allocated to flood control plus \$10,143,000 of the \$11,899,000 allocated to recreation and fish and wildlife enhancement would be nonreimbursable; irrigation costs would be reimbursable without interest; and the costs allocated to deferred commercial power together with \$1,756,000 of the costs allocated to recreation and fish and wildlife enhancement would be reimbursable with interest.

Revenues received from irrigation water users and the conservancy district would repay \$43,236,600—or 78 percent—of the irrigation allocation over a period of 50 years following a development period. The balance of the irrigation allocation, \$12,194,400, would be returned from power revenues of the Missouri River Basin project, as would the interest-bearing investments in deferred commercial power (\$1,218,000) and the reimbursable component of costs allocated to fish and wildlife enhancement and recreation (\$1,756,000).

The sufficiency of Missouri River Basin project power revenues to meet the reimbursement and final assistance obligations of the overall Missouri River Basin project was dealt with most recently in our "Report on Financial Position, Missouri River Basin project, December 1963," which was transmitted to the Congress on December 17, 1963. That report illustrated that with an increase of 0.25 mills per kilowatt-hour in the sale price of firm commercial power marketed in the eastern division of the project, and adoption of proposed interest rate criteria (which would require legislation) that adequate revenues are in prospect to retire all reimbursable investments, and meet all requirements for financial assistance—including defrayal of irrigation costs of the Nebraska midstate project which are beyond the capacity of the irrigators to repay.

In addition to irrigation assistance there would be an additional call upon Missouri River Basin power revenues in a total amount of \$5,612,000 to defray the component of costs allocated to recreation and fish and wildlife enhancement which would become reimbursable with interest under the terms of the proposed "Federal Water Project Recreation Act." The total repayment requirement rises from \$1,756,000 mentioned earlier in the report to \$5,612,000 because interest accrues for a 37-year period from completion of construction until power revenues become available to retire the obligation. Although our study and "Report on Financial Position, Missouri River Basin Project" did not envision this additional call upon project power revenues, it could be met without exceeding the customary 50-year period within which reimbursable costs are returned.

To clarify the relationship of the Nebraska midstate project to the overall Missouri River Basin project it should be denominated a "division" of the

larger basin project. To accomplish this the following amendments should be made to the bill:

(a) In the title of the bill, delete the words "midstate reclamation project, Nebraska" and substitute therefor "Nebraska Mid-State division, Missouri River Basin project".

(b) On page 1, line 7, delete the words "midstate Federal reclamation" and substitute therefor "Nebraska Mid-State division, Missouri River Basin".

(c) On page 2, line 10, delete the words "midstate project" and substitute therefor "Nebraska Mid-State division".

(d) On page 2, line 24, delete the word "project" and substitute therefor "Nebraska Mid-State division".

Several of the counties in which the Nebraska midstate project is located have been designated as rural redevelopment areas under criteria of the Area Redevelopment Act of 1961 (75 Stat. 47). Accordingly, the benefits which would accrue to area redevelopment from construction and operation of the project have been calculated. We propose that this function be recognized as a project purpose in accordance with the principles adopted in May 1962 for water resource project evaluation (S. Doc. 97, 87th Cong., 2d sess.).

To accomplish this, and also to include recreation as a project purpose, line 3, page 2, of the bill should be deleted and the following substituted: "wildlife, contributing to area redevelopment, enhancing recreation opportunities, producing hydroelectric power, and for other purposes. The principal". Also, a new section 5 should be added to the bill as follows:

"SEC. 5. The Secretary is authorized, if the Nebraska Mid-State division is located in whole or in part in a redevelopment area or areas as defined in the Area Redevelopment Act (75 Stat. 47), to recognize redevelopment as a function of the division, to evaluate the benefits of the division in relieving persistent unemployment and underemployment, and to allocate costs to the redevelopment function as appropriate, which costs shall be nonreimbursable."

To make applicable the interest rate criteria proposed in the Department's "Report on Financial Position, Missouri River Basin Project, December 1963" a new section 6, reading as follows, should be added to the bill:

"SEC. 6. From and after July 1, 1964, the interest rate on the unamortized balance of the investment allocated to commercial power in facilities constructed or under construction on June 30, 1964, by the Department of the Army, the commercial power from which is marketed by the Department of the Interior pursuant to section 9 of the Flood Control Act of 1944, and in the transmission and marketing facilities associated therewith, shall be two and one-half per centum per annum."

To provide necessary recreation authority in connection with the Nebraska midstate division, and to incorporate the precepts of the proposed "Federal Water Project Recreation Act," a new section 7, reading as follows, should be added to the bill:

"SEC. 7. The Secretary is authorized in connection with the Nebraska Mid-State division to construct, operate, maintain, or otherwise provide for basic public outdoor recreation facilities, to acquire or otherwise to include within the division area such adjacent lands or interests therein as are necessary for present or future public recreation use, to allocate water and reservoir capacity to recreation, and to provide for the public use and enjoyment of division lands, facilities and water areas in a manner coordinated with other division purposes. The Secretary is authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, and additional development of division lands or facilities, or to dispose of division lands or facilities to Federal agencies or State or local public bodies by lease, transfer, conveyance or exchange, upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation purposes. In connection with the foregoing undertakings taken together with developments for the enhancement of fish and wildlife resources on the Nebraska Mid-State division, Federal costs incurred specifically for lands and basic facilities shall be nonreimbursable; joint costs allocated to recreation and fish and wildlife enhancement shall in the aggregate be nonreimbursable to the extent that they do not exceed the sum of \$7,000,000 plus ten per centum of the cost of joint use land and facilities of the division in excess of \$40,000,000; and other Federal costs allocated to recreation and fish and wildlife enhancement shall in the aggregate be nonreimbursable up to a limit of \$5,000,000. Provision shall be made for the reimbursement, or for the contribution by non-

Federal interests of costs allocated to recreation and fish and wildlife enhancement in excess of the foregoing limit under one or a combination of the following methods as may be determined appropriate by the Secretary: (1) provision by non-Federal interests of lands or interests therein, or facilities required for the division; (2) payment, or repayment, with interest at a rate comparable to that for other division purposes, pursuant to agreement with one or more non-Federal public bodies; (3) repayment, with interest, from the date of first delivery of water or power from the unit for beneficial use at a rate comparable to that for other division functions by use of project revenues that will be available during payout of cost allocations to water and power functions. For the purposes of this Act, 'joint-use land and facilities' shall mean land and facilities serving two or more division purposes, one of which is recreation or fish and wildlife enhancement. Nothing herein shall limit the authority of the Secretary granted by existing provisions of law relating to recreation, development of water resources projects, or disposition of public lands for recreational purposes."

This amendment would conform the bill to the position of the administration as set forth in H.R. 9032, 88th Congress.

Enactment of the proposed bill would authorize expenditures of \$935,000 for lands for the enhancement of migratory waterfowl production and resting habitat. This amount would be charged against the expenditure limitation of \$28 million for such expenditures that would be established by subsection 1(f) of the proposed "Federal Water Project Recreation Act."

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed report from the standpoint of the administration's program, subject to possible supplementary advice from the Bureau of the Budget when views of the Department of Commerce on the proposed amendments to the bill dealing with area redevelopment are received.

Sincerely yours,

KENNETH HOLUM,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 23, 1963.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your letter of January 24, 1963, requesting the views of the Bureau of the Budget on S. 388, a bill to authorize the Secretary of the Interior to construct, operate, and maintain the midstate reclamation project, Nebraska, and for other purposes.

The purpose of the bill is clearly stated in its title.

The Department of the Interior is preparing a "Supplemental Economic and Financial Analysis" on the Nebraska midstate project and we understand it will not be completed until the week of August 26. Until the supplemental analysis is received and reviewed, the Bureau of the Budget has no basis for commenting on the proposed legislation.

Accordingly, we propose to defer advising you of our views on S. 388 until after we have received and reviewed the Department's report referred to above.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

Senator Moss. We will now hear testimony on the midstate project, S. 388. This is a bill that has been introduced by Senator Hruska and Senator Curtis, both from the State of Nebraska.

I see Senator Curtis is here. We will recognize him first.

If Senator Hruska intends to come, we will hear him and then we will hear Hon. David T. Martin, Member of Congress from the Third District of Nebraska.

Would you like to come forward, Senator Curtis?

I have ordered heretofore that the reports of the department, which are favorable, be placed in the record. I understand, Senator Curtis, that this matter was heard extensively by the House Interior Committee for the last 2 days and they made a very considerable record on it.

If there is no objection by the committee, I think, because of the circumstance of the pressure of time, that we will incorporate their record by reference over here so that we may have that to study in more detail if necessary. This will enable the subcommittee to only touch the highlights here rather than go into minute detail on the project.

STATEMENT OF HON. CARL T. CURTIS, A U.S. SENATOR FROM THE STATE OF NEBRASKA

Senator CURTIS. Mr. Chairman and members of the committee, I do appreciate this very heavy schedule in which you have arranged to hear us.

I was glad to hear the chairman state that the House record will be made a part of the record here. I am sure that we can arrange so that ample copies will be supplied of the hearings both on the staff level and for the Senators, because it will answer a great many detailed questions.

First, Mr. Chairman, I would like to ask unanimous consent that a brief statement of mine on the project be inserted at this point in the record.

Senator Moss. It may be inserted at this point.
(The statement follows:)

STATEMENT OF HON. CARL T. CURTIS, A U.S. SENATOR FROM THE STATE OF NEBRASKA

Mr. Chairman, I am well aware of the terrific schedule that the Senate has. I want to express my deep gratitude to the chairman and to all others for making this hearing possible.

The midstate project in Nebraska has had many hearings before this committee in the Senate. The Senate passed the bill in the last Congress, but even prior to that the story of midstate has been told to this committee.

Our first efforts were to get its approval as a partnership project, a suggestion made during the Eisenhower administration. That program did not materialize, and so the local interest lost some time in getting their project considered as a Bureau of Reclamation project.

I have had a part in all of the Missouri River Basin development. In the Missouri Basin power revenues are used to pay that part of the irrigation costs that cannot be borne by the landowners using the water.

Of the first 16 projects initiated in the Missouri River Basin involving irrigation, the average repayment of the water users of that part of the cost allocated to irrigation amounted to 21.1 percent. Of these 16 projects, 5 were in the State of Nebraska, and they averaged 28.4 percent.

The midstate project, in my opinion, stands at the top of the list of all past, present, and future projects in the Missouri Basin from the standpoint of the Treasury of the United States.

In the case of the midstate project now before you the landowners who will use water will pay around 75 percent or more of the total cost allocated to irrigation. To say the least this is unusual. It is more than 3½ times the average for the Missouri Basin.

This committee recently reported, and the Senate has passed, another project in the Missouri Basin which will cost approximately 2½ times as much as the midstate project, and the amount of irrigation costs that will be repaid to the Treasury by the water users is roughly 15 percent.

I am for the midstate project. I urge your favorable consideration of it. I hope it will be reported out by this committee and your full committee and enacted by the Congress.

I arrived at my decision after literally months of personal investigation and study of the project. I am familiar with the area, its people, and its economy. I believe that it is a good project.

Other witnesses and other material which will be incorporated into our record here will go into detail concerning the cost figures, the allocation of those costs and the engineering factors.

The midstate project not only will have the highest repayment, but the users of the surface irrigation by it will cause the least drain on the power revenues in the Missouri River Basin which is used to support so many irrigation projects.

In view of our many appearances before this committee on prior occasions, I am making this statement short. I do want to thank you, the committee, for all the courtesies that have been extended and are extending to the interested parties.

Senator CURTIS. Now, Mr. Chairman, I believe very strongly in the midstate project. This committee has had a number of hearings on it going back in the days when we were working on the partnership plan which didn't develop nationally and we had to restart as a Bureau of Reclamation project. An authorization bill has heretofore passed the Senate. I believe that the updating of figures and opinions and conclusions carried on in the House will take care of that now.

Now, while I am unqualified before the midstate project, I serve the entire State of Nebraska. I have an obligation to every citizen to be treated fairly. There are some people here who are opposed to the project. Knowing that the time would be short, I suggested to both groups what our plan was and ask that the committee House hearings, including all of the cross-examination, be made a part of the record by reference. I hope that we can allocate the time here for brief statements. Even though I disagree with their conclusions, we want the opposition to be called upon to state anything that they might want to state in supplement to what they said in the House.

The proponents are here; there is quite a delegation. I would like to ask, Mr. Chairman, inasmuch as this is going to be a short hearing, that at this point you secure the names so that we may insert in the record the names of all the interested parties here and their title, as well as those who are appearing in opposition.

This project is basically the project that was before the Senate when it was passed last with the exception that the figures have been upgraded to meet the present-day circumstances and costs.

I am sure that when you explore the House hearings you will find how very favorable this project stands out from the standpoint of repayment.

Mr. Chairman, in view of the fact that Senator Hruska, my senior colleague, is not present, I would like to ask unanimous consent that his statement, when he sends it over, be incorporated at this point in the record. He is the principal introducer.

(The statement referred to follows:)

STATEMENT OF HON. ROMAN L. HRUSKA, A U.S. SENATOR FROM THE STATE OF NEBRASKA

Mr. Chairman and members of this committee, it is my pleasure to appear before you this morning as one of the sponsors of the bill for the midstate reclamation project. I have met with this committee in years past to urge the authorization of this worthy project and since bills similar to the one at hand

have been previously considered by this committee and since the record of those proceedings is available, I shall not take your important and limited time to restate the arguments in behalf of midstate. Expert testimony from the Bureau and the local sponsors is available and I am sure the committee will be given a detailed and up-to-date explanation of the facts involved in this matter. There are, however, several points on which I would like to touch briefly.

In reviewing the testimony of prior hearings, I found these phrases used to describe the character of this undertaking: "Midstate is a good project," "The Nebraska midstate project is a logical addition to the Missouri River Basin project," and "Here is a project—that by any comparison with any other unit—measures up head and shoulders above most of them." These words state the case well and sum up my feelings on the subject clearly and simply.

Some time ago the Bureau of Reclamation tabulated the irrigation costs and percentage repaid by water users on 16 existing projects in Missouri Basin States. Average repayment by water users for irrigation costs on these 16 is 21.1 percent. Five of the sixteen projects are in Nebraska and the average repayment of these 5 is 28.4 percent. This bill will provide a repayment by water users of 78 percent of the irrigation costs of the midstate project. This repayment figure of the irrigation allocation is one of the highest, if not the highest, percentage of any Federal reclamation project in the country. Testimony on the favorable benefit-cost ratio also will be presented to the committee. The figures will speak for themselves. They make an impressive case.

The Nebraska Midstate Reclamation District was organized in 1948. Since that time the people in the district have levied a tax upon themselves which has provided nearly \$1.5 million for expenses for the investigations and surveys involved in determining feasibility. This is a unique and extraordinary achievement as well as very persuasive evidence of local support of the project.

One of the most important reasons for the construction of this unit is the desirability to recharge the ground water supply in the area in and around the three midstate counties. There is credible evidence that the supply of such water can be endangered by depletion unless it can be replenished. Midstate is a vehicle whereby this can be accomplished. If this is not done, continued use of millions of dollars of investment in pumping equipment and other irrigation equipment already in use can well be jeopardized. This, of course, will be in addition to the deprivation of the other benefits that would be realized once the project is in operation.

The development of a project of the order of midstate is a mighty task. Much work must be done not only in the field but in the Congress as well.

We all know from our individual responsibilities of the work that goes on in committee. Legislation must be examined carefully to determine that it comes within the guidelines set forth in existing law and that the program envisioned in the bill under consideration is sound and well balanced. Meaningful and worthwhile results can be achieved only after a full record has been developed and all points of view heard and examined. Certainly, in this regard, this committee has a fine reputation for thoroughness and diligence.

Mr. Chairman, the midstate unit has been sought for over a decade. Legislation to provide for its creation and financing was first introduced in 1953. Probably no irrigation project in recent years has had the thorough and expert study given this one. Those of us associated with its sponsorship have been impressed with the care and the quality of the technical planning and engineering which have gone into its development.

Midstate also has come under careful congressional scrutiny in both the House and the Senate. During past sessions of Congress, hearings on the merits of the project have been held by both bodies and, as you know, the Senate passed authorizing legislation in the 87th Congress.

I am confident that when these hearings are finished a record will have been assembled that is complete and accurate in every detail. With this accomplished, we can safely say that the case for midstate has been developed and brought along in a sound and orderly fashion. The midstate proceedings are a credit to the legislative process. I am hopeful, that in view of this, early action now can be obtained.

Midstate is a significant step toward the fulfillment of objectives of the Missouri River Basin development. When authorized and constructed, it will be operated as a unit of that project and will serve to stabilize and promote the economy of a large and important section of the basin.

There are witnesses present who will respond to technical questions concerning this project. In this matter, I shall willingly defer to them.

I appreciate very much the opportunity to appear before your committee on behalf of the midstate reclamation project. I know that under the guidance of the chairman, a valuable addition will be made to the existing record and I appreciate your allowing my remarks to be a part of it.

STATEMENT OF HON. CARL T. CURTIS—Resumed

Senator CURTIS. I will not take any further time now unless there are questions.

Senator MOSS. Well, you are suggesting, Senator Curtis, that you talked primarily about anything new or any updating that we have in the project since basically this matter has all been considered before. Certainly, it would be the intent of the chairman here that we could have a hearing limited in length because we will not need to go basically into the whole concept here but really to bring it up to date.

Senator CURTIS. Yes.

Now, I might pinpoint two things that the committee and the staff might be on the alert for.

The figures used in the Senate last time were made prior to the most recent cost allocation rules in regard to flood control, recreation, fish and wildlife, and other things. As a matter of fact, we stated last time that this project would repay by the landowners who use water about three times the average amount that would be repaid in the Missouri Basin. Actually, it is going to run more than that; maybe three and a half times now, due to the new farming.

There is one other question which I do not suggest that we debate at this time; I think it is a policy question for the two committees to decide. The project as submitted through channels, the Bureau of the Budget, had an area redevelopment allocation in it. The local interests are not asking for this.

We realize it would create problems with recreation districts elsewhere, and our suggestion is that midstate not be the guinea pig to thrash out the pros and cons of merging area redevelopment, reimbursable projects, but that whatever general policy is adopted is sponsored.

Also, I think it would be well to have the Bureau submit their figures as they come from the Bureau of Reclamation and also submit the alternative figures if the question of area redevelopment were eliminated, because, as I say, that is something involved in the national proposal. It did not originate with the local people, and they have made no request for it.

I will not take any further time because I do wish to have you hear the local interests and no doubt the Bureau people.

Senator MOSS. Thank you, Senator Curtis.

Are there any questions?

Senator BURDICK. No questions.

Senator MOSS. Senator Hruska's statement has been placed in the record as requested.

Is Congressman Martin here?

Congressman MARTIN, would you care to make a statement or insert a statement in the record?

STATEMENT OF HON. DAVID T. MARTIN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NEBRASKA

Mr. MARTIN. Mr. Chairman and members of the committee, I have a statement here that I would like to insert in the record at this point. Senator Moss. It may be inserted in the record.

(The statement referred to follows:)

PREPARED STATEMENT OF HON. DAVID MARTIN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEBRASKA

Mr. Chairman and members of the subcommittee, I want to thank the chairman for the courtesy extended in taking time to hold hearings on our midstate irrigation and flood control project.

The midstate project is located in south-central Nebraska along the north side of the Platte River, and it covers an area in width (north-south) of approximately 10 miles and in length (east-west) of 100 miles. There are approximately 550,000 acres of land within the midstate district boundaries, of which about 363,000 acres are designated as arable. Some 260,000 acres are now under irrigation from over 5,200 irrigation wells in this three-county area. Of this acreage, according to a 1958 survey, 96,000 acres would receive water from the district and 44,000 acres, which in 1958 was dryland farming, would also receive water from the district. This latter figure, however, has since been reduced because of the great number of irrigation wells which have been installed. These wells throw about 1,000 gallons of water a minute.

You are undoubtedly thinking now, Why should you need a reclamation project when you already have irrigation? According to tests, our water table, over the years, is dropping, due to the heavy discharge of water from our wells for irrigation purposes. As a consequence, the primary purpose to be served by this project is to recharge our underground water supply and assure this fertile valley of adequate water for all future needs.

The total cost of this project, according to the department, is \$84,384,000. Of this amount, \$55,431,000 is the project cost allocated to irrigation, of which \$43,236,000 will be repaid over 50 years by district revenues. The balance of \$12,194,400 is repayable from Missouri River Basin project power revenues.

The above repayment figures from district revenue is 78 percent of the irrigation allocation and is one of the highest, if not the highest, percentage of repayment of any Federal reclamation project in the country.

I would also like to make the point, which I feel is important, that the taxpayers within this district have assessed a 1-mill levy on themselves since 1948 which has provided over \$1,200,000 for engineering surveys, investigations, and feasibility reports. This money has not come from Washington, but from the pockets of the local taxpayers within the boundaries of the Midstate Irrigation District.

I would also like to point out that at the special election held on October 29, 1957, for approval to continue this district and this authority to levy a 1-mill levy, that the total "Yes" votes were 10,690 and the total "No" votes were 1,970. Rural precincts in Buffalo County—my home county—carried this project by 815 votes for and 287 against. Rural precincts in Hall County carried by a majority vote of 1,899 for and 288 against. In Merrick County, the eastern county of this district, the rural precinct vote in favor was 487, and against 687.

I have with me, Mr. Chairman, a tabulation of this vote by precincts which I would appreciate your including in the record at this point.

The benefit-cost ratios are as follows: The direct benefit-cost ratio is 1.52, and the total benefit-cost ratio is 1.57.

The citizens of the midstate district, Mr. Chairman, have indicated sincere interest in this project by their work over the past 20 years and by their vote in 1957 which continues the tax levy against themselves in order to make this project become a reality. The 78-percent repayment figure is most significant.

The duly elected officers from the Midstate Irrigation and Reclamation District are present and will testify in support of this project. Also present, for the first time, are two representatives of a newly formed organization, who will appear in opposition to this project. You will be hearing from these witnesses, also.

As the Congressman from the district which includes the midstate project, I completely and wholeheartedly recommend the committee's approval of H.R. 2681 and S. 388. It is a good project—a sound project—and one which has the approval of the taxpayers in the district.

Senator Moss. If you wish to make any comment in addition, you may do so at this point.

Mr. MARTIN. I would simply state in the expediency of saving your time and in order to have more time for the public witnesses, I wholeheartedly endorse this project; it is my hometown, in my county—part of the project is—and I endorse it 100 percent.

Senator Moss. Thank you very much, Mr. Martin. I appreciate that.

Here are copies of the statement if any of the Senators would like to read it at this point.

Now I think we will call the departmental witnesses because the proceeding yesterday was the other way around. We sometimes run into more extended questioning, I think, by reason of not having the statement of the Department first. So, we will ask Mr. Holum and Mr. Palmer to come forward. I understand that Mr. Dugan, Mr. Lee, and Mr. McBroom are all here. Mr. Dugan is the Regional Director; Mr. Lee is the Assistant Chief of the Division of Project Development; and Mr. McBroom is the Assistant Director for Technical Services at Sport Fisheries.

Gentlemen, we appreciate your being here.

As you heard from our colloquy with Senator Curtis, we believe that this hearing can profitably be handled really by an updating of this project since basically it has been before us for a long time. The fact has been approved by this committee in times past but we want it brought up to date, if you could do that for us.

STATEMENT OF HON. KENNETH HOLUM, ASSISTANT SECRETARY FOR WATER AND POWER DEVELOPMENT; ACCOMPANIED BY WILLIAM I. PALMER, ACTING ASSISTANT COMMISSIONER FOR RECLAMATION; H. P. DUGAN, REGIONAL DIRECTOR, DENVER; J. KARL LEE, ASSISTANT CHIEF, DIVISION OF PROJECT DEVELOPMENT; AND JAMES T. McBROOM, ASSISTANT DIRECTOR FOR TECHNICAL SERVICES AND SPORT FISHERIES

Mr. HOLUM. Thank you, Mr. Chairman.

I am most apologetic for appearing before you so often yesterday and today and taking up so much of your time when you are so busy.

However, in view of the fact that the matters we are considering are important, we appreciate the opportunity to appear before this committee on behalf of them.

If the chairman and the committee will indulge me, I plan this morning to address myself to specific items that relate to the midstate project. After they have been discussed with the committee, I should like for Bureau of Reclamation witnesses to discuss the specific details of the project and its physical features.

As the chairman has already noted and Senator Curtis has noted, this project has been considered in detail by the committee and in the 87th Congress by the Senate. There are, however, a couple of

matters concerning the midstate project that are sufficiently important that we discuss them this morning.

I have prepared a detailed statement, but I don't think that it would serve the purpose of the committee in your busy schedule if I were to read it. The statement I have prepared deals particularly with three items: The ability of the Missouri River Basin project to meet its financial responsibility as it would be affected by the midstate project; the problems having to do with cost allocation to recreation and fish and wildlife and their reimbursement; and a general statement of the relationship of the midstate project to agricultural production to the general economy of the State of Nebraska.

Since we discussed yesterday, in relationship to the Whitestone Coulee project and the Lower Teton project in Idaho, those matters having to do with cost allocation, I think we can skip over those very briefly this morning because everything that I said with respect to these other two projects applies equally to the midstate project.

The data that you have before you are formulated on the basis of the administration's views with respect to cost sharing of fish and wildlife and recreation costs. An amount of \$17,806,000 will be required from projectwide power revenues in order to assure the return of all reimbursable costs within acceptable time limits.

I want to call to the committee's attention that, because of the fact that costs allocated to fish and wildlife will be interest-bearing and their repayment will be deferred until after the project power investment has been paid out, the power revenues from the Missouri River Basin project will be increased by \$5,612,000.

This brings out the question that has been raised previously by members of this committee and other Members of Congress; that is, whether or not the Missouri River Basin project is able to provide necessary financial assistance to the midstate project under current policies of the Congress and the administration. That, particularly and specifically, is the question that I should like to deal with this morning.

This committee knows that the Department has had this matter, the Missouri River Basin's financial position, under intensive review for the last 3 years. In December, we transmitted to Chairman Jackson of the full committee, and I am sure through him to all the members of the committee, our report on the financial position of the Missouri River Basin project. The project was authorized in 1944.

We have prepared for the committee a summary of what was authorized in 1944 and what has been accomplished in the 20 years since that time. I should note that this tabulation excludes all the single-purpose investments for the Corps of Engineers. The total project authorized in 1944 was \$4,717 million. This is a large figure unless it is related to the fact that the Missouri River drains 10 of the 50 States in our Union. It is the longest river in this country.

The waters of the Missouri River not only make a substantial contribution to the economy of the 10 States in the basin from Montana to Missouri, but continue to contribute to the Nation's economy as the river joins the Mississippi and flows from St. Louis down to New Orleans and into the Gulf of Mexico.

As this is generally the type of project that was authorized 20 years ago, I think these figures have some significance. Ninety-two percent of the investment authorized by the Corps of Army Engineers is

completed; 20 percent of that of the Bureau of Reclamation is completed. We have made 16 percent of the total investment in irrigation; however, this includes the cost of storage projects on the main stream.

The specific irrigation facilities of the Bureau of Reclamation are 9 percent complete as contrasted with 65 percent of the investment in power and 66 percent of the investment in navigation and flood control.

This is the status of the Missouri Basin project. The legislation which you are considering this morning would authorize the Nebraska midstate project of the Missouri River Basin. We have had this overall project, as I said, under intense financial review for the past 3 years. We found that the project had deteriorated from a financial standpoint. It was necessary for us to deal with it; to find out what the problems are; to see what could be done to increase revenues, and, finally, take whatever action was necessary to get the project in conformity with policies that both the Congress and the executive branch think should be applied for multiple-purpose resource projects.

One of the things, and there are many things, that contributed to the worsening financial condition of the Missouri River Basin project. I would like, particularly, to call the committee's attention to one factor that has made perhaps the greatest contribution of all. That is the fact that the Missouri River Basin has just not produced the amount of water that it had been expected to produce when storage first became available in the early 1950's.

The third page of my prepared statement is a hydrograph that I think sets out quite vividly the problem that we are confronted within a hydroelectric power system in years that are deficient in rainfall. Since storage became available, we have only had 1 year, 1962, when average runoff was available.

As a result of these water deficiencies, power revenues in the Missouri River Basin project have been more than a hundred million dollars below the amount that was anticipated when the project was authorized by the Congress and power rates were set by the Department. This is one of the things that we had to deal with.

The first thing that we thought was important was to see what could be done to increase revenues within existing rate schedules, utilizing the facilities that were in existence. Several things have been done; there are other things that can be done and may be done in the future.

Again I would like to call the committee's attention to just one item that has been accomplished. The Department of the Interior has available extensive transmission systems in the Missouri River Basin project and elsewhere to carry out its responsibility for marketing hydroelectric power. The transmission system, I think, is well planned but even on a well-planned system there is always excess capacity available.

We found that it was possible to benefit the United States and the customers in this area to market some of the capacity that was available in these transmission facilities to the Missouri Basin Electric Cooperative on a basis that would increase the revenues to the system annually, revenues to the United States, by \$980,000. This is a significant contribution. We think there are other opportunities, and we are hopeful that they will mature so that we may work out similar arrangements with other systems in the area.

However, it is necessary for us to get this project on a financial basis to the satisfaction of everybody. We could not wait for all of these things to mature. We completed our financial study on the basis of only those things that would mature during 1963.

The Department's studies were based on the following fundamental criteria:

(a) Commercial power investments would be repaid with interest in not to exceed 50 years from the date of each block of investment.

(b) Irrigation investments associated with units of the plan in being or under construction on July 1, 1964, would be repaid as soon as possible after completion of commercial power repayment.

(c) Irrigation investments associated with future units would be repaid within 50 years, plus permissible development period, after each unit, division, or block of irrigable land would be available for irrigation service.

(d) Municipal and industrial water supply investment would be repaid with interest with revenues from sale of water for this purpose.

The subcommittee will note that under the second principle, existing irrigation investments will not necessarily be repaid during the 50-year period following the development period. However, these costs, which must be repaid from power revenues, will be the first recovered when power revenues are available. They represent less than 5 percent of the required irrigation assistance and only \$5 million will be deferred more than 5 years.

Senator ALLOTT. Mr. Holum, could I interrupt you at that point? Do you mean 5 years beyond the 50-year period? Is that what this statement means?

Mr. HOLUM. Five years beyond the 50-year period.

Senator ALLOTT. Now, going back to your first sentence in that paragraph, do I understand that paragraph to mean then that when the irrigation is paid up or paid out according to the individual block or unit that within 5 years there would be money available from the Missouri River Basin funds to apply upon these 5 years of the irrigation cost?

Mr. HOLUM. Senator, I am talking in this paragraph about existing irrigation investments, investments that have been made between 1944 and 1963. These irrigation investments were made at a time when Congress was not specifically requiring repayment on the 50-year period of time; they are minor investments.

When I say that they will be deferred more than 5 years, I mean 5 years more than the 50-year period that the Congress now requires.

Senator ALLOTT. Well, then, to straighten out my own mind on this, would the Missouri River Basin funds be available to pick up this 5 percent at the termination of that period?

Mr. HOLUM. Yes; they will be. That will be the first repayment that will be made before any new investments in irrigation are made. Under our payout schedule, power facilities will all be repaid in the year 2014 and we will then immediately repay all of these existing irrigation investments.

Senator ALLOTT. Thank you.

Mr. HOLUM. The Department's financial report represents a joint effort on the part of the Congress and the executive branch to standardize financial practices for water resource projects across the Nation.

The Corps of Engineers' projects on the Missouri River are the only corps projects in the country built during this particular period of time that bear interest at 3 percent on commercial power investment. All of the rest bear interest at $2\frac{1}{2}$ percent or less.

If we are to standardize and equalize financial practices across the country, the Department should be granted authority to charge the same interest rates on corps of Engineers' power investments in the Missouri River Basin—and associated investment—as have been established and which are now required to be charged for similar corps investments made at the same time in other parts of the Nation.

We have proposed legislation that would authorize a $2\frac{1}{2}$ percent interest rate after July 1, 1964, on unpaid balances of investments in Corps of Engineers' units started prior to that date. This can be accomplished by amending the legislation being considered here today to authorize the Nebraska midstate project.

Our legislative report does contain a suggested amendment to the authorizing act of the midstate project that would accomplish this purpose. The amendment, of course, can be considered in various ways by the Congress, added to various project authorizations, but we have particularly and specifically recommended in our legislative report that the committee give consideration to having this amendatory legislation to bring the Missouri River basin project into conformity with the rest of the country in the legislation authorizing the midstate project.

Senator ALLOTT. Mr. Holum, Congress has authorized various rates of interest at various times, as you well know, and we have generally authorized them in conformity with the situation that we found ourselves in at that particular time.

We started out REA at 2 percent, and at that time 2 percent was, in my opinion, a completely reasonable amount for the Government to charge because the Government's long-term obligations for money borrowings were costing them less than that at that time, as you know.

Then, over the years, we found that this interest rate was gradually increased. In the opinion of a great many people, including myself, if we are going to hold our financial situation in the country at all with respect to our balance of payments, I am sure that this is among the No. 1 headaches of the President of the United States, as it was his predecessor. We may have to go to higher interest rates.

Now, what this would mean is that you are really offering general legislation covering interest rates on the Missouri River Basin for this specific project, are you not?

Mr. HOLUM. And only for that investment that had been made up to the present time.

The Missouri River Basin project was authorized under unusual circumstances. The Flood Control Act of 1944 was in a very real sense of the word an omnibus bill authorizing construction by both the Corps of Engineers and the Bureau of Reclamation. The interest rates on all of the Bureau of Reclamation facilities are and remain up to the present time 3 percent, and our draft of the legislation does not change that. Future investments will be made on the basis of the formula approved by the Congress.

Because it was an omnibus bill, perhaps it was not noticed at that time. However, the legislation did not give the Department, or the

administration the opportunity to deal with the Corps of Engineers project at that time on the same basis as all of the rest of the country.

Senator ALLOTT. What would be the effect? Is the interest on the projects that have been built to this time less than the 2½-percent figure?

Mr. HOLUM. Senator, I have reviewed that somewhat. Naturally, I did not participate in the decisions that were made between 1940 and 1962 in setting up these projects, but having reviewed the cost of money to the Federal Government during that period it is fairly easy to understand why the decisions were made to charge 2½ percent. The total cost of money to the United States during this period averaged about 2½ percent. Averaging all the investments, I think it came to a little less than 2½ percent. In 1950, for instance, the interest rate on the total debt was 2.2 percent.

Senator ALLOTT. In 1950?

Mr. HOLUM. In 1950.

Senator ALLOTT. Is that the long term?

Mr. HOLUM. That is the total debt.

In 1950, the long-term debt was 2.55 percent and it was fluctuating in this range during this entire period of time.

Senator ALLOTT. Let me ask you this, Mr. Holum. I am not quite clear what the effect of this amendment will be. Will it be to raise the interest rate on the Missouri Valley project which has been built to date?

Mr. HOLUM. No; it will decrease it from 3 to 2½ percent.

Senator ALLOTT. In other words, we might as well put this out on the table; what you are proposing here is a subsidy of one-half percent of the projects that have been built already on the Missouri Valley River?

Mr. HOLUM. Senator, I don't think I would put it exactly that way. When the investment was made, the cost of money was that and all other Corps of Engineers investments made in all other areas of the country were charged interest at 2½ percent. So, what we are talking about is a proposal to standardize the interest rates and give the Missouri Basin exactly the same treatment as every other area of the country was getting at that time.

We propose that from here on both the corps and the Bureau of Reclamation projects would be on the basis of the formula in the Water Supply Act of 1958. The proposed rate of 2½ percent would not apply to any investments made in the future; only the investments that were made prior to 1964.

Senator ALLOTT. Well, let's put it this way, then: It amounts to a half percent windfall—I don't care what you call it; I think perhaps the sooner we start calling these things by their real names, the sooner we can face up to the real problems and try to solve them. It amounts to a half percent windfall for these projects over their now legal obligations; is that correct?

Mr. HOLUM. Over their existing legal obligations; that is correct.

On the other hand, I hasten to add that on all this investment during the 20 years, and I don't have the investment schedule with me, but during the period 1944 to 1964 our amendment proposes that the entire Missouri River Basin would pay the 3-percent interest rate. We are not suggesting that the 2½ percent interest be applied retroactively. We expect to pick up these interest dollars.

Senator ALLOTT. You are talking about the amortizations that fall due from this date on?

Mr. HOLUM. From this date on.

Senator ALLOTT. All right. Thank you. This clears up what you are trying to do.

Mr. HOLUM. Even on the basis of these studies we have found, however, that this change in interest rate and the other procedures that I will outline are not sufficient to meet the projects' financial obligations that we and the Congress expect the projects should. Therefore, we have concluded that it is necessary to increase revenues from the Missouri Basin system by a million and a half dollars annually.

It will require a power rate increase of approximately 5 percent to raise the power rate on 48 percent load factor power to 5¾ mills. This rate increase would be applied only to the eastern division of the project. The eastern division is all of the State of Montana that is in the Missouri Basin, the States of North Dakota, South Dakota, Nebraska, east of the 100th meridian, and Iowa and Minnesota.

We are prepared to increase power revenues by a million and a half dollars annually by adjusting rates and firm power in the eastern division when we have an indication from Congress that the financial report that we have prepared is acceptable.

I think, Mr. Chairman, that that is a quick summary of our financial report.

I would like to add that with congressional acceptance of our recommendations to change interest rate and Department action to increase power revenues that we can come before the Congress today with confidence and say to the Congress that the midstate project should be authorized; the Garrison project, which has already passed the Senate, should be authorized and constructed. Other projects may also come along at a reasonable rate and we will be able to meet the financial requirements as they exist in both the congressional and executive branch policy.

After the year 2018 the Missouri Basin project will produce approximately \$40 million annually. It will be available to provide financial assistance to irrigation and do the other things that the Congress wants to do in accordance with its policies concerning multi-purpose water resource development.

Senator MOSS. Thank you, Mr. Holum. Your statement in full will be placed in the record at this point.

(The statement referred to follows:)

PREPARED STATEMENT OF HON. KENNETH HOLUM, ASSISTANT SECRETARY OF THE
INTERIOR, WATER AND POWER DEVELOPMENT

Mr. Chairman, and members of the subcommittee, on several previous occasions, representatives of the Department and the Bureau of Reclamation have testified concerning the matter which is pending before the subcommittee today. I have had an opportunity to review the record that has been made concerning the Nebraska midstate project from the standpoint of its economic justification and its engineering feasibility, Nebraska midstate will be a valuable addition to the Missouri River Basin project. The Senate has appropriately taken note of this fact in passing previous measures to accomplish the purposes contemplated by S. 388.

Representatives of the Bureau of Reclamation and the other departmental agencies are in the hearing room and are available to offer testimony on the technical aspects of this project to the extent that the subcommittee feels that such testimony is relevant and desirable. Accordingly, I would like to devote my time to discussion of important policy questions that are implicit in this proposal and our suggested amendments.

As is customary with units of the Missouri River Basin project financial assistance, in this case \$17,806,000, will be required from projectwide power revenues in order to assure the return of all reimbursable costs within acceptable time limits. On previous occasions, this subcommittee has evidenced concern relative to the availability of these required revenues. Because of this concern and that shown by other congressional leaders, the Department subjected the finances of the Missouri River Basin project to intensive review and study. This study was completed late last year and submitted to Chairman Jackson of the full committee on December 17.

Our review of project financial affairs disclosed a steadily worsening repayment condition beginning in approximately 1954 and continuing to the present time. We found that there were a number of things which had contributed to this condition. Perhaps, the most significant was the loss of revenue in the early years of mainstem operation as a result of adverse streamflow conditions. The chart on the following page is a generalized hydrograph of the Missouri River which illustrates that during the critical years of 1954-61, when the reservoirs were being filled, there was not a single year in which streamflow attained the 60-year average. Adverse streamflow reduced power production and system revenues by more than \$100 million below the amount that would have been available if the system had enjoyed normal water conditions.

During the 20 years since the original authorization of the Missouri River Basin project, new policies have been developed with respect to financial management of multi-purpose water resource developments. We all agree that these policies should be applied uniformly across the country and among the various Federal agencies with water resource development responsibilities.

Although the Missouri River Basin project was formulated, authorized, and in large measure constructed under financial criteria substantially different from those applied today, the Department's December 17 report represents a program of future financial management that will be consistent with current practices.

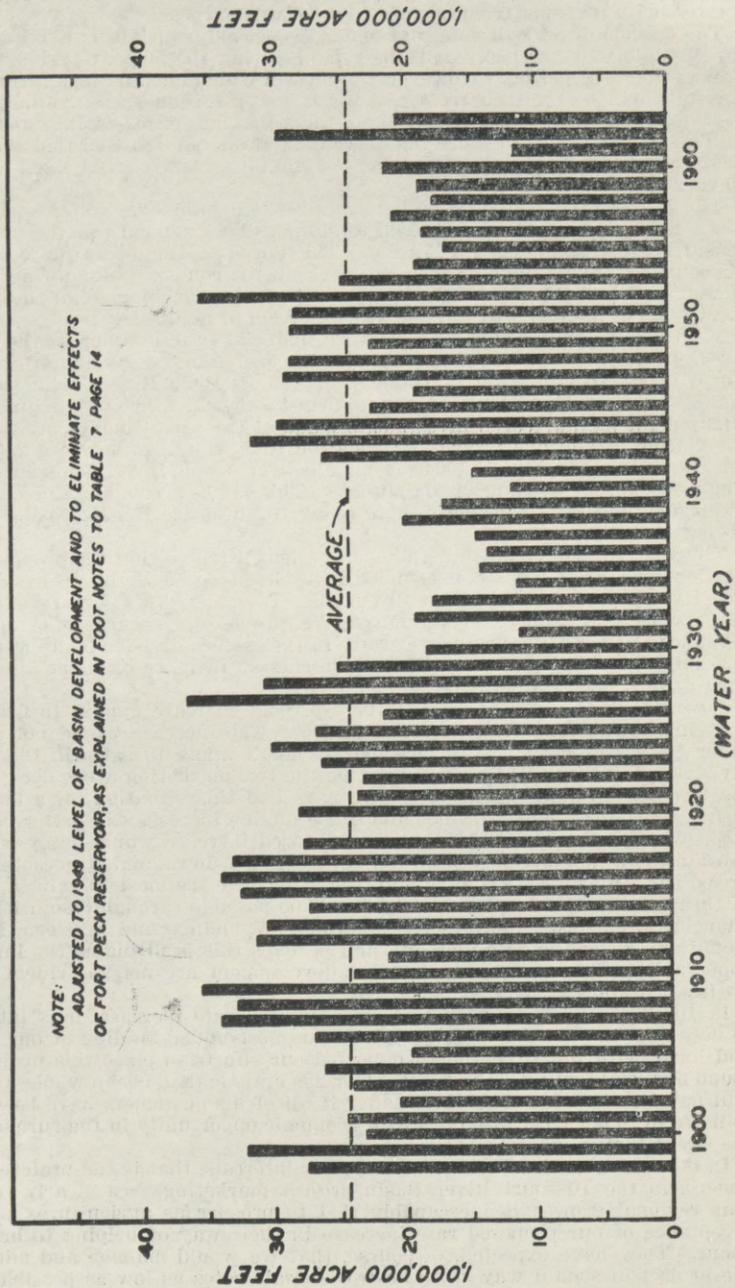
Before undertaking the analyses that culminated in our report on financial position, December 1963, we tried in several ways to increase system revenue and thereby improve project feasibility through administrative action. Our most significant achievement in this regard was in connection with our contract with the Basin Electric Cooperative through which excess transmission capacity will be utilized by the cooperative to the profit of the Bureau's system. This transaction alone will net \$980,000 annually. We are confident that there will be additional negotiations of this character, with cooperative groups and investor-owned groups alike, that will further enhance system operation, and increase revenues. However, these opportunities which have not yet matured into firm contracts were not considered in our financial analysis.

The Department's studies were based on the following fundamental criteria:

(a) Commercial power investments would be repaid with interest in not to exceed 50 years from the date of each block of investment.

(b) Irrigation investments associated with units of the plan in being or under construction on July 1, 1964, would be repaid as soon as possible after completion of commercial power repayment.

ANNUAL WATER SUPPLY MISSOURI RIVER AT SIOUX CITY



(c) Irrigation investments associated with future units would be repaid within 50 years, plus permissible development period, after each unit, division, or block of irrigable land would be available for irrigation service.

(d) Municipal and industrial water supply investment would be repaid with interest with revenues from sale of water for this purpose.

The subcommittee will note that under the second principle, existing irrigation investments will not necessarily be repaid during the 50-year period following the development period. However, these costs which must be repaid from power revenues will be the first recovered when power revenues are available. They represent less than 5 percent of the required irrigation assistance and only \$5 million will be deferred more than 5 years. It should be noted that these units were constructed prior to the firm decision to require repayment during a 50-year period.

The Department's financial report represents a joint effort on the part of the Congress and the executive branch to standardize financial practices for water resource projects across the Nation. The Corps of Engineers projects on the Missouri River are the only corps projects in the country built during this particular period of time that bear interest at 3 percent on commercial power investment. All of the rest bear interest at 2½ percent or less.

If we are to standardize and equalize financial practices across the country, the Department should be granted authority to charge the same interest rates on Corps of Engineers power investments in the Missouri River Basin—and associated investment—as have been established and which are now required to be charged for similar corps investments made at the same time in other parts of the Nation. We have proposed legislation that would authorize a 2½-percent interest rate after July 1, 1964, on unpaid balances of investments in Corps of Engineers units started prior to that date. This can be accomplished by amending the legislation being considered here today to authorize the Nebraska midstate project.

The Department's financial studies have demonstrated that the proposed modification of interest rates is not sufficient, by itself, to bring the project into conformity with the criteria I have discussed. To achieve this goal, revenues must be increased by \$1,500,000 annually. We propose to secure these additional revenues by increasing firm power rates in the eastern division by approximately 0.25 mills per kilowatt-hour. This represents an increase of about 5 percent in the cost of this class of service.

I would like to emphasize that the 5-percent increase applies to firm power only in the eastern division of the project. The increase would not apply to other classes of electrical service, nor would it apply to sales in the western division. The disparity in rates between the two marketing areas does not pose any problem in administration for we have had this situation for a number of years. Perhaps the significance and scope of this increase can better be understood when it is pointed out that the proposed increase would apply largely to sales in the Dakotas, central and eastern Nebraska, Iowa, and Minnesota. These areas, particularly the Dakotas and Nebraska have the most to gain in the way of future irrigation development that will be possible through resolution of our financial problems. Conversely, Colorado, Wyoming, and western Montana would experience no rate increase, and perhaps this is fitting as the immediate opportunities for large-scale irrigation development are not so evident as they are in the eastern areas.

In further connection with this contemplated rate increase, it is interesting to note that the customer groups have been most understanding of our problem and have, with few exceptions, supported our efforts to place this project on a sound financial footing. As one customer has aptly stated, cheap wholesale power will be of little comfort to the retailer if all of his customers have been forced to move to the city because of lack of economic opportunity in the rural areas of the Great Plains.

In other words, Mr. Chairman, the power interests, that is the preference customers, in the Missouri River Basin project marketing area clearly recognize that regional growth is inescapably tied to prosperous agriculture, and their acceptance of our proposed rate increase in their way of helping to bring this about. They have expected, of course, that we would manage and administer the project in such a way as to keep wholesale rates as low as possible within the framework of existing law and sound policy.

The required additional revenues will be accomplished from a rate yielding 5.75 mills for 48-percent load-factor power. This is in the general range of wholesale rates now being charged by investor-owned utilities in those cases

where cooperatives and municipalities are acquiring their power from non-Federal sources. We would expect to initiate action to announce the applicability of the new rates as soon as there is tangible evidence of congressional approval of our overall plan of repayment.

With the proposed modification of interest rates in effect and power revenues increased by \$1,500,000 annually, we are confident that the Nebraska midstate division and other Missouri River Basin project units that are ready for authorization can be authorized and constructed promptly with repayment assured in accordance with current standards. Other units can be authorized and constructed on an orderly schedule. Following power payout in 2014 and the payout of existing irrigation units in 2018, approximately \$40 million, annually, in power revenues will be available to assist irrigation repayment in the basin.

The authorization and construction is badly needed to bring a measure of balance into the comprehensive program for the entire basin. I am deeply concerned, as I believe the committee will be upon reflection, to observe that only about 9 percent of the economically justified irrigation development has been accomplished 20 years after initial authorization of the program. In contrast, 66 percent of the flood control and navigation investment in the total project and 98 percent on the mainstem have been completed. The tabulation on the following page points up this disparity in rate of program achievement quite vividly.

Missouri River Basin project—Program and percentage accomplished as of May 30, 1963

[Dollars in millions]

	Total	Irrigation	Power	Flood control and navigation	Fish and wildlife and recreation	M & I water supply
Bureau of Reclamation:						
Estimated total.....	3,601	2,414	742	291	115	39
To date.....	710	275	313	100	17	5
Percentage.....	20	9	42	38	16	13
Corps of Engineers:						
Estimated total.....	1,170	133	700	316	14	7
To date.....	1,080	130	619	310	14	7
Percentage.....	92	98	89	98	100	100
Total project:						
Estimated total.....	4,771	2,547	1,443	607	129	45
To date.....	1,790	405	932	410	31	12
Percentage.....	37	16	65	66	24	27

NOTE.—Bureau of Reclamation cost data do not include undistributed investigations. Corps of Engineers information for main-stem facilities only. Does not include single-purpose flood control and navigation facilities which are unrelated to Bureau of Reclamation program.

The second topic which I wish to discuss is executive branch recommendations designed to establish guidelines for cost sharing by recreation and fish and wildlife enhancement. H.R. 9032, introduced by Chairman Aspinall, of the House Interior and Insular Affairs Committee, is the legislation recommended by the executive branch. It recognizes that many of the recreation and fish and wildlife benefits of a project accrue to the people of the affected area. It therefore prescribes that above certain limits, these costs shall be reimbursable from water and power revenues provided there is no local beneficiary that can be expected to repay such costs.

Applying the principles of H.R. 9032 has resulted in adding \$1,756,000 to the interest-bearing reimbursable cost of the Missouri River Basin project. Because this amount cannot be repaid immediately, interest charges during the period of deferment would increase the obligation to \$5,612,000. This requirement on power revenues was not included when we prepared our overall financial report, however, analysis shows that there is sufficient flexibility and latitude in the investment schedules to accommodate this increased repayment requirement without otherwise invalidating our study findings or exceeding the permissible time limits for repayment of other reimbursable costs.

The third point to which I would like to address a few observations is the relationship of this proposal to the commodity surplus problem. The record will show, and succeeding witnesses will reaffirm, that only a minor part of

the land resource contemplated for benefit by this proposal consists of new lands. To the extent that these lands are now devoted to cereal grains and feed grain production, we expect them to shift to forage, beets, corn silage, and other crops more in keeping with those now being grown in the Platte River Valley. The majority of the water to be developed by this undertaking is in the nature of a replacement supply to stabilize the ground water at its present level, or in certain cases to restore the water table to previous levels. Over-pumping of the Platte River aquifer is an imminent and continuing threat. Unless this trend can be reversed through such programs as the Nebraska mid-state project proposal, we can expect a steady deterioration of the level of prosperity in this area. This could very easily result in further loss of economic strength and vitality with further reduction in rural earning power and out migration from the farm to urban centers.

The Department and the administration are therefore pleased to endorse the objectives of this development and feel that there is no basic incompatibility between it and the programs of the Department of Agriculture.

In summary, we believe that the policy considerations which have served to delay consideration of Missouri River Basin project bills have been resolved to the best of our ability and that there is no longer any reason why these programs should not go forward to authorization in this session of Congress.

Senator MOSS. Do you have any questions, Senator Jordan?

Senator JORDAN. Yes.

Mr. Holum, you have previously explained to us the reason for several years deficits in your power administration. You were unable to market large blocks of secondary power, some of which must be kept in available reserve. If you could get into other markets with that you might relieve the situation.

— Be that as it may, you come now today and you have another reason for the deficits in the Missouri Basin. I think you said that the deficit now is \$100 million below your estimate.

Mr. HOLUM. No; the revenues.

Senator JORDAN. And you said that it was due to the fact that the flow of the water in the river had not come up to your expectations.

Mr. HOLUM. That is one of the reasons, Senator. The other reasons relate to very definite and I think improving policies, both congressional and executive. These policies respecting allocations have been changed, and different criteria have been applied. Nobody was talking about 50-year repayment for irrigation projects when the Missouri project was authorized; we all are now, and we agree this is good policy.

Senator JORDAN. Could we turn to your annual water supply chart for the Missouri River at Sioux City? It would indicate that if your rates are based on the average which goes before the year 1963 that within the past 30 years or since 1930, at least, there have only been 10 of those 33 years from the water supply that have been above the average and 23 years on which they have been below the average. Is that correct?

Mr. HOLUM. I believe it is.

Senator JORDAN. Under those circumstances, would you not think it would be advisable to take into account the trend in the water supply and adjust your rate to fit the water supply conditions of the last 33 years rather than the last 63?

Mr. HOLUM. Senator, I think that that matter has been taken into account. I should have said that our payout formula is not based on hitting the 50-year target exactly. We have provided a cushion; we plan to pay out in 48½ years rather than 50 years. So, there is a margin for safety.

I think the important thing, however, is that it just takes one good year to put this project in operation. Financially, we are much better off today because we had one good water year in 1962.

The problem is that during the years immediately after all this storage had been constructed—constructed for flood control purposes downstream—we had only one average water year. So, the Bureau of Reclamation was faced with the responsibility of trying to pay out empty reservoirs with power revenue from one good year; 1962 was a good year. One more good year can fill all the reservoirs and put us in a cyclical operation and this problem will disappear for all practical purposes.

Senator JORDAN. Yes; the years and the decade 1930 to 1940 were critical water years in most of the river basins of reclamation, especially so here. It seems to me that rather than go back to 30 or 40 years ago when you did have good water years and base your rate on that average water supply, a prudent businessman would say, "Let's adjust our rate schedule to the water supply that the last 30 years have indicated." Would you not think that would be a fair and more prudent way to base rates?

Mr. HOLUM. I think, Senator, that it would be more prudent, but I think that we have been prudent in the way we have based it. It would not be unreasonable to expect the area to have adverse water conditions and I would have to say probably this has very little bearing on what we are talking about here this morning. It would certainly be unfortunate if we are going to have drought in the area as reoccurrences of the years we had in the 1930's, and because of that, additionally penalizing this area and the country by breaking our power rate because it didn't rain and they had drought conditions.

This is an area of the country that needs every economic stimulus it can get and Senator Burdick won't mind me saying one of the areas in the United States that has been losing population.

So, I think that while we want to meet congressional policy, while we want to be sound, I think we do not want to penalize and anticipate any more droughts or disaster than we have had already.

Senator JORDAN. Except you would like to get your income out of power revenues.

Mr. HOLUM. We certainly would, and we think that our hydrology is sound, and we expect with confidence that we will start getting some good water years.

Senator JORDAN. That is what I hope we do.

Do you employ the system of rolling maturity accounting in the Missouri Basin?

Mr. HOLUM. Basically, we do. We provide that each facility shall be paid out within 50 years and that the power revenues from the total system will be available to continue to meet obligations.

Senator JORDAN. With each new project that comes on, do you then take a 50-year power payout period dating from the time the last project comes on for the whole system?

Mr. HOLUM. No; for that particular project.

Senator JORDAN. Just for that particular project; not for the whole system. So, at the end of 50 years, there might be revenues available for—

Mr. HOLUM. Mr. Lee wanted to be sure that my statement was completely understood. I hope I have made it clear originally, that each one of the power projects is paid out in its own 50-year period.

Senator JORDAN. I see.

So that, under those conditions, power revenues would be available from some of the earlier projects constructed in the Basin to apply to irrigation.

Mr. HOLUM. Yes. Payout of the total project.

Senator JORDAN. Yes.

Is this the same system of accounting you employ elsewhere in the Columbia Basin?

Mr. HOLUM. Yes, sir.

Senator JORDAN. The same in all river basin systems?

Mr. HOLUM. Senator, I would not want to say they are all identical. Each project has its own authorizing legislation; each area of the country has its own peculiar problems and resource development opportunities, so they are not identical, but certainly everything that we propose here is a move for standardization.

Senator JORDAN. Thank you.

No more questions.

Senator MOSS. Does Senator Burdick have a question?

Senator BURDICK. As I understand, your formula is predicated on two things: One is for repayment of structures for projects and the increase in power rates, and one is the decrease in the interest charge on the main stem of constructions; is that correct?

Mr. HOLUM. On the Corps of Engineers investment up to the present time.

Senator BURDICK. When does this power rate go into effect?

Mr. HOLUM. Senator, this is a hard question for me to answer specifically.

We have made these payout studies because we wanted to make them, and also specifically at the request of the Congress. We are ready to put the new power rates into effect as soon as we have an expression from the Congress that what we have proposed is satisfactory. I think it would be unwise to do so before that.

Senator BURDICK. What kind of an expression do you want from the Congress, or what kind of an expression do you think Congress should give?

Mr. HOLUM. Well, I might have a little trouble on that point, but I guess action by the two committees, acceptance of the amendment that we have proposed.

Senator BURDICK. Have you proposed an amendment?

Mr. HOLUM. We proposed an amendment.

Senator BURDICK. Do you have a copy of it here?

Mr. HOLUM. Yes; it is contained in our legislative report. Mr. Palmer pointed out that this is certainly true, that we would have to conclude that if the Congress authorized the midstate project or the Garrison project, that this would be a suitable expression.

Senator BURDICK. Any Missouri River project?

Mr. HOLUM. Yes. If the interest rates were specifically changed.

Senator BURDICK. Are you aware of the old fight between you and the Federal Power Commission about having jurisdiction over rates in this particular area?

Mr. HOLUM. I know that there has been a problem here which has had a considerable amount of congressional attention. I think this committee or the full committee held extensive hearings and went quite specifically to that point in 1957 or 1958.

Senator BURDICK. Any conclusion reached?

Mr. HOLUM. The conclusion was, as the Department interprets it, that the Congress accepted the principles which the Department of Interior has followed.

Senator BURDICK. And that is that the Department had the authority to set the power rates and interest rates, set the power rates?

Mr. HOLUM. The Department has the authority and responsibility to set the power rates and, perhaps even more important, to use power revenues to assist irrigation development.

Senator BURDICK. And that is the way the Department has been proceeding since what year?

Mr. HOLUM. Since the project was initiated.

Senator BURDICK. From the very beginning?

Mr. HOLUM. Yes.

Senator BURDICK. The reason I ask is that the committee has received a letter just recently from the Federal Power Commission raising this question once again. Are you aware of that?

Mr. HOLUM. Yes, Senator; I am.

Senator BURDICK. Any more comment to make on it?

Mr. HOLUM. Well, I think that both the Congress and the Department of the Interior have made themselves quite clear on this point. I understand the letter of the Federal Power Commission went to the point that power rates should be set under section 5 not section 9 of the 1964 Flood Control Act.

The important point is that we have to operate under section 9, and through section 9, and Senate Document 191, the Federal reclamation law applies with its authority to use power revenues to assist irrigation. I think that the Congress has always intended, certainly they made it clear in every other area of the country and they think it is clear in the Missouri Basin project, that Congress intends hydroelectric power to assist with repayment of irrigation costs.

Senator BURDICK. More or less an accepted pattern.

Mr. HOLUM. All over the country. I am not willing or able to conclude that Congress intended something different in the Missouri Basin. I don't think the law indicates that it did.

Senator BURDICK. Will this power rate increase put the Missouri River Basin on the same footing as some of the other river systems, two and a half percent?

Mr. HOLUM. Yes; it will. The interest rate will be the same, except for a few corps projects where it was 2 percent, and it will be consistent with the interest rate charged on the corps project.

Senator BURDICK. Is that interest charged on the Columbia Basin?

Mr. HOLUM. Yes.

Senator BURDICK. What other basins?

Mr. HOLUM. All of the river basins of the country.

Senator BURDICK. Built by the Corps of Engineers?

Mr. HOLUM. Built by the Corps of Army Engineers.

When you say the "Columbia Basin," I ought to exclude Grand Coulee, which was built by the Bureau of Reclamation and the interest rate is the same just as it is under our project.

Senator BURDICK. Where the project had been built by the Corps of Engineers, it has been two and a half percent?

Mr. HOLUM. Yes, sir.

Senator BURDICK. The two and a half percent applies to the construction already made; right?

Mr. HOLUM. Yes; the existing investment.

Senator BURDICK. The individual projects such as Garrison, such as midstate, and the other projects, carry a different rate of interest, do they not?

Mr. HOLUM. The future irrigation project?

Senator BURDICK. Yes.

Mr. HOLUM. Right. As future projects are built, interest will be charged on the basis of a formula that Congress has applied in recent years.

Senator BURDICK. And this two and a half percent on regional structures, main stems and dams already constructed?

Mr. HOLUM. And transmission lines.

Senator BURDICK. And there is no retroactivity?

Mr. HOLUM. No; we are not asking to apply this retroactively from the period 1944 to 1964.

Senator BURDICK. In this period of 20 years, you have been paying the 3 percent?

Mr. HOLUM. That is correct.

Senator BURDICK. I guess that is all.

Senator ALLOTT. Mr. Chairman, I still have some questions if you prefer to have them.

Senator Moss. I would appreciate it. I was just going to say we are running out of time and we do have all of these Nebraska people who have come here and I should not like to keep them over today if we can help it.

Senator ALLOTT. Mr. Chairman, I will make mine very, very, very short.

Senator Moss. All right. Go ahead.

Senator ALLOTT. I would just like to make the comment along the line of Senator Burdick's question.

It seems to me by offering this change in interest rate you are opening up a Pandora's box. The people who agreed to pay 3 percent when these projects were authorized—there is a difference—did it with the understanding that it would cost 3 percent. If you open up this Pandora's box, I don't think this committee is ever going to get through trying to adjust and equalize. I would be interested in doing a little adjusting and equalizing on the Upper Colorado River Basin.

There is one thing that interests me about your table, and this is the only hydrological table. Of course, we all recognize and know in this area what happened in 1930, and really, in general, the drought which prevailed at that time started receding in 1941 or had generally receded. I don't think that this table can be meaningful, not that I am belittling the fact. I think it is helpful, but I don't think this table can necessarily be meaningful in the sense of what you are going to encounter in the future. For it to be meaningful, you would have to come to the conclusion that the water development on the Missouri River, I mean you could draw this assumption, has actually depleted the total supply of water in that area.

Again, you have to take the bad years of 1930 or 1931 to 1941 and out of that you also have to take your very bad years of 1952 generally to 1957, although this shows the worst year of all is 1961 on your table. Maybe the hydrological experts are better able to estimate this, but if you would take these two very, very bad periods out of here, you would have a completely different picture of this thing.

Of course, we are going to have bad periods in the future, too. So, I don't know really what this table means, having lived in this area through both of these periods—well, not this area, but just west to it in the great State of Colorado, and Senator Curtis—

Mr. HOLUM. It is part of the Missouri Basin.

Senator ALLOTT (continuing). Having lived through this, I don't know what conclusion we can draw as to water supply from this table. Maybe some hydrological experts can tell us later.

Mr. HOLUM. Well, we would be very happy to do that but I think, Senator, the only point we are trying to make is that during this critical period when the reservoirs should have been filled that unfortunately we had bad water years—except 1962.

There was one good year; it puts water in these reservoirs and makes it possible to generate a lot of power. You don't have to have storage; you don't have to have good years every year. We have to have a good year to get the project started.

I would like to make one comment. The question opening up the whole question of interest rates for review by the Congress, the question whether or not the people in 1944 agreed to recognize that they were going to pay 3 percent in the Missouri Basin while all the rest of the country was paying 2½ percent, I would doubt very much if that was true.

The Flood Control Act of 1944 was enacted, as members of this committee and the Congress know, under rather arduous circumstances. I do not think that anybody that has any conscience can say that it was with deliberate intention by the Congress to impose, or by the people of a basin to accept, different interest rates. I think it would be an inadvertent act.

Senator ALLOTT. I cannot agree with that. Joe O'Mahoney, who was then not a member of my party but one of the greatest minds that we have ever had around this committee, was here at that table and I think that the great Senator from Colorado, Senator Eugene Millikin, was on this committee. I would never be completely convinced that they were not aware of what they were doing in the difference in these interest rates because these two minds just didn't overlook things like that.

Mr. HOLUM. Senator, I certainly share your admiration for these great Senators and others at the time who made a contribution to the development of the Missouri River, but I do think that somehow or other this did happen inadvertently, and it would not be the first time adjustments have been made after the fact. It was the Norman Project Act applied to the Colorado River Storage Project Act after the fact and appropriately so.

Senator MOSS. Applied to it, I think he said, which is true. We applied the formula to the Colorado River.

Senator BURDICK. Reduced it to 2.58. We applied the formula.

Senator ALLOTT. We applied the formula of the Small Projects Act to the Colorado River—or the water supply—I beg your pardon. Not the small project; the water supply.

Mr. HOLUM. I think this was a very wise and gratuitous act on the part of the Congress.

Senator ALLOTT. In that particular area—and then I will quit, Mr. Chairman; I want to give these Nebraska people a chance to be heard—there you had the interest rate originally applied to the Colorado River Storage Act completely out of kilter with everything.

Mr. HOLUM. My contention is, as far as that goes, the Missouri Basin is completely out of kilter.

Senator MOSS. Obviously we are going to have to wrestle with this in the committee.

Mr. HOLUM. I understand.

Senator MOSS. I think you stated your position very clearly.

Now, as a matter of procedure, I think, Mr. Palmer, could you—

Senator BURDICK. Could I have one more question on this subject before we leave it?

Senator MOSS. All right.

Senator BURDICK. What was the interest rate on the upper Colorado area before the Norman formula was adopted?

Mr. PALMER. About 4 percent as I recall. It was not constant with anything else the Congress had done.

Senator BURDICK. What was that rate?

Senator ALLOTT. It was 2.58.

Mr. PALMER. 2.58.

Senator ALLOTT. Which was the long-term borrowing rate at that time which is now $3\frac{1}{8}$.

Senator BURDICK. The point I would like the record to show is we did make an adjustment.

Senator MOSS. All right.

Now, Commissioner Palmer, do you have anything more to add?

Mr. HOLUM. May I be excused?

Senator MOSS. As far as I am concerned, you may be excused, Mr. Holum.

We will ask Commissioner Palmer if he could very quickly give us the update of this project.

Thank you very much, Mr. Holum.

Senator MOSS. You may go ahead Commissioner Palmer. We will put the full statement in the record and ask for you to comment on it.

STATEMENT OF WILLIAM I. PALMER, ACTING ASSISTANT COMMISSIONER FOR RECLAMATION

Mr. PALMER. It is a real pleasure to be here to help you celebrate your birthday. This, as I recall, is the birthday of Congress and I believe you are a right smart 175 years old. You are carrying your age real well.

I have the full statement that I am going to submit for the record. Let me hurriedly summarize.

Senator MOSS. All right.

Your statement will be made a part of the record.

(The statement referred to follows:)

PREPARED STATEMENT BY WILLIAM I. PALMER FOR THE BUREAU OF RECLAMATION

Mr. Chairman, we appreciate the privilege of appearing before your committee on behalf of S. 388 to include the Nebraska midstate project as a unit of the Missouri River Basin project. On May 20, 1960, and May 25, 1961, we testified on similar bills, S. 2640, 86th Congress, and S. 970, 87th Congress, respectively. Our statements on those occasions included considerable information concerning the evolution of the plan of development, engineering costs, and the economic and financial determinations that had then been made. These data have been revised somewhat since those appearances; and although the plan of development shown on the display map is unchanged, we are presenting revised information on costs, benefits, and repayment to the committee today.

The estimated cost of the proposed unit has increased from \$81,467,000 to \$84,202,000 solely as a result of applying cost indexes from the July 1958 price level to the July 1963 price level. However, there have been no changes in the basic plan for the project.

We have previously testified to the very gratifying cooperative spirit of the local people and the high degree of support which they have shown in advancing this proposal. About \$1½ million of locally collected money has been expended by the Nebraska Midstate Reclamation District in advancing the project to its present state. Further, the district continues to manifest its faith in the ultimate achievement of this undertaking by making funds available to the Bureau of Reclamation for advance planning activities. In fact, leadwork which could not otherwise have been started is now in progress using funds advanced by the district.

It is worth noting in this connection that the physical plan for this project was developed by the district at district expense. Accordingly, a measure of cost sharing has already been achieved in advance of authorization. Under usual project investigation practice, the \$1,500,000 already expended by the district would have been financed by the Federal Government.

An assured water supply for the Platte River Valley in central Nebraska has long been recognized as essential to maintain the present economy and for the continued growth and prosperity of the area. Demands on the ground-water aquifer are exceeding the practical limit of safe yield for irrigation and other uses. The proposed Nebraska midstate project works would replenish and stabilize the ground-water supply and make practical an expanded water use in the area by the application of surface water for irrigation. Furthermore, the project would regulate groundwater levels for all purposes by means of the integrated system of reservoirs, canals, laterals, district wells, drainage facilities, and floodways.

The interconnected upland reservoirs and wildlife developments along the Platte River included in the plan would provide extensive fishing and waterfowl hunting opportunities in an area where they are now limited. Studies made by the Fish and Wildlife Service have confirmed this observation and established the value of this project service. Its findings are concurred in by the Nebraska Game, Forestation, and Parks Commission. Further, most of the interconnected reservoirs and their shorelines, together with planned basic facilities, will provide extensive recreation benefits.

As mentioned earlier, no changes have been made in the basic plan for the project—it remains as previously reported to this committee. We have considered it desirable, however, to reevaluate the economics of the project in the light of the procedures, methods, and criteria adopted by the Department of the Interior through administrative action as well as those set forth by the administration in Senate Document No. 97, 87th Congress, a statement approved on May 15, 1963, by the President and which is more fully entitled "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources."

Generally speaking, two changes in the benefit-cost analysis stem from Senate Document No. 97, while a third factor affecting the project findings derived from administrative change within the Bureau of Reclamation. Changes brought about by the adoption of precepts embodied in Senate Document No. 97 occur in the (1) estimation of benefits for area redevelopment, recreation, and fish and wildlife, and (2) standardization of interest rates for economic evaluation.

The third change relates to procedures for estimating irrigation benefits on Federal Reclamation projects. Although adopted for Bureau-wide application in August 1961, this hearing is the first opportunity that we have had to advise the committee concerning the effect of the change on this project.

Mr. Chairman, our more detailed statement, which was designed to be offered for the record, discusses each of these changes at somewhat greater length, and we are also prepared to discuss them orally if the committee has any questions concerning any one of them.

The combined effect of all of the foregoing changes on the benefit-cost ratio of the Nebraska midstate project is an increase from 1.40 to 1.57. Both computations make use of total benefits, 3-percent benefit discount rate, and the customary 100-year period of analysis. It is significant to point out that the reduction in benefits to recreation and the change to 3 percent interest, each arising from the requirements of Senate Document No. 97, have been more than offset by increases in estimated total irrigation benefits, fish and wildlife benefits, and the inclusion of benefits from area redevelopment. The effect of revised benefits is also reflected in the cost allocation results spelled out in detail in our long statement. Of particular interest to the committee will be the fact that of the \$55,431,000 allocated to irrigation, 78 percent will be repaid by Nebraska midstate beneficiaries through water charges and ad valorem revenues. This is almost five times the average of the overall comprehensive plan and approximately twice that of the next best unit of the Missouri River Basin project which has been constructed to date.

The Assistant Secretary has called attention to the fact that we propose this project to be authorized in conformity with the administration's plan for uniform cost sharing by fish and wildlife enhancement and recreation. Under this plan, a portion of the cost (\$10,143,000) allocable to fish and wildlife and recreation would be nonreimbursable, and the remainder (\$1,756,000) would be reimbursable with interest from project revenues. Of course, the cost allocated to flood control would be nonreimbursable in accordance with longstanding public policy, and the commercial power investment in the provisions for power penstocks would be repaid with interest from projectwide power revenues.

Area redevelopment has been added as a nonreimbursable function in the amount of \$3,188,000.

We feel that it is important to emphasize that our recently completed analysis of the adequacy of revenues for the entire Missouri River Basin project, concerning which the Assistant Secretary testified at length, anticipated the requirement to repay deferred commercial power costs and to furnish financial assistance for irrigation. It is also appropriate to note that there is sufficient flexibility in the investment schedules to provide for the repayment of the reimbursable investments in fish and wildlife enhancement and recreation without causing the period for repayment of other investment to exceed allowable limits.

We therefore, conclude, Mr. Chairman, that the Nebraska midstate development meets every test of desirability that has been developed by the Congress. It has economic justification, as evidenced by the benefit-cost relationship; financial feasibility has been demonstrated by the overall financial analysis of the parent Missouri River Basin project; and a responsible, aggressive repayment entity is available to discharge the requirements that will be imposed on local beneficiaries by authorization of the project through enactment of the pending bill.

In summary, we heartily endorse this measure and commend it to you for early and favorable consideration.

Mr. PALMER. Consider, if you will, this project is like one coordinated development. There are two proposals and these I want to pinpoint. In the first place the payment arrangements are different from those that normally follow. Under the Nebraska Reclamation District law this area is organized into a reclamation district having ad valorem taxing power on all of the land in the district; railroads, the widow's property on the corner, the drugstore downtown, or the farm—whatever it happens to be pays ad valorem tax.

The repayment contract will be between the Federal Government and Nebraska Mid-State Reclamation District. That district in turn, and here is where we depart from customary projects, will enter into

subscription contracts with individual water users. These will cover roughly 140,000 acres of land to get surface water or well water delivered to it through project works. No land owner will be forced to join the district other than the fact that they have organized the district under Nebraska law. No individual will be forced to enter into a subscription contract. The master district signs the contract with the Government and in turn signs a subscription contract with the individuals.

Senator Moss. But if there are not enough subscribers to bring the revenues up, will the tax then go across the whole district?

Mr. PALMER. The tax goes across the entire district.

Senator Moss. But the hope is that there will be enough subscribers.

Mr. PALMER. They have letters of intent from 125,000 acres. These are not contracts in any sense of the word but the letters of intent are on hand. As soon as the project is authorized the district would attempt to reduce these letters of intent to actual contracts and they think there will be no difficulty in getting contracts for about 140,000 acres. The payment summary is presented on 140,000 acres. The uniqueness is the fact that the subscription contracts between the master district and the individual parties will be the thing that covers the payout.

Now, on top of this there are ad valorem revenues that are available from taxing a much larger body of some 550,000 acres. I wanted to identify this because this is a little unusual.

Secondly, all lands directly benefiting from project wells or surface water releases from these reservoirs that you see in blue on the map here—

Senator ALLOTT. I interrupt you at that point. This ad valorem tax is the same basis that is used in the Frying Pan in Arkansas.

Mr. PALMER. Exactly the same type and it also has somewhat the same provisions as the Colorado act. They can levy a standard assessment upon the project and if it gets in default they can increase that revenue.

Senator ALLOTT. All right.

Mr. PALMER. The second point I wanted to identify is that water for all lands directly benefiting from the project is released from these reservoirs or pumped from project wells. Gravity water will be bound by the standard excess land law. This is approximately 140,000 acres. Now because of the widespread benefits that will accrue from this project, a much broader area, maybe as much as 363,000 or 550,000 or a million acres, will get some benefit because of the flood waters retarded and added to the underground water recharge. This land will not be bound by excess land law. The reason it will not be so bound is there is no way to identify the beneficiaries or the extent of their benefit. We don't know exactly which way the water flows after it gets underground. We know there is a tremendous underground basin and there will be some benefits accrue to many people.

Now, the bulk of these people will be paying under the ad valorem tax procedures for any benefits they get but we thought it would be well to identify for the committee at this time that this is unique in these two respects.

Thirdly, I would like to point out that under the indexing procedure we have indexed the cost from \$81 to \$84 million in a manner consistent with the procedure followed by the Bureau of Reclamation. We prefer not to go back every year or two and redo a plan but to simply take the basic plan and apply current cost indexes to it. We have done so in this instance. The plan itself is identical in form with the one that was presented to this committee and passed by the Senate.

Now, while congratulating the Congress on its birthday I did want to pay particular compliment to the midstate people. They have been very fine to work with and the cost to date of preparing the plan and updating that plan has been borne pretty largely from district revenues. They have advanced roughly a million and a half dollars. Had this project gone forward as a usual project this would have been at Federal expense. So the actual participation cost is much greater than the figures that we show. Despite this, and without using this credit, the district pays a very high percentage of the total irrigation allocation, 78 percent will be repaid of the \$55 million allocated for irrigation.

Senator ALLOTT. From irrigation?

Mr. PALMER. Yes, from these 140,000 acres that will enter into subscription contracts with the district. Of course, they will pay their own maintenance cost.

Senator JORDAN. Leaving 22 percent only to be paid by power revenue.

Mr. PALMER. That is correct, sir.

No; that is not correct. The 78 percent is of the \$55 million irrigation allocation. Now, there will be an additional subsidy. Actually it is laid out in the detailed statement. These figures are on page 8.

Lastly, I would like to stress that the application of Senate Document 97, the criteria established for multiple-purpose projects results in a benefit-cost ratio of 1.57 to 1. It is a good project and we are happy to support it. The Senator from Nebraska identified the area redevelopment problem. This was discussed yesterday also in the committee.

I believe it would be helpful to the committee if Mr. Dugan identified and discussed some of the problems that Senator Jordan raised—I believe Senator Allott also—in connection with the hydrology of the river.

Mr. DUGAN. Thank you.

Referring to the chart that Assistant Secretary Holum explained to you, this runoff is the kind we are used to in the West. It represents the deficiencies in flow during the 1930's similar to what we have in the Colorado River and currently we are having in an additional series of bad years. In designing our projects we anticipate that we will have to carry water into these drought periods and regulate it all the way through to be able to have a sustained yield. That is the way the Missouri River Basin project is planned, the same as the Colorado River storage is planned. We must in the years of flood sustain releases for use in years during periods of drought. Un-

fortunately, in the Missouri River Basin we were caught at the completion of construction with drought conditions and we just have not been able to accumulate water during these drought periods.

Senator JORDAN. Mr. Chairman, just to elaborate on that, my understanding of this thing is that power is the result of head and bottom; is that correct?

Mr. DUGAN. That is correct.

Senator JORDAN. Power is a product of volume of water dropping through a head.

Mr. DUGAN. That is correct.

Senator JORDAN. All right. My point was that the rate base has been established on a higher level of water supply than prevails in this basin, isn't that correct?

Mr. DUGAN. The difference is, sir, that we did not plan this project to sustain water through the drought years looking at past years of high runoff. We designed it to go through periods of critical drought as in the thirties.

Senator JORDAN. But my point still is that you are dealing with less volume of water than you anticipate, are you not?

Mr. DUGAN. We certainly anticipated we would have additional periods in the future such as we had in the thirties, and this has proven true. It just happens that this period of years is coming along after the intervention of just a few years of high runoff. We would anticipate that in the future we would have to go through these similar periods.

Senator JORDAN. But you are still using a rate base calculated on a much higher level according to the table?

Mr. DUGAN. If we were able to fill the reservoirs we would have been able to produce power through these drought periods that have occurred. Unfortunately we have the renewal of the drought and are unable to perform.

Senator BURDICK. In other words, if the reservoirs had been filled, do you mean that would have a relation on the power rate?

Mr. DUGAN. That would have had a relation on our ability to produce. We would have been able to produce a much higher level of power had we entered this drought with the reservoirs filled.

Senator JORDAN. Even though it was of lower volume of water than you originally calculated?

Mr. DUGAN. We planned on drought but we did not plan on starting the project in the middle of a drought period.

Senator BURDICK. In other words, if the project was started in the period of normal flow, you probably would not have had this problem?

Mr. DUGAN. If it had been normal or above average, we would not have had the deficiency in power to contend with.

Senator BURDICK. Then, over the period of the next 50 years you probably will not have that problem.

Mr. DUGAN. We hope not.

Senator JORDAN. Then, the Senator said that power rates had been based upon this average water supply, which because of the water supply, had not met expectations, they were \$100 million in arrears.

Mr. PALMER. Senator, may I come back on the record for just 1 minute? There are two documents that I am sure that have been transmitted to the Hill and one is the reevaluation statement on the Nebraska midstate project.

Senator MOSS. Yes, we have that.

Mr. PALMER. The second one, if the Congress wants it, is an analysis of the project without the area redevelopment plans. This can be supplied for the record.

Senator MOSS. I would like that supplied for the record because this would be considered by the committee.

(The analysis is as follows:)

NEBRASKA MIDSTATE PROJECT—SUMMARY OF A FINANCIAL ANALYSIS OF THE MIDSTATE PROJECT WITHOUT AN ALLOCATION TO AREA REDEVELOPMENT

COST ALLOCATION

Project costs, interest during construction, and O.M. & R. costs for the midstate project are allocated concurrently by the separable costs-remaining benefits method using a 100-year period of analysis and interest at 3 percent. Project costs total \$84,202,000; interest during construction amounts of \$4,939,000; and annual O.M. & R. costs are \$863,100.

Separable and remaining joint costs are as follows:

Item	Project costs	Interest during construction	Annual O.M. & R.
Separable costs:			
Irrigation.....	\$30,055,000	\$1,487,000	\$714,900
Flood control.....	10,365,000	444,000	77,900
Fish and wildlife.....	2,000,000	110,000	7,500
Recreation.....	163,000	10,000	30,000
Future commercial power.....	1,218,000	54,000	-----
Total separable costs.....	43,801,000	2,105,000	830,300
Remaining joint costs.....	40,401,000	2,834,000	32,800
Total project costs.....	84,202,000	4,939,000	863,100

In the midstate project, separable costs assigned to fish and wildlife, recreation, and future or deferred commercial power actually are limited to specific costs. Conversely, increments of joint costs as well as specific costs comprise the separable costs for irrigation and flood control. Costs of the Prairie Creek Powerplant and appurtenant facilities and distribution lines are included in separable irrigation costs since that feature was planned to provide electric energy for project pumps.

In the cost allocation, which is shown in detail on the next page, joint costs are allocated to irrigation, flood control, recreation, and fish and wildlife. The allocation to future commercial power is limited to costs of minimum provision for the addition of three commercial powerplants.

Inasmuch as there is no basic legislation providing for the nonreimbursability of costs allocable to area redevelopment, that function is excluded from the allocation at the express wish of the reclamation district.

Allocation of costs

[Dollars in thousands]

Item	Total	Irrigation	Flood control	Fish and wildlife	Recreation	Deferred commercial power
Benefits, capitalized.....	\$178,013	\$143,807	\$16,368	\$12,292	\$5,546	
Alternative costs.....	92,845	91,573				\$1,272
Project cost.....	65,727	64,509				1,218
Interest during construction.....	3,924	3,870				54
O.M. & R., capitalized.....	23,194	23,194				
Justifiable expenditure.....	127,051	91,573	16,368	12,292	5,546	1,272
Separable costs.....	72,143	54,132	13,271	2,347	1,121	1,272
Project cost.....	43,801	30,055	10,365	2,000	163	1,218
Interest during construction.....	2,105	1,487	444	110	10	54
O.M. & R., capitalized.....	26,237	22,590	2,462	237	948	
Remaining justifiable expenditure.....	54,908	37,441	3,097	9,945	4,425	
Percent distribution.....	100.00	68.19	5.64	18.11	8.06	
Remaining joint costs.....	\$44,271	\$30,188	\$2,497	\$8,018	\$3,568	
Project costs.....	40,401	27,549	2,279	7,317	3,256	
Interest during construction.....	2,834	1,933	160	513	228	
O.M. & R., capitalized.....	1,036	706	58	188	84	
Total allocated costs.....	116,414	84,320	15,768	10,365	4,689	\$1,272
Project cost.....	84,202	57,604	12,644	9,317	3,419	1,218
Interest during construction.....	4,939	3,420	604	623	238	54
O.M. & R., capitalized.....	27,273	23,296	2,520	425	1,032	
Allocated annual O.M. & R.....	863,100	737,200	79,800	13,400	32,700	

Costs of alternative single-purpose projects to produce equivalent benefits have not been estimated for flood control, fish and wildlife, and recreation. The Corps of Engineers and the Fish and Wildlife Service both have advised that costs of a single-purpose project would exceed capitalized benefits for flood control and fish and wildlife. A similar situation applies to recreation.

REPAYMENT

Capital and annual costs allocated to flood control and fish and wildlife are nonreimbursable under existing law. In addition, H.R. 9032 proposes that costs allocated to both recreation and fish and wildlife enhancement be nonreimbursable, subject to provisions on cost sharing and reimbursability contained in that bill.

Tests of those cost-sharing provisions on the allocations to recreation and fish and wildlife involve identification of specific costs of lands and facilities for those purposes, separable costs of joint features assignable to them, and total costs of project features, which jointly serve fish and wildlife or recreation among other purposes, so as to determine permissible limits of nonreimbursable costs.

The segregation of specific and joint costs on the following page shows specific costs of recreation and fish and wildlife lands and facilities in the amount of

\$2,163,000. Total joint costs of project features serving recreation and fish and wildlife among other purposes, such as irrigation, flood control and power, amount to \$51,766,000. No separable costs of those joint features are assignable to recreation or fish and wildlife.

Except for the planned wildlife refuge and other specific features, the recreation and fish and wildlife benefits will arise from the bodies of water impounded by the reservoir systems. These reservoirs also will provide irrigation water supplies and a measure of flood control. Not only are the reservoirs' joint works serving all these functions, but the diversion dam, supply canal, and structures required to deliver water to the reservoirs, also are joint works. Other joint works include reservoir outlets, spillway structures, and three of the floodways which would carry any water spilled from the reservoirs to natural drainages.

Specific costs of recreation and fish and wildlife lands and facilities represent a nonreimbursable investment of \$2,283,000 including project costs of \$2,163,000 and interest during construction of \$120,000.

Midstate project joint project costs of \$51,766,000 involve interest during construction of \$3,628,000 and a total investment of \$55,394,000. Under provisions of H.R. 9032, recreation and fish and wildlife costs allowable as nonreimbursable joint investments would amount to \$7 million for the first \$40 million of joint costs, and 10 percent of \$15,394,000 (which sum is in excess of \$40 million) amounting to \$1,539,000. Thus, permissible nonreimbursable joint costs total \$8,539,000 consisting of \$7,980,000 projects costs and \$559,000 interest during construction.

Segregation of specific and joint costs

[Thousands of dollars]

Specific costs of recreation and fish and wildlife development :	<i>Amount</i>
Recreation.....	\$163
Fish and wildlife.....	2,000
Subtotal.....	<u>2,163</u>
Other specific costs :	
Prairie Creek powerplant.....	5,587
Irrigation distribution and drainage works.....	18,920
Electrical distribution system for project pumps and 115-kilovolt interconnection.....	4,574
Subtotal.....	<u>29,081</u>
Joint works not serving recreation or fish and wildlife: Chapman Floodway.....	1,192
Joint works serving recreation and fish and wildlife among other purposes :	
Diversion dam.....	1,468
Main supply canal.....	3,793
Elm Creek Inlet control structure.....	253
Reservoir systems.....	28,936
Wood River spillway structure.....	2,005
Kearney and Shelton Floodways.....	6,158
Lower Mid-State Canal and Floodway.....	4,042
Reservoir outlet works.....	4,377
General property and equipment.....	594
Previous investigations costs.....	140
Subtotal.....	<u>51,766</u>
Total project costs.....	<u>84,202</u>

The following table compares costs allocated to recreation and fish and wildlife with amounts allowed as nonreimbursable under H.R. 9032 so as to derive the remainder of reimbursable costs for these functions:

Item	Project costs	Interest during construction	Total
Allocated costs.....	\$12,736,000	\$861,000	\$13,597,000
Nonreimbursable costs.....	10,143,000	679,000	10,822,000
Specific.....	(2,163,000)	(120,000)	(2,283,000)
Joint.....	(7,980,000)	(559,000)	(8,539,000)
Balance reimbursable costs, recreation and fish and wildlife.....	2,593,000	182,000	2,775,000

The costs allocated to future commercial power are limited to minimum provisions for the addition of three commercial powerplants and an appropriate share of interest during construction. This investment would become repayable with interest as a part of Missouri River Basin project power costs commencing when construction of those midstate project facilities is completed. No analysis has been made of the effect of adding the deferred power costs to the Missouri River Basin project power investment; however, to avoid the necessity of handling the allocated costs in this manner, a further determination will be made during preconstruction investigations of the feasibility of commercial power development in the midstate project. If proven feasible, construction of all power features could be accomplished initially, or, if proven infeasible, the cost of providing for future power could be omitted from the plan.

Summary of allocations and reimbursable investments

Item	Amount
Total project cost.....	\$84,202,000
Repayable interest during construction.....	236,000
Total investment.....	84,438,000
Nonreimbursable allocations:	
Flood control.....	12,644,000
Recreation and fish and wildlife.....	10,143,000
	22,787,000
Balance reimbursable.....	61,651,000
Future commercial power:	
Project costs.....	1,218,000
Interest during construction.....	54,000
	1,272,000
Recreation and fish and wildlife:	
Project costs.....	2,593,000
Interest during construction.....	182,000
	2,775,000
Irrigation, project cost.....	57,604,000
Total reimbursable costs.....	61,651,000

Current repayment analyses indicate that the basinwide commercial power investment will be amortized with interest by fiscal year 2014. With allowance of time for authorization, preconstruction studies, and construction of the midstate project as scheduled, it is estimated that the reimbursable recreation and fish and wildlife investment would enter plant-in-service about fiscal year 1978, or 37 years before completion of repayment of the basinwide power investment. Assuming that power revenues would be available in 2015 and that the reimbursable recreation and fish and wildlife investment would be repayable with interest at 3 percent, the costs of \$2,775,000 as of 1978 would accrue to a total reimbursable amount of about \$8,284,000 by 2015.

Revenues

Revenues for repayment of reimbursable irrigation costs will be derived from direct payments by water users using project service and from reclamation district ad valorem taxes. The direct payments by the irrigators will be implemented by contracts between individual landowners petitioning for service and the reclamation district. In addition the 1947 Nebraska Reclamation District Act provides the legal authority for the reclamation district to levy and collect ad valorem taxes on all tangible property within the district boundaries.

Farm budget analysis was not made specifically for the midstate project. Irrigation payment capacity was derived by the application of farm budget data of the north Loup division to the midstate area. Based upon a percentage distribution of irrigable land classes derived from sample areas, 39 percent of the irrigable land, or 55,000 acres, was delineated as class 1 and 61 percent, or 85,000 acres, as class 2. Extension of the farm budget data to this distribution resulted in a weighted average annual payment capacity of \$10.15 per acre as shown below:

Irrigable lands	Acres	Payment capacity per acre	Proposed charges per acre
Class 1.....	55,000	\$12.17	\$11.15
Class 2.....	85,000	8.85	8.11
Total or average.....	140,000	10.15	9.31

The payout schedule contained in the April 1958 report on the midstate project proposed a water rate of \$5.50 per acre-foot of water delivered with a minimum of \$7 per acre. Based upon the anticipated water deliveries of about 1.7 acre-feet per acre, these rates resulted in an average annual charge to the irrigators of \$9.31 per acre. This rate is within the payment capacity of \$10.15 and allows for contingencies and incentive. Therefore, an average annual payment of \$9.31 per acre is proposed.

Ad valorem taxes from the reclamation district will provide a major source of income. Under the enabling legislation, a maximum levy of 1 mill upon all tangible property within the district boundaries is permitted prior to the delivery of water. This levy can be increased to 2 mills after water becomes available, and an additional levy of not to exceed 1 mill may be made in the event of defaults or deficiencies.

The assessed valuation of all tangible property in the reclamation district approximates \$134 million for 1963. A review of past records of assessed values in the midstate area shows a significant increase over the past decade. Projecting this rate of growth, it is anticipated that the assessed value will total \$150 million by the 10th year of project operation. Assuming valuations of \$134 million and \$150 million for the 1st and 10th years of operation, respectively, annual revenues at the 2-mill rate would increase from \$268,000 to \$300,000. Although impacts of the development may result in a higher rate of growth in assessed valuations with corresponding increases in tax revenues, a constant amount has been assumed for the period of operation beginning in the 10th year.

Total irrigation revenues, including payments by water users and ad valorem tax levies, would amount to \$1,571,400 in the first year of operation. Anticipated increases in assessed values will raise these revenues to \$1,603,400 in the 10th year and this sum is projected uniformly throughout the remaining payout

period. Deduction of allocated annual operation, maintenance, and replacement costs of \$737,200 results in an annual amortization capacity or \$834,200 initially and \$866,200 by and continuing from the 10th to the 50th year of operation as shown in the following table:

Annual amortization capacity

Year of operation	Payments by irrigators	Ad valorem tax levies	Total revenues	Allocated annual O. M. & R.	Annual amortization capacity
1-----	\$1,303,400	\$268,000	\$1,571,400	\$737,200	\$834,200
2-----	1,303,400	271,600	1,575,000	737,200	837,800
3-----	1,303,400	275,200	1,578,600	737,200	841,400
4-----	1,303,400	278,800	1,582,200	737,200	845,000
5-----	1,303,400	282,400	1,585,800	737,200	848,600
6-----	1,303,400	286,000	1,589,400	737,200	852,200
7-----	1,303,400	289,600	1,593,000	737,200	855,800
8-----	1,303,400	293,200	1,596,600	737,200	859,400
9-----	1,303,400	296,800	1,600,200	737,200	863,000
10 to 50-----	1,303,400	300,000	1,603,400	737,200	866,200

Although lands in the project area of 140,000 acres would be provided irrigation service by blocks as groups of features are constructed, an overall period of 50 years is applied in the repayment analysis without adjustment for time of initial service to blocks of land. As scheduled, initial service to blocks of land would span 3 years. The 50-year repayment period would follow a 5-year development period. As proposed in the April 1958 midstate report, the reclamation district would use its tax resources during the development period to meet annual O.M. & R. expenses and to accumulate a reserve of funds for future operations and repayment obligations.

Repayment of irrigation costs

Total project repayment during a 50-year period will amount to \$43,151,600. This total would not retire all reimbursable costs; however, it would repay 75 percent of the irrigation allocation of \$57,604,000.

A repayment summary of reimbursable irrigation costs follows:

<i>Item</i>	<i>Amount</i>
Project cost allocated to irrigation-----	\$57,604,000
Repayment—50 years—district revenues-----	43,151,600
Balance repayable by Missouri River Basin project power revenues-----	14,452,400

The balance of irrigation costs not reimbursed by the reclamation district during a 50-year repayment period would be amortized along with irrigation costs of other Missouri River Basin project units by basinwide power revenues. The requirement to provide such financial assistance to the Nebraska midstate project was anticipated in the preparation of the studies summarized in the Report on Financial Position, Missouri River Basin Project, December 1963. That report thus demonstrates that revenues are in prospect with which to repay all reimbursable costs of the proposed midstate project within 50 years plus a development period. On a per-acre basis, the midstate project irrigation investment amounts to \$411 of which \$308 would be paid by the district in 50 years and \$103 represents required power revenue assistance.

It is contemplated that the reclamation district will operate and maintain all project facilities except fish and and wildlife and recreation features. Proper arrangements can be made in the repayment contract for handling the portion of O.M. & R. costs allocable to nonreimbursable purposes not otherwise financed. With respect to fish and wildlife and recreation facilities and reservoir lands used for those purposes, it is proposed to enter into agreement with an appropriate State or local agency for administration and operation of such facilities including responsibility for meeting their annual O.M. & R. costs. In the absence of such arrangements, however, provision should be made in the authorization for Bureau operation of those fish and wildlife and recreation lands and facilities.

CONCLUSIONS

The midstate project will benefit most of the 550,000 acres contained within the reclamation district boundaries. The benefit analysis evaluates only those benefits accruing to 303,000 acres of land, of which 140,000 acres would receive direct service and 163,000 acres would benefit from improved and stabilized ground water supplies. Although not evaluated, benefits will accrue to other lands potentially irrigable from stabilized ground-water supplies. Other important benefits will arise from flood control, fish and wildlife, recreation, and area re-development aspects of the project. The analysis of the midstate project shows benefit-cost ratios well in excess of unity on the basis of either total benefits or direct benefits only.

Allocated reimbursable costs to irrigation amount to \$57,604,000, or 68 percent of the total project costs of \$84,202,000. Revenues available from the reclamation district will return 75 percent of those irrigation costs in 50 years after meeting O.M. & R. expenses.

The midstate project report of April 1958, the evaluation statement of January 1960, and the reevaluation in this statement adequately demonstrate project justification and feasibility for purposes of authorization as a division of the Missouri River Basin project. Before construction is initiated it will be necessary to prepare a definite plan report, certify the irrigability of lands, and execute repayment contracts as are required for other divisions of the basinwide project.

Senator Moss. Mr. McBroom, I believe you have a statement, is that correct?

Mr. McBROOM. Yes, Mr. Chairman. I need not read this statement. I am Assistant Director of the Sport Fisheries and Wildlife. I have Mr. William White of our Bureau with me.

Our Bureau has examined this project in accordance with law and usual practice. We have previously submitted statements to this committee about it. We submitted them to the House earlier this week. There is no change from our previous testimony. This is a good project from the standpoint of outdoor recreation and fish and wildlife and we commend it to you.

Senator Moss. Thank you, Mr. McBroom. Your statement will be placed in the record as if fully delivered. We are glad to have you conform in accordance with your previous statement. We also have a statement filed by the Bureau of Reclamation which will be included.

(The statements referred to follow:)

PREPARED STATEMENT BY JAMES T. McBROOM, ASSISTANT DIRECTOR, TECHNICAL SERVICES, BUREAU OF SPORT FISHERIES AND WILDLIFE

The midstate reclamation project can help meet the Nation's needs for outdoor recreation. These needs have been pointed up in the report of the Outdoor Recreation Resources Review Commission and by the second national survey of fishing and hunting. The national survey revealed that between 1955 and 1960, hunting and fishing in the United States increased by 2½ times the rate of additions to the population. It seems generally agreed that our citizens must have additional opportunities for outdoor recreation.

The midstate project offers an unusually fine opportunity to develop fish and wildlife resources. Its system of reservoirs and other waters will provide sport fishing for many Nebraskans, including residents of Omaha and Lincoln, as well as out-of-State tourists traveling the interstate highway which is now being constructed nearby. Its habitat for ducks and geese will fulfill a long-recognized need for a national wildlife refuge in this part of the central waterfowl flyway.

Essential features of the midstate project plan include acquisition and development of an 11,000-acre area along the Platte River which would serve as a combination Federal waterfowl refuge and State-managed public shooting area. Water for ponds in this area would be supplied by the project. The plan also provides for acquisition of 3,000 acres at three of the project reservoirs and management of these areas for waterfowl by the Nebraska Game, Forestation, and Parks Commission. Additional fish and wildlife measures include location of canal inlets to furnish good fish opportunities; design of pump intakes to

permit installation of fish excluders; construction of fish attractors to improve fishing success; selective clearing of reservoir sites; acquisition of adequate land adjoining reservoir sites to permit utilization of fish and wildlife resources; assignment of specified lands to the Nebraska Game, Forestation, and Parks Commission and the Bureau of Sport Fisheries and Wildlife for fish and wildlife management purposes; and such reasonable modification in project operations as may be recommended for fish and wildlife purposes by the Secretary of the Interior or the Nebraska Game, Forestation, and Parks Commission.

The Platte River has been famed for its spectacular concentrations of waterfowl during migrations and its opportunities for waterfowl hunting. In recent years, however, the portion of the river near the project has been dry well into the hunting season with consequent decline in the number of waterfowl using the area in the fall. The midstate project, by furnishing a permanent water supply in its reservoirs and to the refuge area, could be counted on to attract larger numbers of waterfowl than frequent the area at the present time. Hunting opportunity would thus be greatly increased in the area. In addition to these locally accruing benefits, development of waterfowl habitat in the project would materially aid in maintaining the number of birds using the central flyway, which encompasses the block of States from Montana and the Dakotas extending southward to Texas and New Mexico. A better distribution of the birds also would result.

The Bureau of Sport Fisheries and Wildlife has computed fish and wildlife monetary benefits of the midstate project at \$389,000 annually. This is considered a conservative estimate of the benefits which are a reflection of the use expected to be made of these resources by the public. Our estimates of expected fisherman use were based on intensive creel census studies reflecting actual use of existing fishing waters in Nebraska. It is expected that the project will increase fishing by 306,000 man-days, waterfowl hunting by 6,000 man-days, and big-game hunting by 100 man-days on the average each year.

A total of \$1,500,000 has been included in the project costs for wildlife refuge land acquisition and construction of basic facilities and for acquisition of waterfowl areas at the three reservoirs. An additional \$500,000 has been included in project costs for minor project modifications relating to fish and wildlife. Annual operation and maintenance costs of the project amount to \$7,500 for fish and wildlife features, including the water supply for waterfowl areas.

After initial development of the acquired lands for the national wildlife refuge and State-managed public shooting areas, the Bureau of Sport Fisheries and Wildlife and the Nebraska Game, Forestation, and Parks Commission would be responsible for funding the subsequent development, operation, and maintenance costs of the respective areas. The midstate reclamation project offers splendid opportunities for fish and wildlife improvement along with the other project purposes—irrigation, water supply, flood control, recreation, and hydroelectric power production. We and the Nebraska, Game, Forestation, and Parks Commission consider this to be one of the most important and significant developments ever proposed in the State.

We strongly support the enactment of S. 388 or similar bills, for the reasons here presented.

STATEMENT FILED BY THE BUREAU OF RECLAMATION

Mr. Chairman and members of the committee, we are pleased to have the opportunity again to appear in support of legislation to include the Nebraska midstate project in the Missouri River Basin project. We also appeared in this regard during the occasion of hearings of the 86th and 87th Congresses. On those occasions, extensive testimony was offered concerning the evolution of the plan of development, engineering costs, and the economic and financial determinations that had been made. There have been no new feasibility studies, although reanalyses and a reevaluation have been made.

An assured water supply to the Platte River Valley in central Nebraska has long been recognized as essential to maintain the current economy and for the continued growth and prosperity of that area. Our report on the Missouri River Basin project—Senate Document No. 191, 78th Congress—contemplated service to the area included in the Nebraska midstate project. However, that plan was predicated in part upon the use of water to be imported from the Loup Rivers, which might have involved water right difficulties inherent in interbasin transfers of water within Nebraska.

The Nebraska midstate plan does not involve such transfers, but provides for an integrated and effective use of surface and ground water available locally. If, in future years, the need for additional surface-water supplies should become apparent and if the existing impediments to interbasin transfers of water should be clarified favorably or removed, the project works we are now considering could continue in use and be expanded to utilize imported water easily and economically.

The sponsors' original intention was to build the midstate project entirely with their own funds, but they found that the costs of such a project would have been beyond their ability to finance. Therefore, they proposed that authorization be sought for a Federal Government loan for that portion of the cost which, under a Federal project, would be reimbursable and proposed that grants be sought for the nonreimbursable functions.

Bills to provide for such a Federal loan and grants were introduced beginning in 1953. After these bills had been considered by two Congresses without enactment and since the proposed project plan embraces irrigation, flood control, hydroelectric power, recreation, and fish and wildlife, all prime purposes recognized in the multipurpose Missouri River Basin project, the sponsors decided to seek authorization as a unit of the Missouri River Basin project.

The plan as now proposed was developed by consultants to the Nebraska Midstate Reclamation District. Engineering cost estimates were reviewed by the Bureau of Reclamation, and adjustments were made in those areas of the engineering design where differences were noted.

The total estimated cost of \$81,467,000, based on July 1958 price levels, has been indexed to \$84,202,000 to reflect July 1963 price levels. Otherwise, it reflects the same basic plan as presented to the committee in previous testimony. The cost estimate is approved as to adequacy by the Bureau of Reclamation and the private engineering consultants who performed the original work.

Local sponsors have expended over \$1,500,000 of moneys collected by general solicitation and ad valorem tax levies on district property in investigating this project, writing the report, and in presenting the plan to the Congress. Cooperative leadwork of the Bureau of Reclamation has been, and continues to be, financed mostly by the district. To this end, the district advanced \$388,000 through December 1963 and has authorized an additional \$50,000 for subsequent use. This is evidence of the outstanding local interest and active sponsorship of the project and vouches for the sincerity and good faith of the sponsors.

Construction and operation of the proposed works would rescue a highly developed and growing agricultural area from its complete dependence on a ground-water aquifer where demands thereon appear to have exceeded the practical limit of safe yield. The project proposes to replenish and stabilize the ground waters and to expand the water use in the area by application of surface waters for irrigation and by careful regulation of the ground-water levels for all purposes through a complex but integrated system of reservoirs, canals, laterals, district wells, drainage facilities, and floodways.

The water supply from surface- and ground-water sources to be developed by the project is adequate to furnish service directly to 140,000 acres and indirectly benefit an additional 163,000 acres of presently irrigated land within the total arable land resource of 363,000 acres within the district boundaries. Although the specific tracts to be served directly have not been delineated with precision, the irrigation experience within the district and sample area classification of lands furnish adequate assurance of sufficient high-quality lands to afford an economical distribution system layout. It is planned that detailed land classification now underway and farm budget analyses, distribution and drainage system designs, and other required studies will be conducted during postauthorization studies for preparation of the customary definite plan report. Also, at that time we would develop more detailed estimates of operation, maintenance, and replacement expense and payment capacity so that the repayment ability of the irrigators would be known with more exactness.

The interconnected upland reservoirs and wildlife developments along the Platte River as included in the plan would provide extensive fishing and waterfowl hunting opportunities in an area where they are now limited. The Bureau of Sport Fisheries and Wildlife has estimated average annual fish and wildlife benefits at \$389,000. Further, many of these reservoirs and their shorelines, together with planned basic facilities, will provide extensive recreation benefits estimated by the National Park Service to average \$175,500.

Collectively, the proposed multiple-purpose reservoirs, canals, and floodways would furnish a high degree of flood protection to the district lands and prop-

erty and to other areas in the Platte River Valley. The Corps of Engineers, Department of the Army, has calculated the average annual benefits which would be realized from this protection to be \$518,000, and those benefits were used as the basis for the allocation of costs to this purpose.

In recognition of the Area Redevelopment Act of 1961 and the policies and standards of Senate Document 97, 87th Congress, we have evaluated the area redevelopment benefits of the project. These standards permit the measurement of benefits attributable to values of labor and other resources required for project construction and expected to be used in project operation, maintenance, and area employment when, in the project's absence, this labor and these resources would not be fully utilized. Two of the midstate counties, Buffalo and Dawson, are contained in a designated rural redevelopment area. Considering construction and operation and maintenance expenditures in these two counties, we conservatively estimated such annual equivalent benefits to average \$148,900. This total comprises \$89,700 of wages paid to unskilled workers during construction and \$59,200 in operation and maintenance salaries over a 20-year period.

In order to bring our proposal up to date, it was necessary to reanalyze and reevaluate the project to reflect changes in price levels for construction work and to assess the effect of changing procedures, methods, and criteria for analysis of water resource development projects.

As pointed out earlier, the construction costs have been indexed to current price levels. Certain other revisions of the analysis have been made to take into account the precepts of Senate Document No. 97, 87th Congress, a statement approved by the President on May 15, 1962, and more fully entitled "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources."

The interest rate applicable to fiscal year 1964, and as used in the current study, is 3 percent, as compared to a value of 2½ percent utilized in earlier evaluations presented to the committee.

Changes in benefits attributable to fish and wildlife and recreation also result from the provisions of Senate Document No. 97. Fish and wildlife and recreation benefits are derived from a schedule of values developed by a panel of consultants representing the President's ad hoc National Water Resources Council and are based on an evaluation of what users might be willing to pay as distinct from the sportsman-expenditure method previously used.

There have been increases and decreases in the benefits that have had a compensating or offsetting effect on the benefit-cost ratio. An especially significant factor has been the adoption of irrigation benefits deriving from farm budget analysis of enterprises, cropping practices, and yields logically expected to develop by the economic midpoint in the period of economic analysis. Previously, the Bureau of Reclamation has estimated benefits on the basis of conditions forecast for the beginning of the repayment period. This did not take into account the evolutionary trends actually observed on most large irrigation developments and, to that extent, understated the probable increase in benefits to be expected from irrigation development.

A comparison of the benefits as determined from the previous analysis and the current reevaluation is as follows:

Purpose	Annual benefits	
	Previous analysis	Current evaluation
Irrigation.....	\$3, 109, 000	\$4, 551, 000
Flood control.....	512, 100	518, 000
Recreation.....	480, 000	175, 500
Fish and wildlife.....	380, 500	389, 000
Area redevelopment.....	None	148, 900
Total.....	4, 481, 600	5, 782, 400

The benefit-cost ratio, making use of the foregoing benefits discounted at 3 percent per annum and revised construction cost estimates, is 1.57. This compares with the previous value of 1.40. Both ratios make use of total benefits for the prescribed 100-year period of analysis.

The following tabulation shows the effect of revised cost allocation studies, making use of updated benefits:

Purpose	Allocated costs	
	Previous analysis	Current evaluation
Irrigation.....	\$51,964,000	\$55,431,000
Flood control.....	17,345,000	12,466,000
Fish and wildlife.....	10,846,000	8,738,000
Recreation.....	163,000	3,161,000
Commercial power (deferred).....	1,149,000	1,218,000
Area redevelopment.....	None	3,188,000
Total.....	81,467,000	84,202,000

In accordance with prevailing provisions of reclamation law, the costs allocated to irrigation would be reimbursable without interest, and those allocated to flood control would be nonreimbursable. Costs allocated to fish and wildlife enhancement and recreation would, as provided by the administration's proposed bill for establishment of uniform cost-sharing policies for these purposes, be nonreimbursable in the aggregate amount of \$10,143,000. Fish and wildlife enhancement and recreation costs in excess of this amount, or \$1,756,000, would be reimbursable with interest, as would the deferred commercial power allocation. The allocated costs of \$3,188,000 to area redevelopment would be nonreimbursable.

Prospective water users would repay from water service charges and ad valorem assessments over a period of 50 years after conclusion of an appropriate development period an estimated amount of \$43,236,600, or 78 percent of the costs allocated to irrigation.

Costs in excess of this amount (\$12,194,400) plus the reimbursable fish and wildlife enhancement and recreation allocations would be returned from basinwide power revenues of the Missouri River Basin power system. The latter amount, when capitalized for 37 years until power revenues would become available, would have increased to \$5,612,000.

The report on financial position, Missouri River Basin project, December 1963, submitted by the Secretary of the Interior to the chairmen, Interior and Insular Affairs Committees of the Senate and House of Representatives, anticipated the repayment of the deferred commercial power investment and necessary financial assistance to irrigation arising out of the proposed Nebraska midstate development. The revenue requirements for return of interest-bearing fish and wildlife enhancement and recreation costs were not anticipated in the preparation of the studies supporting the report on financial position; however, review of these studies indicates that these obligations can be met within permissible time period without invalidating the ability of the basinwide power system to meet other reimbursable obligations.

The Nebraska midstate project report of July 1958 and the current reevaluation statement accompanying the Department's legislative report on the measure under consideration conclusively demonstrate economic justification and financial feasibility of this development for authorization as a division of the Missouri River Basin project.

The water users can and have expressed a willingness to repay a higher percentage of the cost of this project than any other Missouri River Basin project unit and higher than most projects being considered elsewhere. For these reasons, we commend this legislation to the committee and recommend its early approval.

Senator Moss. Did any of you other gentlemen have a statement to put into the record?

We appreciate your coming to testify. We realize that this is not a little project and it is hard to squeeze it into the time that we have but you have cooperated wonderfully and I think we have a good record.

Thank you.

Now, the witnesses who are here from Nebraska I understand will have a spokesman for the proponents and a spokesman for the opponents, although the record will carry the names of all those who were present and in attendance.

I will call on the proponents first and then ask them to watch the time, so we can give whatever remaining time we have to the opponents.

Senator ALLOTT. Mr. Chairman, could I ask one question? Have the hearings which were previously had been incorporated by reference into these hearings?

Senator MOSS. We have incorporated the House hearings that were completed by reference into this hearing record so we will have a full 2 days of testimony to look at if questions arise.

Senator ALLOTT. All right.

Senator CURTIS. Mr. Lauritsen is going to confine his remarks to a couple of minutes because he was on the stand a long time. I am called to my office. I hope if it takes 5 minutes or so beyond 11 that the opponents can have 15 minutes because I told them that was what we hoped to do.

Senator MOSS. Yes, we will go until we are stopped.

Mr. Lauritsen, we are pleased to have you. Your entire statement will be in the record and we will ask you just to commence on it, sir.

STATEMENT OF WALTER P. LAURITSEN, ATTORNEY FOR THE NEBRASKA MIDSTATE RECLAMATION DISTRICT

Mr. LAURITSEN. There will be no comment on the statement which I think is self-explanatory, Mr. Chairman.

At this time I would like to submit the statement of Mr. Arthur C. Johnson who is the president of the reclamation district and the statement of myself which contains various charts.

Senator MOSS. Those will both be in the record.

(The statements referred to follow :)

STATEMENT OF ARTHUR C. JOHNSON, KEARNEY, NEBR., PRESIDENT, NEBRASKA MIDSTATE RECLAMATION DISTRICT

Mr. Chairman and members of the committee, my name is Arthur C. Johnson, of Kearney, Nebr. As president of the Nebraska Midstate Reclamation District, sponsor, since 1948, of our multipurpose midstate project, and chairman of its elected board of directors, I appear here, in behalf of our district, and its 60,000 citizens, to urge your committee, and the Congress, to support and approve S. 388, which will authorize the construction of our project, by the Secretary of the Interior as a unit of the Missouri River Basin project, which was approved by Congress under the Flood Control Act of 1944. This legislation does not involve the appropriation of funds at this time.

Our principal statement here will be made by Walter P. Lauritsen, attorney for our district, assisted by D. B. McOstrich, our engineer, and W. E. Trommershausen, of R. W. Beck & Associates, our consulting engineers. However, for the information of the committee, I want to make a brief statement about our reclamation district and the support given our development efforts, since 1943, when the midstate plan was first conceived.

DISTRICT

The Nebraska Midstate Reclamation District, in Buffalo, Hall, and Merrick Counties, organized under the 1947 Nebraska Reclamation Act, consists of 550,000 acres of established farmlands, on the north side of the Platte River, of which 430,000 acres are croplands and 120,000 acres are pasturelands. Of the

croplands, approximately 300,000 are presently irrigated by 5,200 or more privately owned irrigation wells. The increase in the number of these wells, since 1945, has been substantial, resulting in an increase in irrigated croplands from 100,000 acres to 300,000 acres in the past 15 years. There are 130,000 acres of croplands not irrigated. While a farm-to-farm survey of actual costs of pumping installations, equipment, and land leveling has not been made, it is estimated that landowners in our district now have invested in excess of \$20 million in such facilities, according to professional contractors in this field. Our economy is founded on agriculture and the total value of all tangible property in our district approximates \$400 million, plus. The assessed valuation in 1963, for such property, is \$134,500,000, which, under Nebraska law, is 35 percent of actual value.

These large investments must be protected. This increase in irrigated acreage, through these pumping installations, has resulted in a substantial increase in our economy, but also in a lowering of ground-water levels in our area, as will be discussed by another witness.

Our district area, in south-central Nebraska, represents a large and important segment of the Missouri River Basin and its contribution to the national economy. Under the Flood Control Act of 1944, developments in our district area were proposed by the Secretary of the Interior. However, these initial proposals included the transfer of water from one river basin to another, which does not conform to Nebraska law. Our midstate proposals, first conceived in 1943, do conform. Our multipurpose proposals, which have had the support and approval of the Secretary of the Interior and the Bureau of Reclamation, since 1958, fulfill our area requirements. Further, our project, as proposed, will not preclude or foreclose on any future developments in Nebraska or any other State in the Missouri River Basin.

SUPPORT

We have sought the assistance and cooperation of the U.S. Government in the construction of our project, through legislation before the Congress since 1954. In that period, we have had the wholehearted support of the Governors of Nebraska and other State officials, of other project organizations in Nebraska, and of the many municipal and civic organizations in the district.

Local support by citizens of our district was proven when, in 1948, upon our organization, and as required under the Nebraska Reclamation Act, voters of the district approved the tax levy powers of our board of directors by a vote of 2 to 1. Again, in 1957, at a special election, the voters approved the continuance of the district by a vote of 5½ to 1. City and town precincts voted 10 to 1 to approve, and county precincts voted 3 to 1 in approval. The total vote was 10,683 to 1,965.

Local support is further proven by the willingness of our citizens to voluntarily contribute \$180,000 between 1943 and 1948, to underwrite our midstate project development expense of engineering surveys and reports, and provide \$1,270,000 in tax funds, since 1948, for such continuing expenses without financial aid from the State of Nebraska or the U.S. Government.

In addition, our project proposals have been supported by each of the other nine States of the Missouri River Basin. In 1959 and again in 1960, each Governor provided a letter to the district supporting the construction of the midstate project. These letters were presented to your committee in 1960, at the hearing on S. 2640. Since legislation under consideration now is the same as our proposals in 1960 and 1961, under S. 970, and in view of the favorable comments in 1960 from all 10 Missouri River Basin States, we were advised in 1961 by the Interior Department and the respective Interior Committees of Congress that "This requirement of the law had been fulfilled in 1960 and similar letters in 1961 would not be required." Those letters of 1960 are included in the record of the hearing on S. 970 in 1961.

Dan Jones, Jr., director of water resources, Nebraska, is here to confirm the need of the midstate project. He will submit brief statements by Gov. Frank B. Morrison, of Nebraska, E. C. Reed, State geologist, and M. O. Steen, director of the Nebraska Game, Forestation, and Parks Commission, in support of S. 388.

In addition, we understand that our 1963 Nebraska Legislature has sent direct to the chairman of the committee its Resolution 37, which supports our proposals and this legislation, as did its 1961 Resolution 14, filed with you at hearings on S. 970.

As this time I would like to present brief statements from the city of Grand Island, Grand Island Industrial Foundation, the Grand Island Chamber of Commerce, the city of Kearney, the Kearney Chamber of Commerce, and the Central City Chamber of Commerce, in which their previous statements, supporting our project proposals and legislation, and submitted to your committee in 1960 and 1961, are reaffirmed. Also, there is a statement from the Grand Island Federation of Labor, AFL-CIO, not heretofore submitted.

For the further information of the committee, if appropriate, I wish to refer you to numerous other supporting statements of local individuals who, at their own expenses, appeared at hearings in 1958 and 1959, which are recorded in hearing print on S. 970 as follows: J. S. Butler, Cairo, Nebr., director of Johnson Lake Development Co. (p. 56); Arthur B. Holmburg, Shelton, Nebr., farmer and chairman of the Buffalo County Board of Supervisors (p. 54); John C. Martin, secretary-treasurer and manager, Grand Island Production Credit Association (p. 51), Robert L. Mettenbrink, farmer and livestock feeder, Grand Island, Nebr., (p. 55); Bill Pierce, irrigation engineer, Kearney, Nebr. (p. 58); Henry D. Schutz, supervisor, Merrick County Soil Conservation District, St. Libory, Nebr. (p. 53); and Adolph F. Meyer, hydraulic and consulting engineer, Minneapolis, Minn. (p. 57).

Additional earlier statements are recorded in the hearing print on S. 2640, 1960, page 25, as follows: "Nebraska Public Power System, Consumers Public Power District, and Loup River Public Power District."

SUMMARY

We hope members of this committee will recognize the importance and need of our midstate project for the future requirements of the citizens of our district area and for Nebraska. We want to beneficially utilize water that is now being wasted. Records of gaging stations near our proposed diversion damsite and at Grand Island, 70 miles downstream, reveal that the average annual flow of the Platte River, since 1943, has been in excess of 800,000 acre-feet.

Our anticipated repayment of construction cost, as determined by the Bureau of Reclamation, is the highest for any unit of the Missouri River Basin project.

We are willing and ready to accept all responsibility in the construction and operation of our project, as proposed by the Secretary of the Interior and the Bureau of Reclamation. We urge this committee and the 88th Congress to approve S. 388. We deeply appreciate your past interest in our development problems and shall welcome your continued cooperation and assistance.

STATEMENT BY WALTER P. LAURITSEN, GRAND ISLAND, NEBR., ATTORNEY FOR THE NEBRASKA MIDSTATE RECLAMATION DISTRICT

Mr. Chairman and members of the committee, my name is Walter P. Lauritsen of Grand Island, Nebr. I am the attorney for the Nebraska Midstate Reclamation District, sponsor of the multipurpose midstate project in the Platte River Valley in south-central Nebraska. I speak for the district, and in view of the heavy affirmative vote for the district in 1957, I believe that I speak for the majority of the 60,000 citizens who comprise this district.

With me, and available to assist in answering your questions, is W. E. Trommershausen, a partner in the firm of R. W. Beck & Associates, consulting engineers, who has appeared before you previously and who supervised the preparation of the basic 1958 Midstate Project Report. This report was approved by the Bureau of Reclamation and the Secretary of the Interior, and was considered in your hearing on S. 2640, in 1960 and S. 970, in 1961. Also with me is Darrell B. McOstrich, staff engineer for the midstate project.

HISTORY AND BACKGROUND

This statement presents information current as of this date. A brief history, and background material is offered for those members not familiar with the midstate project, considering that the last hearing before this committee was 2 years ago.

This project involves three counties in the lower central portion of Nebraska, all being within the valley of the Platte River. The district is approximately 100 miles long and 5 to 15 miles wide, and includes the cities of Grand Island,

Kearney, and Central City and towns of Riverdale, Gibbon, Shelton, Wood River, Cairo, Alda, Chapman, Archer, Clarks, and Silver Creek. There are a total of 550,000 acres of lands within the district, although not wholly susceptible to irrigated agriculture.

The project was conceived in 1943 and there has been sustained effort and progress since that date in our development activities. It was originally believed that the project could be handled by local financing and local construction; later, in 1954, it was believed that the project should be built and developed jointly by the District and the Federal Government. This theory was pursued until the small projects bill limited such projects to \$5 million. After hearings in 1959, the midstate board of directors requested that the proposed works be built by the Secretary of the Interior as a part of the Missouri River Basin project, and since that date our plan has been reviewed and approved by the Bureau of Reclamation and Department of the Interior.

The multipurpose midstate project would comprise irrigation, flood control, fish and wildlife, recreation and hydroelectric power features. As concerns irrigation, it will provide a water supply for surface application, and also for replenishment and stabilization of ground waters throughout the project area. Specifically, the project will make surface water available to 96,000 acres of land presently, but insecurely, irrigated from private wells, and to 44,000 acres of land now under dryland farming. An additional 163,000 acres of land presently irrigated from wells, and up to 223,000 acres in the future, will benefit from the district's replenishment and stabilization of the ground water supply, but are expected to remain under private pumping.

The 96,000 acres of land now being served by private wells, together with 44,000 acres of dry-farmed land, will be subject to irrigation levies based upon the ability of the water users to pay, and on contracts to be entered into with the Bureau of Reclamation as for its other projects. The owners of lands remaining under private well irrigation will be subject to the reclamation district levy as for all tangible property. Such a levy, together with their private pumping costs, will result in the private well irrigator paying from \$5 to \$10 per acre for his water, comparable to the charges for direct irrigation service by the district.

In July 1959, after the hearing on H.R. 3662, the directors of the district petitioned the Congress to consider authorization as a unit of the Missouri River Basin project, and solicited the assistance, guidance, and advice of the Secretary of the Interior to accomplish construction of our proposed works as a Federal project. Thereupon, S. 2640 was introduced in the 86th Congress to fulfill this objective, with a hearing before this committee on May 20, 1960.

At the request of your committee, the Secretary of the Interior, through the Bureau of Reclamation, initiated a review of the economic justification of the midstate project. The report of Commissioner Floyd E. Domy was approved by the Secretary of the Interior, and in January 1960 the Department issued its evaluation statement as a revision of the financial analysis of the 1958 midstate report, and in support of the authorizing legislation. This evaluation statement, together with supporting comments, was submitted to your committee on April 20, 1960. There the Commissioner stated (p. 3):

"The basic plan for the midstate project is the same as that contained in the midstate project report dated April 1958."

The Commissioner found further that the physical plan for project works and their operation remained unchanged from the detailed explanations given this committee by the district's consulting engineers in April 1959. In his conclusion (p. 21) the Commissioner of Reclamation stated:

"The midstate project report of 1958 and the evaluation in this statement adequately demonstrate project justification and feasibility for purposes of authorization as a unit of the Missouri Basin project."

This evaluation statement was unanimously accepted and approved by the midstate's board of directors on May 9, 1960.

DESCRIPTION OF THE DISTRICT

The Nebraska Mid-State Reclamation District operates under the authority of the Nebraska Reclamation Act of 1947. The district was approved by the State of Nebraska and was organized in February 1948. The legality of the formation and organization, and the powers of its elected board of directors were upheld by unanimous decision of the Supreme Court of Nebraska in 1950. Under this act and prior to delivery of water from the project works, the district may levy a 1-

mill ad valorem tax on all tangible property within the district; after delivery of water, the district may levy a 2-mill tax, and in instance of deficiencies or impending defaults in contract payments, it may levy a third mill. The right of the district to make such levies was approved by the voters of the district in 1948 by a ratio of 2 to 1. A tax levy of 1 mill or less has been made by the district for its purposes since 1948, except no tax levy was made in 1957.

The assessed valuation of real and personal property in the district (under Nebraska law) has increased from approximately \$81 million in 1948 to over \$134 million in the 1963 levy. Under these levies, the total collected by the district, to date, approximates \$1,270,000. These funds, together with private subscriptions of individuals and business firms of \$180,000 from 1943-48, show local contributions approximating \$1,450,000.

Our economy is based on agricultural production and related activities. Crops-lands produce small grains, sugarbeets, corn, potatoes, soybeans, castor beans, milo, alfalfa, and other hay crops. Livestock feeding and dairying constitute primary farm operations, and the greater part of the grain and forage produced is fed locally. In recent years experimental and pilot test plots in raising vegetables, on irrigated land, have demonstrated excellent production and a good potential for future diversification to such cropping in the district area.

The midstate project was initiated nearly 20 years ago when local people employed the late Adolph F. Meyer, nationally known hydraulic and consulting engineer, Minneapolis, Minn., to make a preliminary report on project plans. After initial surveys of sites and office studies, the first set of project plans was completed in March 1944. Revisions and adjustments have been made over intervening years to conform to Federal planning principles and to keep abreast of changing developments in the project area.

As now designed, the midstate project will consist of (1) a diversion dam on the Platte River; (2) a 15-mile main supply canal; (3) a series of 23 interconnected reservoirs across ravines on the north side of the valley, with an aggregate storage capacity of over 600,000 acre-feet; (4) 4 potential hydroelectric powerplants; and (5) a distribution system and series of district wells for the direct irrigation of 140,000 acres of cropland. These facilities and their operation are fully described in the project report submitted previously to this committee. Collectively these facilities will provide as major benefits (1) irrigation; (2) replenishment and stabilization of the ground-water supply for farms, cities, and industry throughout the entire district; (3) flood control; (4) the production of hydroelectric power; (5) conservation of fish and wildlife; and (6) development of recreational facilities.

PROJECT BENEFIT

Irrigation

The midstate project will supply surface irrigation water directly to 140,000 acres of croplands in the district, including 96,000 acres presently irrigated from wells and 44,000 acres of dry-farmed land. Gravity irrigation of this land will stabilize the ground-water supplies for an additional 163,000 acres of land presently irrigated from wells, and up to 223,000 acres in the future.

Under the 1958 farm-to-farm survey, the owners of 113,000 acres of land signed "letters of intent" to use direct project water service. Engineers have established that the water supply available from the Platte River for the midstate project will be adequate for the acreage under consideration in the present proposal. The midstate board believes and accepts the opinion of Adolph F. Meyer, the consulting hydraulic engineer who conceived this project, as follows:

"I believe that by force of necessity many more pump-irrigated acres will call for ditch water from midstate before a water balance is achieved in this area. In that kind of a competitive market, the value of water would be relatively high and, in my judgment, no difficulty will be experienced by the district in securing the necessary income to repay the irrigation loan."

The Bureau of Reclamation report concluded that the total benefits of irrigation realized from the midstate project operation will be well in excess of \$4.5 million annually. The board and its consultants believe that this appraisal is conservative.

REPLENISHMENT AND STABILIZATION OF GROUND WATER SUPPLY

The number of irrigation wells in the district has increased tenfold from about 500 in 1930 to over 5,200 in 1962. One-fourth of all registered irrigation wells in the State of Nebraska are located within the district. Such accelerated and

concentrated pumping has created critical conditions in many cases, particularly in the dry years of 1954-56, and if allowed to continue without artificial replenishment, this will have a serious economic effect on our present agricultural economy and could approach a calamity. Ground water levels have dropped notably and continue to decline. This month, measurements of domestic and irrigation wells show significant further declines of water levels, compared to 1962, for most areas in the district. Some domestic and stock wells have gone dry and most irrigators report decreasing well production.

Three charts have been prepared from figures secured from the district's engineer and information supplied through the local office of the Bureau of Reclamation to graphically illustrate the relationship between precipitation, static water levels and irrigated acres. These charts are contained in this statement at page 7, being reductions of the large charts to which I will now refer.

The first chart shows two 15-year cycles of precipitation for the Nebraska midstate area, with lows in 1940 and 1955; the static water levels of seven representative wells in the district, and the trend of increase in acreage irrigated by wells in the district. There is always a lag between precipitation and its effect on ground water levels, and it will be noted that as the precipitation fluctuates up or down, a corresponding change will be found within a few years in ground water levels. Declines were more pronounced during the second cycle with 100-300,000 acres irrigated, than during the first with only 50-100,000 acres irrigated. Declines continue in many wells even with more favorable precipitation since 1955. Lands under well irrigation have trebled from 1945 to 1960, and illustrated is the overdraft by 5,200 or more wells on the natural ground water supply of the area during the 1950's, causing a more serious decline in water levels than was true with the lesser acreages irrigated during the drought of the 1930's. Surface water supplies are adequate to service 140,000 acres directly and, by ground-water recharge and stabilization, indirectly serve 163,000 acres at present or 223,000 acres in the future by private-well irrigation.

The second chart is an effort to project historical declines in ground water levels in portions of the midstate area to the future. Without midstate, the well irrigators and other users of ground waters face higher well lifts, greater pumping costs, lesser well yields, and in time, deterioration of the ground water aquifer to inadequate or exhausted water supplies. With midstate, ground-water declines can be arrested and levels stabilized within a practical zone of fluctuation, resulting in dependable water supplies at reasonable cost, and with many associated benefits.

The third chart illustrates the solution to the water problems of the midstate area, and involves a balanced system of facilities and the coordinated use of water from both surface and ground water sources. Shown are the district's reservoirs as planned to regulate surface water supplies for irrigation, ground water replenishment, flood control, fish and wildlife conservation, hydroelectric power, and recreation; also are shown canals, floodways, and laterals to carry water to the gravity-irrigated lands; and the district wells for operation when needed to augment surface waters, and private wells and land to regularly utilize ground water for irrigation and other uses.

Operation of the midstate project and its distribution of surface water to croplands will replenish and stabilize ground water levels over the entire district area of 550,000 acres, thus benefiting all irrigators, and domestic water users, including towns, cities, and industrial users. The restoration of ground water levels can be accomplished and the present economy sustained only if works are built to regulate and distribute the unused waters of the Platte River.

These important and far-reaching benefits, resulting from ground water stabilization, are reflected in the evaluation statement of the Bureau of Reclamation as a part of total irrigation benefits.

FLOOD CONTROL

Following the earlier historical floods and the disastrous 1947 flood of the tributaries of the Platte River in the midstate area, which resulted in great damage within and outside the district, both rural and urban, the midstate board requested the Army Corps of Engineers to undertake studies concerning the annual flood control benefits which could be achieved by the construction and operation of the midstate project. This problem was highlighted by the floods, less serious than previously mentioned, of 1949, 1950, and 1951.

As a result of these studies, the Corps of Engineers has determined that flood control benefits accruing from the proposed works of the district would be \$518,000 annually. This figure has been used by the Bureau of Reclamation in its cost allocation after approval by the Secretary of the Interior.

HYDROELECTRIC POWER

The project includes plans for four hydroelectric powerplants with reversible pump turbines to insure the production of power, each installation to have a capacity of 16,800 kilowatts. The output of the one powerplant to be built initially will be used to meet the irrigation well-pumping requirements of the district and it will, therefore, be an irrigation feature.

Construction of the three remaining plants will be deferred pending development of further powerloads in Nebraska. However, since these three plants will have a capacity to produce in excess of 50,000 kilowatts and 180 million kilowatt-hours of energy, and can be used for peaking, it is prudent to include penstocks so as not to preclude the potential development of this resource. This is in compliance with section 10 of the Flood Control Act of 1946 which states " * * * *And provided further*, That penstocks and other similar facilities adapted to possible further use in the development of hydroelectric power shall be installed in any dam authorized in this Act."

FISH AND WILDLIFE AND RECREATION

Interconnected reservoirs of the midstate project, with a combined water surface area of 25,000 acres, together with their shore areas, will provide important benefits to fish and wildlife, and for fishing, boating, swimming, other water sports, and hunting. The Fish and Wildlife Service has established such benefits at \$389,000 annually. This amount was approved by the Secretary of the Interior and supports the Bureau of Reclamation cost allocation to this function. The inclusion of minimum structures and other recreational facilities at certain adaptable reservoir areas, as proposed by the National Park Service, and by the Nebraska State Game, Forestation, and Parks Commission will provide these benefits not only to the citizens of the local area, but to those of eastern Nebraska and to the ever-increasing number of vacationing tourists of the Eastern and Western States who now use U.S. Highway 30 and the newly opened interstate highway through the midstate area. Opportunities for recreational activity are few and facilities are inadequate in Nebraska, particularly in the central and eastern portions.

SUMMARY

Over the past 17 years, members of the midstate board of directors, the district's staff members, many interested citizens, and officials of the State of Nebraska, have made numerous trips to Washington, D.C., to present and coordinate the plans of the midstate district so as to fully meet the requirements of the Congress and the executive agencies of the Federal Government for a multipurpose project to satisfy the needs of the district area.

A willingness of the citizens of the district to help in this undertaking is demonstrated by the \$180,000 voluntarily contributed by individuals and firms. Further, the determination of the district to help itself is demonstrated by the raising and use of over \$1,270,000 of tax money for the furtherance of the project, including surveys, plans, engineering, and feasibility reports. Pending authorization, the district has advanced to the Bureau of Reclamation \$325,000 since 1959 for continuance of detailed engineering surveys in order to expedite final plans and construction. A month ago, the district committed itself for an additional \$60,000 of tax money to be advanced to the Bureau of Reclamation in the next 6 months for continuance of such work. All property holders within the midstate district are paying taxes for this project as a result of the ad valorem tax. Water users, who will be supplied with water, will pay for water service to the extent of their ability as determined by criteria established by the Bureau of Reclamation. When the midstate project commences operation, the taxpayers in the district will be obligated to pay approximately \$300,000 annually as the result of the 2-mill ad valorem tax levy.

The critical problem of declining water levels in the midstate district area must be solved, and this project as conceived will meet this need. The most important single reason for construction of the midstate project is the need to replenish and stabilize the ground water supply, which, when accomplished,

will preserve the large present investments in leveled lands, in farm buildings, wells, pumps, and machinery, and in the public and private facilities which are now dependent upon the development and use of surface waters. The value of tangible property, both real and personal, in the district approximates \$400 million. Under Nebraska law, assessed valuations for tax purposes are established at 35 percent of actual value. From the point of need and good timing, it is important that the construction of this project be undertaken immediately.

Following authorization, 2 to 3 years will be required to complete detailed studies and a definite plan report by the Secretary of the Interior, and to accomplish other prerequisites. Construction will require 9 years in accordance with estimates of the Bureau of Reclamation. This gives no promise of relief to the overdraft on the ground water reservoir until the middle 1970's. With continued and ever heavier pumping, and more rapid drawdown of the ground water level, our situation will become even more critical. This project merits consideration by the Congress as a program that can solve the problem on a planned basis rather than on an emergency or crash basis.

Nebraska, like other reclamation States in the West, does not receive sufficient rainfall in the summer for adequate sustained crop production. At the present time, water flows past our area in the Platte River, serving no useful purpose, on its course to the Gulf of Mexico. The district has had filings on this water pending since 1943. We vitally need this water and have conceived a plan to conserve and utilize it. This plan has been declared to be engineeringly feasible and economically justified. We have met all known requirements and are ready to accept such financial responsibilities as will be proposed by the Congress under reclamation law, in the construction and operation of the midstate project.

Our district has the support of the State of Nebraska, its Governor, and its officials. The Nebraska Legislature at its last session again passed a resolution for approval of the project and requested immediate construction. The district has the support of our congressional delegation, and that of the citizens of the midstate district. Under Nebraska law, reclamation districts such as midstate are required to submit the continuance of the district to the will of the voters if construction has not been started within a specified time. Accordingly, this issue was placed to a vote in 1957, and the result was that 85 percent of the voters balloted in favor of continuance. The midstate district also has full support and acceptance of the plan by the Bureau of Reclamation and the Department of the Interior. Our legislation has been approved by the Bureau of the Budget and, therefore, is supported by this administration.

The district assures the committee that it is willing to diligently continue its cooperation with the several Federal agencies involved, and is ready to accept all responsibilities associated with development under Federal reclamation law as a unit of the Missouri Basin project.

I thank the chairman and members of this committee for this opportunity to explain the needs and the proposals of the midstate district.

We believe that all prerequisites for authorization have been accomplished. We request and urge that S. 388 receive your favorable consideration and approval.

(The charts referred to are in the files of the committee.)

Mr. LAURITSEN. We would like this committee, of course, to consider the previous hearing records which have been made. There have been no changes in the basic plan because there have been disputes on the water levels. We have done everything we possibly can to demonstrate from overall highs to the very lowest lows, and we have also brought along a year basis current as of November 1963. We would like permission to reduce these to a size where they could be included in the hearing reports at our expense. We would like to have two charts, of which this is one, received for the files.

Senator MOSS. That may be done. They will be placed in the files.

Mr. LAURITSEN. In addition to that we have statements and letters comparable to those that were submitted yesterday before the House of Representatives. These we would ask to be included in the record.

Senator Moss. Without objection they may be included at this point.

(The statements and letters referred to follow:)

CITY OF GRAND ISLAND,
Grand Island, Nebr., February 24, 1964.

Re S. 388.

Hon. FRANK E. MOSS,
Chairman, Interior Subcommittee on Irrigation and Reclamation,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is written to reaffirm, on behalf of the city of Grand Island, the statement of C. W. Burdick, commissioner of utilities for the city of Grand Island, which appears on page 34 of the print of the hearing on S. 970 on May 25, 1961.

For your information the city of Grand Island, in order to meet its future requirements for an expected increase in population from approximately 30,000 now to 50,000 during the next 20 years, has initiated a new multi-million-dollar water supply project, which calls for the installation of 32 new wells between channels of the Platte River, south of the city. This, together with ground-water replenishment which the midstate project will supply, should adequately care for our future water requirements.

As a registered professional engineer and associated with the city of Grand Island since 1930, it is a privilege to reaffirm the statement of my predecessor.

Yours truly,

CITY WATER & LIGHT OFFICE,
F. E. PHELPS, *Utilities Commissioner.*

[Enclosure]

STATEMENT OF CITY OF GRAND ISLAND

(Prepared by C. W. Burdick, commissioner of public utilities. Mr. Burdick is a registered professional engineer. He has been employed by the city for 47 years and has held his present position since 1920. The city operates 17 wells for municipal use and 8 wells in connection with a steam-generating plant.)

The city of Grand Island is the third largest in Nebraska. It is located in the central part of the State and immediately north of the Platte River in Hall County.

Grand Island obtains its public water supply from 17 wells, located in various places within and just beyond the city limits. The system is owned and operated by the municipality, and has been in existence since 1872.

The underground water supply in this immediate valley, of which Hall County is the center, depends for its supply and replenishment upon precipitation in the form of rain and snow, together with a slow movement of percolation from the northwestern part of the State, known as the Sand Hills; also, some percolation is supplied from the Platte River water flowing past Grand Island.

In addition to the wells operated by the city of Grand Island, there are those operated by five other smaller towns in Hall County for public water supply purposes. Also, there are, as of January 1, 1961, over 2,300 irrigation wells in Hall County, pumping from 500 to 1,000 gallons per minute per well throughout the crop-growing season. These irrigation wells for the most part have been installed during the past 7 to 10 years, and more are being installed each year.

The city of Grand Island, anticipating the results to its water supply because of the tremendous withdrawal of water from the shallow underground reservoir, authorized the installation of 54 observation wells in a cross section north and south, east and west, in a 6-mile radius around Grand Island. These wells were installed in 1936 for the purpose of keeping a record on the underground water table levels. Readings as to depth of water from ground level have been taken quarterly since the observation wells were installed. These records reveal a constant lowering of the underground water table—more pronounced over the past 9 years. The present general water table within the area of the city's observation wells is 17 feet below what it was in 1951.

The city of Grand Island, as well as many irrigators, have found it necessary to lower their pumps because of this condition. However, there are many places where the shallow supply can no longer be pumped economically.

From the writer's experience of more than 40 years of operating the city's water department, it is obvious that a greater amount of water is being with-

drawn from the underground supply than is being replenished from all present sources; and, if not supplemented by surface water, will in a short time disappear unless drastically controlled.

The city of Grand Island has taken precautionary measures for the conservation of water by discouraging its use for air conditioning, unless recirculated or returned to the underground supply. Grand Island recently completed the construction of a new steam powerplant which was designed to return all condenser cooling water to the underground through two artificial lakes.

The officials of Grand Island, in view of the facts above, are very much alarmed over its future public water supply and the preservation of its present investments; precautionary measures within its power have been taken to conserve the present supply. The city has assisted in every way in supporting the midstate project. This project, when built, will store water, now passing Grand Island every year, on its course to the gulf, and conserve it for more useful purposes through the replenishment and stabilization between surface and underground water.

In conclusion, may I state that in my opinion the greatest single reason for the construction of midstate is the preserving of the large investments made by cities, towns, and agriculture located within the midstate area, which are dependent on water through the stabilization and replenishment to the ground water. Furthermore, the future of Nebraska, and the midstate area in particular, will be in a more favorable position to obtain its fair share of the Nation's increasing population and industrial expansion, since adequate water is the prime requisite for both.

GRAND ISLAND CHAMBER OF COMMERCE,
Grand Island, Nebr., February 22, 1964.

Re S. 388.

Hon. FRANK E. MOSS,

Chairman, Senate Interior Subcommittee on Irrigation and Reclamation, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: The Grand Island Chamber of Commerce, with a membership of over 900 business and professional people, having spent considerable amounts of time and money doing education, informational, and research work for the Nebraska midstate reclamation project, heartily support this project.

The residents within the project area are in accord with the midstate project. This was evidenced by a 5-to-1 vote in November 1957, in favor of continuing the project. In Grand Island itself, with a population of 25,000, the vote was 17 to 1 in favor of the project.

The midstate board of directors have secured valid signatures of landowners representing over 113,000 acres by letters of intent. This is further proof, and an indication from the people within the project area, as to their interest and belief in this project.

We feel, the Nebraska midstate project is truly an investment in this great Nation of ours, as well as the State of Nebraska. We are firmly convinced the project will greatly enhance the economic growth and development of this area.

Not only will this important project provide needed water supply and conservation, it will provide employment for the farm population that are seeking employment in other fields. This factor is caused by farm mechanization, which in turn reduces the rural population.

Grand Island has realized phenomenal growth in manufacturing during the past 15 or 20 years. Of Grand Island's 79 manufacturers, 45 or 57 percent of these firms were established in Grand Island since World War II. Many of these firms are directly related to agriculture and irrigation development and are a result of the agriculture stabilized by pump irrigation in this period.

Another indication of Grand Island's growth is reflected in the increase in bank assets during the past 20 years. Grand Island bank assets in 1943 were \$18,159,209. In 1963, this had grown to \$52,676,509.

Irrigation, electrical power, flood control, fish and wildlife benefits, parks, and tourist attractions are worthwhile features of the project.

Officials and staff specialists of national food processing firms have continued interests in the area encompassed by the midstate boundaries. They have watched with interest, our midstate progress to secure the recharge of underground water and maintain an adequate reserve.

The midstate project is an investment in America, the cost of which will be repaid by the people in the project area over a period of years.

Sincerely yours,

R. E. SPELTS, JR., *President.*

GRAND ISLAND INDUSTRIAL FOUNDATION, INC.,
Grand Island, Nebr., February 22, 1964.

Re S. 388.

Hon. FRANK E. MOSS,

Chairman, Senate Interior Subcommittee on Irrigation and Reclamation, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: The people residing in the Nebraska midstate reclamation project area have a good understanding of the project, its water conservation, and other economic benefits, as well as the project's influence upon the future agricultural economy of this area, the State of Nebraska, and the Nation.

A large majority of the populace, both rural and urban, living in the midstate boundaries, have endeavored to express themselves in many ways. Two important factors are the vote of the people in sustaining the project, and the letters of intent by farmowners.

Late in 1957, the Grand Island Industrial Foundation, upon the request of several interested citizens, provided office facilities for an organization known as Citizens of Mid-State. This voluntary group of civic-minded people organized support for the Nebraska Midstate Reclamation District at an election held on October 29, 1957. The election, which was for the purpose of determining whether or not the midstate district should be continued, resulted in an overwhelming vote in favor of continuance of the district. Approximately 85 percent of the voters voted to continue the district, and in some precincts the vote was as high as 25 to 1 in favor of such continuance. The endorsements and resolutions in support of the midstate project, which was passed by various boards, civic groups, clubs, and organizations, were channeled through our office. Because of the fact that such documents were forthcoming, we feel you would be interested in having the names of the supporting organizations.

While the list includes many names, it does not include the names of all supporting organizations. However, it does provide a good cross section of our urban and rural citizens.

Platte Valley Pump Irrigators Association	Grand Island Lions Club
Hall County Farm Bureau	Kearney Chamber of Commerce
Kearney Agricultural Committee	Grand Island Chamber of Commerce
Hall County Livestock Improvement Association	Grand Island Cosmopolitan Club
Nebraska State Izaak Walton League	Grand Island Real Estate Board
Nebraska Reclamation Association	Brotherhood of Railway Clerks
Kearney Wildlife Club	Grand Island Life Underwriters
Nebraska Society of Professional Engineers	Grand Island Industrial Foundation
Nebraska State Game Commission	Village Board of Trustees, Shelton
Grand Island Federation of Labor	City Council of Kearney
Business & Professional Women's Club, Kearney	Wood River Lions Club
American Association of University Women, Grand Island	Cairo Boosters Club
Grand Island Junior Chamber of Commerce	Toastmasters Club, Grand Island
Shelton Lions Club	Kiwanis Club, Kearney
Grand Island Rotary Club	Gibbon Lions Club
Kearney Lions Club	Kearney Elks Club
	Buffalo County Board of Supervisors
	City Council of Grand Island
	Kearney Eagles Club
	American Legion Club, Kearney
	Shelton Junior Chamber of Commerce
	Kearney Cosmopolitan Club
	Kearney Rotary Club

The midstate project will provide many economical advantages, but as this organization is familiar with the desires and needs of industry, we wish to point out the need for such a project, not only for needed water conservation for the rural areas, but for the urban needs and requirements of commercial and industrial use.

Nebraska, because of farm mechanization and loss of farm population, must provide new and additional job opportunities for its people. The midstate project will have a major and decisive effect upon prospective industrialists who are assured of an adequate water supply should they locate in Nebraska. New jobs will be created during the actual construction of the project, and, upon completion, new and additional job opportunities will present themselves throughout the area.

The people of this area have devoted much time and have given their financial support in perpetuating the midstate project, and we now sincerely solicit favorable action by your committee.

Sincerely yours,

JAKE GRASMICK, *President.*

GRAND ISLAND FEDERATION OF LABOR—AFL—CIO,
Grand Island, Nebr., February 24, 1964.

Re S. 388.

Hon. FRANK E. MOSS,
*Chairman, Subcommittee on Irrigation and Reclamation,
Senate Interior Committee, Washington, D.C.*

DEAR SIR: Organized labor, through its members, has supported the proposals of the midstate multipurpose project for our area since its conception in 1943. Realizing that, basically, the full conservation and utilization of our land and water resources will stabilize our economy in providing a consistent and adequate supply of water for the production of agricultural products. In turn, an assured water supply, when utilized for the production of hydroelectric power, will attract industry to our area, which, in turn, means more employment.

Since 1945, the increase in pump irrigation has been tremendous, resulting in numerous industries coming to Grand Island and Kearney. As a result, employment opportunities have increased, as has the population.

We are advised that ground water levels continue to decline and, if that trend continues, without something being done about it, as the midstate project will provide, employment here will suffer in future years. On the contrary, construction of the midstate project between 1964 and 1970, as proposed, will provide increased employment opportunities and its subsequent operation will increase this benefit.

As you know, the economy of our area is based on agricultural production and its products by processing, particularly the conversion of grain feed into beefsteaks, through cattle feeding operations. Since your committee deals continually with irrigation problems in the arid and semiarid West, you will agree that there is nothing worse than a farmer running out of water for his crops in July and August. Everyone else in the area suffers, too.

Since the primary purpose of the proposed midstate project is to utilize water of the Platte River, now being wasted in the Gulf of Mexico, if utilized as proposed, a primary benefit will be the replenishment of our ground water supply. Therefore, we urge Congress to cooperate with our needs and approve S. 388.

Records of your hearings on this project in 1960 and 1961 show our wholehearted support of this development and our efforts in behalf of the success of the election "for continuance of the district" in 1957.

Organized labor joins with the directors and officials of the Nebraska Midstate Reclamation District, officials of the State of Nebraska, and others in urging Congress to "authorize construction" of the midstate project for our future welfare.

Sincerely yours,

CONRAD KRIEGER, *President.*
DON ELROD, *Secretary-Treasurer.*

CITY OF KEARNEY, NEBR., *February 24, 1964.*

Hon. FRANK MOSS,
*Chairman, Subcommittee on Irrigation and Reclamation,
Washington, D.C.*

DEAR MR. CHAIRMAN: This letter indicated our support of S. 338. I have been city manager of Kearney, Nebr., for 10 years. Kearney is an agricultural and rapidly developing industrial city located toward the west end of the Nebraska midstate district area and has a population presently estimated at 14,500 people.

A firm and dependable water supply for the agricultural area in the vicinity of our community becomes more important to all of us every day. Recently a large hybrid seed processing firm, the DeKalb Co., has finished the erection of a large plant to process seed raised in the area. The Rockwell Manufacturing Co. recently completed a large manufacturing plant east of our city to fabricate precision valves and controls. These companies use water directly, or are dependent on a firm and dependable supply of water in the area to insure production of these agriculture crops for processing.

These industrial and agricultural plants help to balance our farm and city labor supply, make new jobs for our expanding population, and in turn benefit not only our area, but the State and the Nation. These large installations also pay their fair share of taxes to support water development. Such plants require larger amounts of water than others for their operation. Too, the more varieties of crops that are grown in a given area, the more diversified will be the labor needed for those crops, and this, in turn, spaces the peak demands for labor and other services, so that supply can be more nearly balanced with demand.

Our city water supply comes from 15 shallow wells which draw water from the same underground supply which furnished water for all of our agricultural crops in the area. We know from our own experience and records that this water is being drawn out faster than it is being replenished, and many additional wells are being installed each year. We have thousands of acre-feet of water passing through our area every year in the Platte River, as it flows out to the Gulf of Mexico. We should be using this water to help maintain a balanced supply for our underground reservoir. If this water can be diverted and stored in the proposed midstate reservoir system and spread on our farms, a wide segment of the economy of the area will benefit greatly.

The farmer will benefit from the water applied directly to his crops; the pump irrigator will benefit from the water that percolates to the reservoir below; the city and village water supplies will be more firm due to the recharge from surface irrigation. The trade area of the city of Kearney extends roughly 30 miles west of the midstate district boundary, and about the same distance eastward into the district. This trade area has long been plagued by frequent damaging floods of Strever, Buffalo, Elm Creek, and Wood Rivers. In addition to major damage to the highly developed farmlands and physical improvements in this trade area, these floods cause serious interruptions of communication and transportation services leading both to and from our city. The midstate project plan of development is designed to prevent these flood damages from occurring in all of that portion of the Platte Valley north of the river which lies within the midstate boundaries and extends some 30 miles to the west. Our primary interest in the midstate project is in the benefits derived from a balanced underground water supply and adequate irrigation water for agricultural needs and flood protection, as I have already outlined. However, we cannot overlook the enormous and widespread benefits that will be derived from the family recreation facilities and hunting and fishing area provided by the numerous proposed lakes. All of the major lake areas will be from 7 to 20 miles from our community. Our people now have to drive 45 miles to reach the nearest lake of any size, and it has been long overcrowded. This midstate development will provide ample recreational areas and facilities within a reasonable traveling distance and within reach of all who desire it.

I am told by those who have studied the recreational features in more detail that there are more than 200,000 people living within a radius of 50 miles of these lake areas. In addition, the cross-country travelers and vacationists traveling on U.S. Highway 30, which passes within a few miles of the lakes, can make good use of these recreational facilities.

In closing, I want to say the people in our area cannot afford to let more time pass without utilizing all of our water resources. Recharge of the ground water in our area is imperative. In this all parties seem to be in agreement. Surface water will benefit those farmers who do not have a good well. A stabilized water supply for our area will help stabilize the farm income. Whether we are trying to manage the affairs of a city or the finances of a farming unit, the benefits are there, if we can get our water resources developed. The midstate project plan, as presented to this committee, will, in my opinion, accomplish these basic objectives, and, therefore, merits your full confidence.

RAY E. LUNDY, *City Manager.*

[Telegram]

KEARNEY, NEBR.

ARTHUR C. JOHNSON,
*Care of Congressional Hotel,
 Washington, D.C.:*

Please express to the Senate Subcommittee on Irrigation and Reclamation and to the House Committee on Interior and Insular Affairs our firm support of S. 388 and of H.R. 64 and H.R. 1905.

We are supporting this program because: (1) The midstate project will provide a much-needed recharge of underground water; (2) the midstate project will provide water for the irrigation of a large quantity of rich fertile land; (3) the midstate project will provide much needed flood control; (4) needed recreational facilities will be provided by the many lakes and reservoirs; and (5) project can furnish electric power for the area and for the State.

RICHARD HARTLEY,
Executive Vice President, Kearney Chamber of Commerce.

CENTRAL CITY CHAMBER OF COMMERCE,
Central City, Nebr., February 24, 1964.

Re S. 388.

HON. FRANK E. MOSS,
Chairman, Subcommittee on Irrigation and Reclamation, Senate Interior Committee, Washington, D.C.

GENTLEMEN: The Central City Chamber of Commerce firmly supports the Nebraska Midstate Reclamation District in its efforts toward construction of the Nebraska midstate project. It is the hope of our organization, composed of business and professional men and farmers that this project may become a reality as a result of the legislation now pending before the Congress.

Central City is a rural community. As the agriculture of the area suffers or prospers, so, likewise, does this city. Merrick County is progressive, agriculturally and otherwise. Our farmers utilize the most advanced farming practices with regard to fertilization, crop rotation, weed and insect control, etc. But nothing is more important to them or the economy of the area than irrigation. This practice has made land which was at one time virtually worthless, among the most highly valued anywhere. Our farmers, and thus our community, cannot depend upon the vagaries of nature to supply the precious water necessary to crop production.

Very rarely is there a summer when the irrigation wells are not in constant operation for more than a month. Without irrigation, all too often, there is no crop whatsoever. Our farmers have recognized this need to the extent that where in 1947 there were approximately 300 irrigation wells in Merrick County, in 1964 there are more than 1,800. But this increasing irrigation, in addition to providing good crops, has, as it must, another effect. The water table under our land is dropping. As more wells are drilled and more water pumped, the water table will drop further and further. Even now it is becoming necessary to drill deeper to reach the supply. Eventually, it may disappear altogether under certain lands.

It is deeply gratifying to us to know that positive action is being taken and that a solution is available to alleviate this danger. By the use of surface waters for irrigation, and the building up of the water table through the contemplated reservoir system, the present prosperity of this area may be continued.

However, even beyond this desirable, or rather necessary, accomplishment, there are additional benefits, any one of which standing alone would make the adoption of the project fully justifiable. The providing of power, the establishment of recreational and game refuge areas, and the flood control provisions—all of these combine to make the Nebraska midstate project at least one of the most vital pieces of legislation, as it related to this area, ever to be introduced into the Congress of the United States.

Most respectfully yours,

DARRELL WILLOUGHBY, *President.*

PLATTE VALLEY PUMP IRRIGATORS ASSOCIATION,
Grand Island, Nebr., February 25, 1964.

HON. FRANK B. MOSS,
Chairman, Subcommittee on Irrigation and Reclamation,
U.S. Senate, Washington, D.C.

DEAR SIR: We, the Platte Valley Pump Irrigators Association, respectfully submit the enclosed resolution, dated February 25, 1964.

We have always worked closely with the midstate project and a great many of our members indicated in the 1958 farm-to-farm survey that they would be interested in taking some surface water to augment the water from their irrigation wells.

We feel that we must have something in this area to recharge the ground water and permanently stabilize the economy.

Respectfully submitted.

GORDON H. ROBBINS, *President.*

RESOLUTION OF PLATTE VALLEY PUMP IRRIGATORS ASSOCIATION,
GRAND ISLAND, NEBR.

Whereas there seems to be some doubt by certain agricultural people in the central Platte Valley as to where the Platte Valley Pump Irrigators Association stands regarding the midstate project; and

Whereas the Platte Valley Pump Irrigators Association has, at previous times in the past, passed resolutions favoring the Nebraska midstate reclamation project; and

Whereas the Platte Valley Pump Irrigators Association have always favored the conservation and protection of water in the Platte Valley, as evidenced by their successful fight in defeating the water diversion bill in the 1953 legislature, and their active participation in the district's 1957 special election: Now, therefore, be it

Resolved, That the Platte Valley Pump Irrigators Association reaffirms its stand favoring the development of the Nebraska Midstate Reclamation District.

Respectfully submitted.

GORDON H. ROBBINS, *President.*

KMMJ,
Grand Island, Nebr., February 27, 1964.

HON. FRANK E. MOSS,
Chairman, Senate Interior Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: KMMJ is one of the oldest farm service stations in the Midwest and we are always concerned with the welfare of this great agricultural area.

We have been interested in the progress of the midstate reclamation district since its inception in 1943.

Your committee is holding hearings on Senate bill 388 and we wish to go on record as favoring this legislation. We feel that the midstate project is vital for the continuing agricultural progress of this area. We sincerely hope that this bill receives favorable action from the committee when it comes up for final vote.

Thank you for your consideration.

Yours very truly,

BILL MARTIN,
President, General Manager, Radio KMMJ-KXXX.

NEBRASKA MIDSTATE RECLAMATION DISTRICT,
Grand Island, Nebr., February 28, 1964.

Re S. 388.

Hon. FRANK E. MOSS,
Chairman, Subcommittee on Irrigation and Reclamation,
U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: To further stress the need for the construction of the midstate project in Nebraska and to indicate its wide local support, since its conception in 1943, attached hereto are certified copies of editorials of local papers in our district area that have appeared at times in relation to our efforts to obtain authorization of construction:

1. Grand Island Daily Independent; July 14, 1954, August 26, 1955, and February 1964.

2. Kearney Daily Hub, February 25, 1964.

3. Hastings Daily Tribune, January 11, 1963.

4. Lincoln (Nebr.) Star and Shelton (Nebr.) Clipper; November 7, 1957.
Respectfully submitted.

J. K. MCKINNEY, *Secretary.*

[Editorial from the Kearney (Nebr.) Daily Hub, Feb. 25, 1964]

MIDSTATE COMING UP FOR HOUSE DECISION

Residents of this area will be watching with interest the progress of hearings scheduled in Washington, D.C., on March 2 and 3. These are the dates when the Irrigation and Reclamation Subcommittee of the House of Representatives will hold a hearing on a bill to consider authorization of the proposed \$80 million Nebraska Midstate Reclamation District.

For more than 20 years, residents of this area of the Platte Valley have worked toward development of a feasible plan, and the acceptance of the plan by the Federal Government. Federal approval is necessary, of course, because of the considerable amount of Federal money required to build the project as it now is planned.

A plentiful supply of water for city residents and for irrigation, is essential to the continued growth and prosperity of this area. Water shortages have developed in the three-county area included in the project area, in dry cycles, and the need for water has not diminished.

While floods have not been a big threat in recent years, the possibility is always present, unless some project such as midstate is built to end the threat.

It should not be necessary to paint a picture of what several large reservoirs could mean to area residents for recreation, or what the added economic benefits might be.

But foremost in the minds of many is the winter flow of the Platte River, carrying water away from the area, which, if storage facilities were available, could be held here for use as needed.

Projects similar to the midstate district have been or are being built all over the Nation. Some of them have less justification than midstate, in our opinion.

Conservation of our resources is necessary to the welfare of area residents in future years. A plentiful supply of water is essential to attracting industry and insuring growth of our area. We would be in a sad plight without it. The midstate district should provide that insurance.

[Editorial in the Grand Island Independent, July 14, 1954]

THE NEED FOR MIDSTATE

During the lush years when rain fell with regularity, when temperatures were moderate, and when farm crops flourished with relatively little irrigation, it was hard to arouse any particular enthusiasm for the midstate project.

But it was inevitable that there should come some years when the temperature in July would mount beyond the century mark. It was inevitable that in such a summer there would be days and weeks of dry weather. It was inevitable that when this situation arose, the ground water level would diminish, and this great valley of ours would suffer from lack of moisture.

Such a time apparently has come. This summer is following a relentless pattern, and the need for an irrigation project like the midstate has become apparent.

The primary purpose of the midstate is simple and sensible. It is to provide reservoirs which will feed irrigation ditches for a wide area in the three counties of Buffalo, Hall, and Merrick.

These reservoirs would be fed from the winter flow of the Platte River below the Johnson No. 2 powerplant, and from winter and spring water accumulating in the valleys of subsidiary streams, such as Prairie Creek and the Wood River, north of the Platte. Several hundred thousand acre-feet of water would thus be available annually for irrigation.

Not only would the irrigation ditches relieve the pressure on the wells that serve this region, but the water thus used would replenish the ground water supply, thus benefiting the entire countryside.

The fate of the midstate project lies in the hands of Congress in a bill introduced in the past few weeks, for the project's authorization.

[Editorial in the Grand Island Independent, Aug. 26, 1955]

A SERIOUS WATER PROBLEM

During the lush years of the early 1950's and late 1940's, we more or less forgot that there is a water problem. Rainfall was plentiful, and well irrigation took care of the relatively light additional need for water in this section of the country. It was easy to overlook the inevitability of another drought cycle.

That cycle appears to be on hand. This year has been the driest since those of the drought that ravaged the Middle West in the 1930's. Only twice in history have the two summer months of July and August had less rainfall than this year. One was 1931, the other 1934.

Irrigators are meeting tonight in Shelton to discuss the problem, as their wells begin to wear out. The underground water supply simply hasn't been able to keep up with the needs.

Here in Grand Island water is being rationed, and there is no end in sight. Another year like this, and even more drastic measures may be necessary.

It is time to take a long look at the future. The midstate project should be at least one of the answers to the problem, through its storage of water which can be put on the thirsty soil during the irrigation season. This not only serves to relieve the pressure on wells, but it serves also to recharge the ground water supply.

The midstate project, of course, cannot solve this year's problem. Its financing still awaits action by Congress. But this year's plight in the Platte Valley should intensify interest in endeavoring to speed action in Washington.

The city of Grand Island has a definite and serious problem ahead, as it grows. It may be necessary for the city to look toward possible reservoir sources of water, to complement the wells that are now in use.

[Editorial in the Grand Island Independent, Feb. 19, 1964]

A MIDSTATE DECISION

The attention of Grand Island will be focused on Washington, March 2-3. On those dates, the Irrigation and Reclamation Subcommittee of the House will hold a hearing on a bill to authorize the proposed \$80 million midstate project.

The midstate project, which would assure this area of an adequate yearly water supply, is vital to the future of this area.

We are not saying that midstate will make the difference whether this area lives or dies, but certainly it will determine whether the area will have a fighting chance to develop its economy to a much higher degree or continue to struggle along at present levels.

Midstate is no "pork barrel." It is a logical program for the conservation of water in an area that does not have a dependable, year-round supply of water. It is that simple.

And everyone should be reminded that there are similar projects already completed or under construction all over this country of ours.

Nebraska needs midstate. The subcommittee would be making the proper judgment by authorizing its construction.

[Editorial in the Hastings (Nebr.) Daily Tribune, Jan. 11, 1963]

AUTHORIZATION OF MIDSTATE WILL PUT AN END TO WASTE, HELP CREATE NEW WEALTH

There will be a great many things before the session of Congress which just convened that will be important to Nebraska, but probably none of them rate as high on the list as the midstate reclamation district bill offered by Congressman Dave Martin, Nebraska's Third District Representative.

This battle for Federal funds to aid in the development of the midstate on the Platte River has been going on in Congress since 1953. Last year it was approved by the U.S. Senate but could not get out of the Interior Committee of the House of Representatives.

Martin's bill would authorize the expenditure of \$81.5 million for a multi-purpose water conservation project to directly aid Kearney, Hall, and Merrick Counties. It would, if completed, provide irrigation, flood control benefits, power, and fish and wildlife facilities. The entire State and region would gain.

The midstate project is similar to many others that have been approved for the Missouri River Basin, but it does have the added attraction of supplying water for irrigation.

Nebraskans know from experience what irrigation means to an area and to the State. This has been demonstrated by the Central Nebraska Public Power & Irrigation District in the Republican River Valley, and by others. There is a direct benefit to farmers in the area served by water, but it helps materially to stabilize farming and business over a much wider region.

Studies conducted by the Bureau of Reclamation show that irrigated land produces 13 times as much as adjacent dry land and that towns in irrigated areas support 27 times the population and provide 40 times the income of an equivalent dryland area.

These conclusive facts show how much midstate means to the central section and to the entire State. Water that is now flowing downstream and on into the Missouri River without being used to produce anything can be put to work for the people of the State.

Time and again it has been stated that water is one of Nebraska's greatest resources. Every drop of it should be used. For too many years millions of acre-feet have been permitted to pass through the State without contributing anything toward the development of wealth.

Nebraska has made and is making strides toward the development of industry, but agriculture still is the bulwark of the State's economy. Without it we can't support the State's population.

It would be well for all Nebraska to make a concerted effort to get Congress to approve Congressman Martin's bill to authorize the funds for midstate. Further delay means more waste of water and wealth.

NEBRASKA MIDSTATE RECLAMATION DISTRICT,
Grand Island, Nebr., February 28, 1964.

FARM-TO-FARM SURVEY—1958

In 1958 our district undertook a survey of landowners to determine how many and to what extent the demand for midstate project water might be.

The following tabulation shows the results of that survey:

	Acreage in district	Landowners	Acreage owned	"Letter of intent" request for water
Buffalo County.....	120,370	215	31,822	21,168
Hall County.....	218,890	562	87,292	45,984
Merrick County.....	228,480	492	78,844	47,665
Total.....	567,740	1,270	197,958	124,817

Total acreage signed by landowners under "letters of intent" was broken down into two categories according to the acreage (1) then pump irrigated by private wells, and (2) the acreage then dry farmed. This formed a basis, percentage-wise, for determination of the division of the total 140,000 acres to be served, by the midstate project into the same two categories in the amounts of 96,000 acres for "pump irrigated" lands, and 44,000 acres for "dry farmed" lands.

EXCESS LANDS

The tabulation of the 1958 "farm to farm" survey revealed that there were only five cases where landowners, as a man and wife, had expressed an "intent" to request project water in excess of the 320-acre limitation under Federal policy. Such lands in the five cases total only 60 acres that cannot receive project water out of the 124,817 acres indicated on the survey.

J. K. McKINNEY, *Secretary.*

"Farm-to-farm" survey, 1958

BUFFALO COUNTY

Townships	Number of landowners	1952 total tract acreage in district	Total crop acres owned	Full supply requested	Supplemental supply requested	1958 total requested by letters of intent
Center.....	43	25,600	6,227	3,203	1,752	4,955
Collins.....	12	3,840	1,960	1,080	-----	1,080
Divide.....	12	4,480	1,946	824	30	854
Gibbon.....	14	24,690	1,919	720	842	1,562
Riverdale.....	27	11,840	4,915	2,008	-----	2,008
Sharon.....	55	17,280	8,166	1,719	4,088	5,807
Shelton.....	44	17,280	4,469	532	3,790	4,332
Thornton.....	5	3,840	1,560	350	70	420
Valley.....	2	4,480	320	110	-----	110
Gardner.....	1	640	-----	-----	-----	-----
Platte.....	1	6,400	160	-----	50	50
Total.....	215	120,370	31,822	10,546	10,622	21,168

HALL COUNTY

Alda.....	10	19,840	1,422	484	190	674
Cameron.....	78	15,360	13,445	4,997	1,180	6,177
Center.....	64	16,640	7,255	2,267	2,417	4,684
Harrison.....	79	16,640	10,527	3,905	2,437	6,342
Jackson.....	131	37,760	16,582	6,433	5,912	12,345
Leke.....	67	17,150	10,304	3,172	1,828	5,000
Mayfield.....	51	15,360	1,520	3,567	120	3,689
Prairie Creek.....	22	19,200	8,094	1,552	418	1,970
South Loup.....	9	5,120	10,008	705	150	855
Washington.....	16	18,060	2,260	941	100	1,041
Wood River.....	35	26,880	5,875	1,065	2,142	3,207
Doniphan.....	-----	5,120	-----	-----	-----	-----
Martin.....	-----	5,760	-----	-----	-----	-----
Total.....	562	218,890	87,292	29,088	16,894	45,984

MERRICK COUNTY

Central.....	5	9,920	720	380	-----	380
Chapman.....	64	17,260	8,163	3,349	1,716	5,065
Clarksville.....	119	41,460	21,432	8,230	4,091	12,321
Lonetree.....	64	39,000	9,600	4,741	2,454	7,195
Mead.....	38	19,840	6,788	2,403	2,505	4,908
Midland.....	28	23,040	5,194	2,245	995	3,240
Prairie Creek.....	94	32,780	14,560	3,831	2,776	6,607
Vieregg.....	73	26,680	10,034	2,207	4,769	6,976
Loup.....	3	6,980	400	40	325	365
Silvercreek.....	7	11,520	1,963	408	200	608
Total.....	495	228,480	78,844	27,834	19,831	47,665
Grand total.....	1,272	567,740	197,958	67,468	47,347	124,817

The above is an accurate tabulation of the results of the Nebraska Midstate Reclamation District's farm-to-farm survey, in 1958, to obtain signatures of land-owners in the district on "letters of intent" to take midstate project water, either a full supply or supplemental supply, for pump-irrigated or dryland crop acreage.

J. K. MCKINNEY, Secretary.

JANUARY 31, 1964.

NEBRASKA MIDSTATE RECLAMATION DISTRICT,
Grand Island, Nebr., March 2, 1964.

MIDSTATE PROJECT HEARINGS, 1964

LOCAL SUPPORT

To supplement the statements by Mr. Johnson and Mr. Lauritsen, in behalf of the district, regarding the local support of the need for the midstate project and its benefits, as demonstrated by the citizens, taxpayers, and landowners in the district, by elections in 1948 and 1957, and by their financial support, it appears logical to supply the facts, in some detail, that support such contentions.

SPECIAL ELECTION—1957

At this special election on the question of "continuance of the district," the total vote in the district was 10,690 "for approval" and 1,920 "against," or 84 percent for the majority. City precincts voted approximately 10-to-1 ratio for "approval" and county precincts voted approximately 3-to-1 ratio for "approval." The attached certified tabulation of that election will support the district's statement.

Since 1960, in view of the indicated wish of our local people, the district has awaited the authorization of construction of the midstate project, as a unit of the Missouri River Basin project, which has been approved by the Interior Department each year, since that time.

FINANCIAL SUPPORT

The midstate project, when it was first conceived in 1943, then sponsored by local people who organized themselves into the Nebraska Mid-State Association, received substantial financial support from Buffalo, Hall, and Merrick County Boards of Supervisors, the cities of Grand Island and Kearney, and landowners and businessmen in the area who were interested then in utilizing "wasting" water of the Platte River to increase and stabilize the agricultural economy of the area. This voluntary contribution amounted to \$180,000 between 1943 and 1948 and was used for preliminary surveys for planning purposes by private engineers, and to formulate the unanimous passage of the 1947 Nebraska Reclamation Act and the formation and organization of the present Nebraska Midstate Reclamation District, sponsor of the midstate project.

Since 1948 the ad valorem tax of the district, allowed by law on total assessed valuation of tangible property, both real and personal, within the district, has varied from 1 mill to five-tenths mill, with no levy in 1957. Under the law the levy, permitted by the district's board of directors, is 1 mill until the project works are completed. The average thus approximates less than eight-tenths of a mill, the current 1963 levy.

In the period from 1948 to 1964, or for 15 years, local people have contributed to the promotion development of the midstate project and its construction, a total of approximately \$1,300,000.

In this period total assessed valuation on tangible property in the district has increased from approximately \$81 million in 1948 to \$134 million in 1963.

J. K. MCKINNEY, Secretary.

Year	Total Assessed Valuation	Ad Valorem Tax Rate	Total Tax Revenue
1948	\$81,000,000	1.00%	\$810,000
1949	\$85,000,000	0.80%	\$680,000
1950	\$90,000,000	0.70%	\$630,000
1951	\$95,000,000	0.60%	\$570,000
1952	\$100,000,000	0.50%	\$500,000
1953	\$105,000,000	0.40%	\$420,000
1954	\$110,000,000	0.30%	\$330,000
1955	\$115,000,000	0.20%	\$230,000
1956	\$120,000,000	0.10%	\$120,000
1957	\$125,000,000	0.00%	\$0
1958	\$130,000,000	0.50%	\$650,000
1959	\$135,000,000	0.60%	\$810,000
1960	\$140,000,000	0.70%	\$980,000
1961	\$145,000,000	0.80%	\$1,160,000
1962	\$150,000,000	0.90%	\$1,350,000
1963	\$155,000,000	1.00%	\$1,550,000
1964	\$160,000,000	1.00%	\$1,600,000

Tabulation of the results of the special election, held by the Nebraska Midstate Reclamation District on Oct. 29, 1957, for continuation of the district

Precinct	Cities		County		Total	
	Yes	No	Yes	No	Yes	No
Buffalo County:						
Kearney, 1	175	29				
Kearney, 2-1	286	14				
Kearney, 2-2	170	28				
Kearney, 3-1	299	51				
Kearney, 3-2	284	27				
Kearney, 3-3	161	17				
Kearney, 4-1	246	36				
Kearney, 4-2	175	36				
Total	1,796	238			1,796	238
Center			55	40		
Gibbon			247	148		
Riverdale			41	41		
Shelton and Sharon			472	58		
Total			815	287	815	287
Absentee ballots					13	2
Total					2,624	527
Hall County:						
Grand Island, 1	304	33				
Grand Island, 2	513	30				
Grand Island, 3	308	39				
Grand Island, 4	401	18				
Grand Island, 5	427	26				
Grand Island, 6	258	10				
Grand Island, 7	461	27				
Grand Island, 8	512	23				
Grand Island, 9	378	14				
Grand Island, 10	366	27				
Grand Island, 11	402	29				
Grand Island, 12	250	19				
Grand Island, 13	267	26				
Grand Island, 14	571	35				
Total	5,418	356			5,418	356
Alda			115	18		
Cameron			73	3		
Center			155	20		
Harrison			108	11		
Jackson			129	16		
Mayfield and South Loup			232	28		
Prairie Creek			47	21		
Washington			662	35		
Wood River			230	74		
Martin			5	0		
Total			1,899	238	1,899	238
Absentee ballots					79	2
Total					7,396	596
Merrick County:						
Central City, 1, 2, and 3	181	160			181	160
Central and Prairie Island			13	26		
Chapman			77	70		
Clarksville			194	69		
Lone Tree			48	121		
Mead			10	55		
Midland and Loup			19	128		
Prairie Creek			63	53		
Silver Creek			7	114		
Vieregg			56	51		
Total			487	687	487	687
Absentee ballots					2	0
Total					670	847

Tabulation of the results of the special election, held by the Nebraska Midstate Reclamation District on Oct. 29, 1957, for continuation of the district—Con.

Summary	Yes	No
Buffalo County:		
City precincts.....	1,796	238
Country precincts.....	815	287
Subtotal.....	2,601	525
Hall County:		
City precincts.....	5,418	356
Country precincts.....	1,899	238
Subtotal.....	7,317	594
Merrick County:		
City precincts.....	181	160
Country precincts.....	487	687
Subtotal.....	668	847
Absentee ballots.....	94	4
Grand total.....	10,690	1,970

Certified to be correct.

Total vote for approval: City precincts, 10:1; country, 3:1.

J. K. MCKINNEY, *Secretary.*

Mr. LAURITSEN. We also have various matters which are involved with publications placed by persons in opposition to the project. We seek permission of the Senate to include these within the file, not within the published record of the matter. These will be submitted through Mr. Whitacre if that is your pleasure and desire.

Senator Moss. That would be proper and these will be made part of our committee file to be referred to as we desire.

Mr. LAURITSEN. We have been before the House for 2 consecutive days. I think my testimony extends over a period of 2½ hours to 3 hours before the subcommittee yesterday. In view of your willingness to consider the House file, I feel that I have testified perhaps as fully as I possibly can there. I am willing to subject myself, of course, to this subcommittee but actually, gentlemen, I think my 2 minutes is up and this is all we wanted to do. If you have questions I will be pleased to answer. If not, we are entirely willing that our case be rested there, sir.

Senator Moss. I just have one question. Mr. Palmer referred to these letters of intent that are in existence. Does this cover a considerable amount of the acreage?

Mr. LAURITSEN. We have water for the irrigation of 140,000 acres of land. The letters of intent cover 124,000 acres. It was not that we were unable to get more, it was considered that that was a sufficient majority of the overall and that it would be unnecessary for us to go further, particularly since they were not represented by any contracts. Then just what they say, letters of intent.

Senator Moss. Thank you, Mr. Lauritsen.

Are there any questions?

Senator ALLOTT. One question.

Do you have any objection to the limitation of authorization to this? As I looked at my notes a while ago, there is no limitation of authorization. I happen to have a particular objection to open-end authorizations.

Mr. LAURITSEN. I am not at all sure that I even follow your question to be able to answer, Senator Allott.

Senator ALLOTT. Well, I find in my notes here the bill does not call for specific authorization, it does call for "the appropriation of funds for the work to be undertaken by the Secretary of the Interior under authority for the construction of said State projects." You have no objection to putting the present estimates in the bill as the limit of the authorization? We have customarily done that in this committee.

Mr. LAURITSEN. We certainly would have no objection, sir.

Senator MOSS. Thank you, Mr. Lauritsen. We appreciate your cooperation.

Mr. LAURITSEN. We thank you for squeezing us in. We appreciate it.

Senator MOSS. Do Mr. Jones and Mr. Steen have prepared written statements?

Mr. STEEN. Yes, sir.

Senator MOSS. They will be placed in the record.

Mr. STEEN. I also have a letter from Governor Morrison and a statement from Mr. E. C. Reed of the Conservation and Survey Division of the University of Nebraska.

Senator MOSS. The letter and statement will be placed in the record at this point.

(The documents referred to follow :)

STATEMENT OF M. O. STEEN, DIRECTOR, NEBRASKA GAME, FORESTATION, AND PARKS COMMISSION

The midstate project is the best reclamation service project yet proposed in Nebraska when viewed from the fish, wildlife, and recreation point of view.

The topography of the reservoir areas and of the reservoirs themselves, the fertility and clarity of the water to be impounded, and the proposed management of water levels in the reservoirs are unusually favorable to fisheries management and production. Game management values are above average for an irrigation project.

Values for water-oriented recreation are outstanding. Location with relation to center of population in Nebraska is excellent, hence values are enhanced. Immediate proximity to Interstate Highway 80, which is destined to be one of the principal transcontinental highways of this Nation, makes these recreational values assume national significance of substantial importance. We direct your attention to the fact that Interstate 80 and its "feeder" roads serves an area east of Nebraska wherein lives one-half of the American people.

When completed, Interstate 80 will be the shortest and best highway between the populous East and the vacationland West. This department is now engaged in a major and extensive program of developing recreation areas, wayside parks, historic parks, nature trails, wildlife areas, etc., on and in the vicinity of Interstate 80. It is our objective to make the Nebraska segment of this highway outstanding in the Nation from the traveler's point of view. We will have three major roadside parks in close proximity to the midstate reservoirs. These parks are major projects designed especially for the accommodation of the traveling public, and we believe they will be among the finest wayside parks in America.

Finally, this agency is both able and willing to assume wildlife and recreation management of the midstate project if and when constructed, and to develop fully project potential for the use and enjoyment of the Nation's travelers and vacationers, as well as for the people of Nebraska.

We support the midstate project without reservation, and urge favorable consideration in this Congress.

STATEMENT OF DAN S. JONES, JR., DIRECTOR, NEBRASKA DEPARTMENT OF WATER RESOURCES

I am Dan S. Jones, Jr., director of the Nebraska Department of Water Resources. I am appearing today as the personal representative of Gov. Frank B. Morrison, as well as in my capacity as director of the department.

I have here a letter from Governor Morrison to the committee and a written statement of my own for the record. Also, I have for the record a statement prepared by Mr. E. C. Reed, State geologist and director of the Conservation and Survey Division of the University of Nebraska, regarding the current status of the ground water situation in the midstate area. My appearance and these statements are in support of S. 388.

Appearances have been made by me before this subcommittee during previous sessions regarding legislation to authorize the midstate project as a unit of the Missouri Basin project.

I understand that your committee will consider the record made at hearings on S. 970 of the 87th Congress, and, since there has been no change in the status of matters with respect to which I testified at those hearings, I now only reiterate and reaffirm the statement I made therein. However, the following points should be emphasized:

1. Longtime streamflow records show that there is adequate water of good quality available for the project under priorities established by our State laws.
2. The water which will be used is now flowing out of the State unused, with no alternate plans for using it.
3. There is no possibility of interstate conflicts with regard to the water because of interstate compacts and court decrees.
4. The need for the project becomes greater as time goes on.

On behalf of Governor Morrison, Mr. Reed, and myself, I thank you for the opportunity of appearing and presenting these statements. I hope that they will be useful to you.

STATE OF NEBRASKA,
Lincoln, February 21, 1964.

Re S. 388.

Hon. FRANK MOSS,
Chairman, Subcommittee on Irrigation and Reclamation,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOSS: I deeply regret that, as Governor, matters in connection with the administration of State government will prevent my attendance at the hearing on the Nebraska Midstate Reclamation District project. I had planned on attending your hearing, but in view of my inability to attend I am setting forth my position with reference to this project, which provides for the authorization of construction by the Secretary of the Interior as a unit of the Missouri River Basin project under Federal reclamation laws.

It is my understanding that the proposal of this project development, previously approved by the Secretary, was reviewed by your committee in 1960 in hearings on S. 2640 and in 1961 on S. 970, which was approved by your committee and subsequently by the Senate. Accordingly, as Governor of Nebraska, I wish to join with other State officials; the Nebraska Legislature; the Nebraska Reclamation Association; officials of other irrigation and reclamation project organizations in the Platte River Valley in Nebraska; numerous municipal, civic, and farm organizations in the district; and its 60,000 citizens and elected directors who have supported the development of the multipurpose midstate project proposal for many years to invite your consideration and approval and that of the 88th Congress of S. 388.

I am sure that you are aware that in Nebraska, like other reclamation States in the West, our most important problem is the proper conservation and utilization of our water and land resources to improve and stabilize the economy of our citizens, present and future. The multipurpose midstate project is for that purpose, because it will utilize the portion of the winter and spring flows of the Platte River that now continue to go unused to the Gulf of Mexico.

The project's off-river reservoir system will have a storage capacity in excess of 600,000 feet and this water, when distributed over the area, will provide surface irrigation to dryland farms and replenish and stabilize ground water supply for over 5,000 irrigation wells in the district area of 550,000 acres of

established farmlands. In addition, the dams and reservoirs will provide exceptional benefits for flood damage protection to a large agricultural area; second, for fish and wildlife conservation and recreational development in east-central Nebraska, where such facilities are now limited and, third, provide for the production of hydroelectric power. As the records of the hearings on S. 2640 before your committee on May 20, 1960, and S. 970 in 1961, will show, the citizens of the midstate area have demonstrated the need for this project and their support of it by forming themselves into a conservancy-type district under the laws of Nebraska.

In 1948 they voted by a 2-to-1 majority to approve a tax levy to provide funds for investigations and surveys. In 1957, at a special election, they voted by a majority of 5 to 1 to continue the district. Since 1943, more than \$1,300,000 of local funds have been provided by the district for development activities without Federal or State aid.

Since 1954, Governors of Nebraska and other State officials have actively supported and cooperated with the midstate district in its efforts to obtain the assistance of the U.S. Government in the construction of this proposed development. The midstate project proposals conform with the laws of Nebraska and do not conflict with nor foreclose the development of other areas in Nebraska or elsewhere in the Missouri River Basin. Accordingly, each of the other nine States in the Missouri River Basin, through their Governors, in 1956 and 1960, cooperated with the Governor of Nebraska and the directors of the district in advising the Secretary of the Interior and the respective Interior Committees of their support in the construction of the midstate project. Therefore, as Governor of Nebraska, I stress our need for this project and urge your committee as well as the Congress to act favorably on S. 388, which will authorize its construction as a unit of the Missouri River Basin project.

Respectfully,

FRANK B. MORRISON,
Governor of Nebraska.

THE UNIVERSITY OF NEBRASKA,
CONSERVATION AND SURVEY DIVISION,
Lincoln, Nebr., February 26, 1964.

HON. FRANK MOSS,
*Chairman, Subcommittee on Irrigation and Reclamation,
U.S. Senate, Washington, D.C.*

DEAR SENATOR MOSS AND MEMBERS OF SUBCOMMITTEE: We wish to support S. 388, which authorizes construction of the midstate project in Nebraska as a Federal project included in the Missouri River Basin project. The midstate project is essential to the complete development of the natural resources of the area and the maintenance of the agricultural economy of the area under conditions of variable precipitation.

Our office has been engaged in a cooperative ground water investigation program with the Ground Water Branch, Water Resources Division, U.S. Geological Survey since 1930 and the midstate project area has been thoroughly investigated and studied during this period. Therefore, we believe that we are competent to express an opinion as to the effect of this project in relation to ground water supplies.

There is a high degree of ground water development in the project area at the present time and additional irrigation wells are being added, especially during dry periods. The present overdevelopment of the ground water supplies is at least 1½ times the average annual recharge to ground water, and this overdevelopment is resulting in a permanent downward trend in ground water levels at an average rate of about one-half of a foot per year. It is reasonable to expect that a series of dry years will result in the installation of many additional wells and a further increase in the degree of overdevelopment in the project area with an increase in the rate of ground water level decline.

The average thickness of favorable water-bearing material in the project area varies from very little to more than 100 feet in a few areas but has an average thickness of about 50 feet. If ground water levels should decline at an average rate of 1 foot per year, as a result of increased ground water use, the costs of pumping ground water will increase as a result of the higher lift and the yield of water per well will be reduced to about one-third of the present capacity in about 25 years. This could result in a decrease in the effectively irrigated acreage in the project area to about one-third of the currently irrigated acreage.

The transportation and utilization of surface water from storage in the area and diversions from the Platte River will reduce the area which is now entirely dependent on ground water sources and will result in artificially recharging the water-bearing formation to the degree that ground water can effectively support more irrigation without serious depletion.

The water-bearing formations at shallow depths near the Platte River, at the south edge of the project, are effectively recharged from the winter flows of the Platte River, but the area thus benefited is limited to a narrow strip near the stream and does not extend very far from the stream because of the comparatively low lateral rate of ground water movement. About 200 water table observation wells have been measured in the project area for a number of years and some observation wells in the region have been measured for more than 30 years. From 1930 to 1951 ground water levels in the project area fluctuated largely according to variations in climate but since 1951 the ground water levels have dropped at a rate considerably greater than can be explained by climatic conditions due to the larger withdrawal of ground water for irrigation purposes. The measurements of ground water levels in the fall of 1963 in those observation wells showed an average lowering of about 2.5 feet in Buffalo County, more than 1.5 feet in Hall County, and 0.75 foot in Merrick County during the past year. When the fall 1963 observation well measurements are compared with the long-term median water levels, Buffalo County is currently about 2.8 feet low, Hall County is more than 2.5 feet low, and Merrick County is almost 1 foot low. Extremes are in southeastern Buffalo County and northwestern Hall County (generally more than 2 miles from the river) where ground water levels vary from 2 to more than 7 feet below median. Smaller areas in northeastern Hall and southwestern Merrick County vary from 2 to almost 6 feet below median water level.

Many irrigation wells in this project area had greatly reduced yields in the latter part of the 1952-56 drought period and will have more trouble after another succession of dry years because there are more wells in operation now than in 1956.

The midstate project area presents an outstanding possibility for the development of a joint surface water and ground water irrigation project in which ground water levels can be maintained indefinitely at optimum levels with a properly balanced system and the agricultural economy of the area can be maintained at a high level.

Yours very truly,

E. C. REED,
Director and State Geologist.

Senator Moss. Now Mr. Tye.

You are an attorney from Kearney, Nebr.?

Mr. TYE. Yes.

Senator Moss. You have Mr. Eubank with you?

Mr. EUBANK. Yes.

Senator Moss. You are an attorney?

Mr. EUBANK. No.

Senator Moss. But you are from Kearney, Nebr.?

Mr. EUBANK. Yes.

Senator Moss. That is the similarity.

You may proceed, Mr. Tye.

**STATEMENTS OF THOMAS W. TYE, ATTORNEY AT LAW, AND
CHARLES W. EUBANK, KEARNEY, NEBR.**

Mr. TYE. Mr. Chairman, I am an attorney for this association which is a corporation in Nebraska known as the Midstate Irrigators, Inc.

Mr. Eubank is a director of the corporation and a farmer in the area and a civil engineer.

To make this short, sir, we submit for the record our statements which were given in the House, and we call your attention to the House hearings which we understand you are going to consider here.

Senator Moss. Thank you.

Those statements will be included in the record.

(The statements referred to follow:)

PREPARED STATEMENT OF THOMAS W. TYE, ATTORNEY AT LAW, REPRESENTING
MIDSTATE IRRIGATORS, INC.

Mr. Chairman, members of the Interior and Insular Affairs subcommittee, my name is Thomas W. Tye. I am appearing here as attorney for the Midstate Irrigators, Inc. This organization was formally organized on February 4, 1964, when the articles of incorporation were certified by the secretary of state of the State of Nebraska. We were still in the organizational stage when on February 17, 1964, we were informed that this subcommittee had set hearings on the midstate reclamation district and other related projects. From that date we have worked to bring to you the feeling of these people about this project. At the present time there are 1,066 members of the organization whose purpose is to oppose this project. These members represent approximately 217,000 acres of land in the district or 39 percent of the total acreage included in the district. We further present for your consideration, petitions of 1,900 legal voters and landowners in the district requesting that this project not be built. We represent to you by way of these petitions approximately 209,000 acres of land in the district or 38 percent of the total 550,000 acres. Of this 209,000 acres, 118,000 acres are presently irrigated or 45 percent of this total irrigated land in the district.

Mr. C. W. Eubank, one of the members of the board of directors of our organization will explain to you our specific objections. Mr. Eubank is a certified engineer who presently is retired and living in the district. For 4 years he was assistant general manager of Farm Crops Processing Corp. He is a retired vice president of the Leo A. Daly Co., an architectural engineering company. Mr. Eubank has worked on such projects as the Distant Early Warning System, Minuteman missile plant, Hill Air Force Base, and NASA, New Orleans, La.

PREPARED STATEMENT OF CHARLES W. EUBANK, KEARNEY, NEBR.

My name is Charles W. Eubank. I reside in Buffalo County, Nebr. I own 480 acres of irrigated land in the midstate district. I am a professional engineer and a retired vice president of the Leo A. Daly Co. of Omaha, Nebr. This company is among the 10 largest architectural engineering companies in the United States.

I am not appearing before your committee as a paid engineering consultant, but as a property owner and a director of Midstate Irrigators, Inc.—which has recently been organized to oppose H.R. 2681, and Senate bill 388. Through this paper when I refer to “the hearings”, I am referring to “The Hearings before the Subcommittee on Irrigation and Reclamation in the House of Representatives 87th Congress June 25 and 26, 1962.”

What arrangements have been made to pay for all damages to property occasioned by the construction of the midstate project?

I note that in the estimates of the various parts of the project, such as Staghorn Reservoirs and the various spillways, an item for right-of-way is shown. I can find no allowance for damages caused by severance, seepage, flooding, erosion, and other damages.

With 100 miles of main canal, together with the various spillways and laterals, and reservoirs there would be a tremendous damage to property owners. The district will surely have to pay for this damage, and yet I can find no allowance for these items.

I note that in the estimate for right-of-way the highest price shown is \$300 per acre for the best irrigated land and \$75 per acre for the dry land in the Staghorn Reservoir area. I have owned land in this district for 22 years. I

have over this 22-year period increased my holding within the district from 320 to 480 acres. I have had an opportunity over this period of time to watch land values and it is my opinion that irrigated land in the district would sell for at least \$400 to \$500 per acre and that dry hill land would sell for at least \$100 to \$150 per acre. We are sure that the estimate for acquisition of land and damages is much to low and this item alone will cause a tremendous increase in the cost of this project.

We contend that the midstate project cannot furnish enough surface water to the district to make it feasible.

I quote Mr. Dan Jones, director of the Nebraska Department of Water Resources on page 50 of the hearings.

"The water supply for midstate, from the Platte River is mainly return flow from upstream uses."

After estimating the amount of water available from the Platte River, and then adding in the rainfall which can be stored in the reservoirs, the consulting engineers for midstate still show that there will be only about one-half of the amount of water needed for peak demand—page VI-6 of project report by C. S. Beck & Associates. Therefore, they have planned to install district wells—to pump from the ground water within the district, up to one-half of the amount of the water required.

On page I-7 of the midstate project report, there is this statement, and I quote:

"The capacity of the distribution canals and laterals, was established to supply about 50 percent of the maximum irrigation requirements at the farm head gate. The balance of the water requirements, during peak demand periods, can be supplied from ground water, through well pumps to be located along canal routes."

The district pumps will, of necessity, be operating at the same time all private pumps are pumping—during the driest season of the year. We are concerned that these many project pumps will adversely affect the present pumps in the area. For more than 20 years, the much-publicized purpose of the midstate project has been replenishment of the ground water within the district, and still they propose to install numerous pumps to furnish water they cannot furnish from the reservoirs.

We contend that the present ground-water supply does not need replenishing.

Twenty-one years ago, when this project was being promoted, voters were told that without this project, ground water would drop in a short time, to the extent that private pump irrigation would not be practical.

The year 1963 was an extremely dry year. Many irrigators ran their pumps continuously, night and day, for more than 2 months. Still, after 21 years of promoting, and the addition of more pumps, there was an ample amount of water to raise a bumper crop without the midstate project. The Hall County Irrigators Association has tested 86 wells in 9 townships for at least 5 years. These tests show that 82.6 percent averaged the same static level or higher. In the February 1, 1964, issue of the Nebraska Farmer, Mr. C. F. Keech, district engineer of the Ground Water Branch of the U.S. Geological Survey says—and I quote:

"Heavy pumping for irrigation has been in progress along the Platte for about 30 years, and except for small areas of some local overdevelopment, no serious problems have arisen."

In the same article Mr. Keech said that hydrographs of observation wells in Buffalo, Hall, and Merrick Counties have remained the same—or risen—since 1957. Central Nebraska is unique, in that it possesses a huge aquifer of water beneath its surface. As proof of this statement, I quote from the October–November 1962 issue of Nebraska on the March, published by the Division of Nebraska Resources. Credit for this article was given to the Survey Division of the University of Nebraska. I quote:

"North-central Nebraska is especially significant as a ground-water recharge area. Aquifers, lying immediately below the land surface, are essentially an unbroken blanket of unconsolidated deposits, ranging in thickness from a few feet to more than a thousand feet. The average annual increment to this underground supply reservoir is estimated to be 8 million acre-feet. Present utilization is about 3 million acre-feet; therefore, there is an unused balance of approximately 5 million acre-feet."

This huge reservoir lies just to the north of midstate district. I wish to submit copies of this issue for the record.

South of midstate district, the conservation and survey division of the University of Nebraska shows the ground water table in 1963 to be from 2 to 25 feet above the median. This area is mainly in Gosper, Phelps, and Kearney Counties. The north side of Kearney County borders on the south boundary of the midstate project. Unquestionably, the rise of the ground water level in this area is influenced by the tricounty power and irrigation project and by the Johnson Reservoir, which is about 36 miles west of Kearney. Still a third area showing a rise in the ground-water level is in Dawson and Lincoln Counties, some 30 miles northwest of the west end of the midstate project. This rise is probably influenced by the reservoirs east of North Platte and by the large reservoir behind Kingsley Dam.

Summing up this information, I wish to note: The midstate project is so situated that ground water will drain into it from the huge aquifer on the north. In November 1962 this aquifer had 5 million acre-feet of unused flow. It will receive ground water from the south, where the water table has recently risen from 2 to 25 feet above the median.

There is a great possibility that midstate may receive ground water from the northwest where the ground water is also rising. All of these sources are already constructed and are permanent. The ground water from them will continue to flow easterly with the Platte River. Therefore, it is not necessary to spend the huge sum of \$84 million to irrigate an area which is already under irrigation; which has an assured water supply; and the cost of which has been borne by private capital.

We wish to call your attention to a ground-water map, published in 1938, by the U.S. Geological Survey, in cooperation with the conservation and survey division of the University of Nebraska. I submit copies of this map for the record. This map shows contours of the water table of south-central Nebraska, which includes all of the midstate project. This map shows that the water-table level does not follow the contour of the ground surface. It runs in a continuous line from the south side of the Platte River to the north side of the river. The flow is northeast, following very closely the flow of the Platte having a fall of about 100 feet in 15 miles. That is why any appreciable rise in the water in the Platte River will raise the water level northeast through the midstate area. Likewise, if the remaining water is taken out of the Platte, as the midstate proposes, the ground water along the Platte below the diversion dam will be lowered. For this reason we do not favor taking the water out of the Platte River to put it into open canals and shallow reservoirs, where immense quantities of water are lost by evaporation and seepage. If it is left in the riverbed, where much of it runs in small channels which are protected from evaporation by vegetation, any seepage will go to build up the aquifer from which the farmers pump.

Gentlemen, we maintain that we already have a midstate irrigation project. The Platte River is our main canal.

The huge aquifer which underlies the area is our reservoir.

Mr. TYE. Sir, may I first state that we very much appreciate the cooperation which we have gotten from Senator Curtis and from Congressman David Martin relative to our position. We understand and do realize that they are in opposition to us. However, they have been in every way cooperative with us.

Secondly, sir, to make this very short, our statements were prepared on about the 27th or 28th day of February. We have been continuing to work. This is a very young corporation organized on the 4th day of February 1964. Since the time of the preparation of those statements, our numbers have increased. At the present time, we represent to you 1,198 members of this organization or 249,564 acres in the district. This is 45.37 percent of the total 550,000 acres in the district.

We have also submitted to the House petitions from 1,951 persons in the district requesting that this project not be built. These persons represent to you, sir, 241,360 acres or 43.8 percent of the total 550,000 acres in the district. Of this 241,360 acres there are 138,021 acres now

under irrigation or 53.28 percent of the total irrigable acres now under irrigation in the district.

We have set out in the House hearings specific objections which we have to this particular project.

There is one further objection which has been brought to my attention at this time which we do not believe has been brought out in the House hearings. This particular objection goes to the fact that there are approximately 37,000 or 38,000 acres which will be taken off of the tax rolls in our district because of the construction of this project. This, we believe, is a further objection to the project in going to the ultimate cost.

Our specific objections, as I have stated, are stated in the House hearings. If you wish to hear them, we will be glad to present them at this time. Other than that. To make our statement short, we will open ourselves to questions if you have any of this organization.

Senator MOSS. Thank you, Mr. Tye.

Do I understand that your objection basically comes down to an objection to having this charge made against the water users by those whom you represent?

Mr. TYE. Sir, we represent persons of all types, some who have their lands presently under irrigation by contribution, some who do not irrigate, and some who reside in the urban areas.

They object for many reasons. They are afraid of seepage; they are afraid of costs. There was considerable misunderstanding as to the extent of this project. Our organization, as I have explained to you, was not formally organized until very late. However, there had been individual opposition since the inception of this particular project. Specific objections can be given to you by Mr. Eubank who lives in the area, if you wish him to do so.

Senator BURDICK. Do I understand that objection comes from 53 percent of the acreage?

Mr. TYE. Fifty-three percent of the acreage under irrigation at the present time; yes, sir.

I can submit to you copies of the petition which I submitted for the House file if you so desire, sir.

Senator BURDICK. It is in the record.

Do you know of any new land that has been brought into this project?

Mr. TYE. What do you mean by "new land," sir?

Senator BURDICK. Land that has never been irrigated before.

Mr. TYE. That has recently been brought into the district?

Senator BURDICK. Anticipated to be brought in.

Mr. TYE. I don't believe there is any new land anticipated being brought into the district. I believe the gentlemen from the Interior and Reclamation Departments have stated that this project has been the same for the past few years. Our figures are based entirely on project figures. We do not, in the first place, have the money or the time to make separate investigation on our own, so our objections have been based on their figures. We have not taken the time to get our own.

Senator ALLOTT. Will you yield to me for a question?

Senator BURDICK. Yes.

Senator ALLOTT. My previous notes indicate that out of 550,000 acres within the district only 363,000 is irrigable. Of these 259,000 are now irrigated; is that correct?

Mr. TYE. That is correct.

Our figures, as far as the percentage of land that we represent to you objecting to this project, are based on the 259,000 acres now under irrigation, sir.

Senator ALLOTT. So, this leaves 104,000 acres of dry land that is susceptible of irrigation out of which the project is designed to supply surplus water to approximately 44,000 acres?

Mr. TYE. According to their report, sir, they intend to supply water for irrigation to 96,000 acres of land which is now under irrigation and 44,000 acres of land which is now not under irrigation. This is my understanding.

Senator ALLOTT. Not presently irrigated?

Mr. TYE. That is correct.

Senator BURDICK. That answers my question.

Senator MOSS. Mr. Eubank, would you like to make a statement, sir?

Mr. EUBANK. Well, I have a list here of about seven reasons why we are objecting to this.

Senator MOSS. I wish you would read them off. We would like to have those seven reasons.

Mr. EUBANK. We believe the cost to the farmer is too high. That is No. 1.

No. 2, we contend that we do not need an irrigation district now since the farmers have already developed at their own cost their own system. We do not believe the project is feasible because they do not have sufficient surplus water to irrigate the acreage shown. We don't feel that it is feasible to take the water down to make electricity to pump water out of the area that we already have pumps in. It is only 44,000 acres that does not have it.

We believe the cost of the project is underestimated because the estimate shows no amount included for damages by seepage, severance, and many other damages that will exist when we have 100 miles of canals and 23 stagnant reservoirs and other storages. We feel it would be a tremendous damage to the property owners adjacent to those places. We can find no estimate for that damage within the figures.

Mr. Tye mentioned the amount taken out of the tax rolls.

We also feel that, since the Government is already paying large sums of money for taking land out of production, both irrigated land and nonirrigated land, and is also paying for surplus crops, we do not feel it is a good fiscal policy to increase this production because it is paying more for lands that are irrigated than for lands that are not irrigated and will increase the crops on the 140,000 or at least the 44,000 that will come into storage and will be surplus.

Senator MOSS. What is the principal crop in this area?

Mr. EUBANK. Corn, wheat, alfalfa, soybeans.

Senator MOSS. Corn, wheat, and soybeans are surplus crops?

Mr. EUBANK. Yes, sir.

Senator BURDICK. Not soybeans.

Senator MOSS. I thought they were.

Senator ALLOTT. Surplusage of soybean oil, but there is not a surplus of soybeans. In fact, there is shortage, the Secretary of Agriculture has within the last year applied an artificial price to surplus to stimulate the production.

Mr. EUBANK. But it is not a surplus.

Senator MOSS. Corn and wheat.

Mr. EUBANK. Not this year.

Senator MOSS. I am a year behind, too, apparently, because I thought soybeans were.

Mr. EUBANK. This is the reason we object to it.

Originally, they had three powerplants included in the project that we were told would pay a large cost to the farmer—I mean of the farmer's part. They, of course, have proven to be not feasible and have been taken out and this has increased the cost of farming.

I might tell you that in the tricounty district, just a few miles from this area, the cost to the farmer is \$2.50 per acre-foot for water and this project has a cost of \$5.50 per acre-foot within, say, 20 miles of this.

Mr. TYE. Gentlemen, may I state one other thing?

We further believe that the project report from the Baker Associates in 1958 estimates land condemnation at \$75 to \$300. We believe this is too low. We believe our land in this area is worth \$400 to \$500 and that dry land is worth from \$100 to \$150. This is another reason.

Further may I state that I gave Mr. Eubank strict instructions to keep this short so he has not run into any detailed explanations.

Senator MOSS. I can understand that you did have a chance to testify rather fully before the House?

Mr. EUBANK. Yes.

Mr. TYE. Two and a half hours.

Senator MOSS. We will follow that closely.

Mr. EUBANK. We appreciate that.

Senator BURDICK. When was your group organized?

Mr. TYE. February 4, 1964; 1 month ago today.

Senator BURDICK. I notice you had Housing hearings on this several years ago.

Mr. TYE. Yes.

Senator BURDICK. We did not have any report then from the organization.

Mr. TYE. We were not organized then. We did not get together and formally organize until this time. We realize we are late. We hope you will take recognition of what we have done in this short period of time.

Senator MOSS. We will recognize the fact that you were recently organized and give full attention to your position.

Senator ALLOTT. Just one remark.

For your information and others, this committee has had, I would say, as far as I know, a universal policy of putting in all of these projects that newly irrigated land cannot be put into production for crops which the Government supports under its commodity program. I am informed—I have not had a chance to look at this bill—that it is in this bill. Would this change your thinking any on it?

Mr. EUBANK. No reason why we should be against it.

Senator ALLOTT. In your statement, one of the reasons you were against this was it would produce more surplus crops. The policy of this committee has been to prohibit this in all legislation of this type.

Mr. EUBANK. As I remember what is in the bill, it says "within 10 years." Now we have been told that it would take 10 years after approval by the Congress. We were told it would take 10 years to build the project and get it operating. That figure, I think, was changed by the Reclamation Bureau yesterday. One time they said 9 years and another statement, I think, was 5 years. If the surplus crops are on after 10 years, then the Government would surely take the surpluses after that time.

Mr. TYE. This provision was in the bill.

Senator ALLOTT. Ten years after the date of enactment, and we have had some in which we had it 10 years from the date of completion of the project and some 10 years from the date of authorization. This says 10 years from the date of enactment. So that, this committee has got to pursue one definite policy on it which we have to get together on.

Mr. TYE. There are two bills in the House, one of which includes this clause and one of which excludes it, sir.

Senator ALLOTT. I think I can assure you safely that no bill will get through this committee without the 10-year provision.

Mr. EUBANK. Ten years from enactment, or——

Senator ALLOTT. This I can't tell you.

Senator MOSS. One of those times.

Mr. EUBANK. It makes a difference.

Senator MOSS. Thank you very much, gentlemen. I appreciate your cooperation.

We know it was hurried, but let me assure you that your statements here as well as those in the House will be studied very carefully.

I have two other statements that were submitted, one by Bill Pierce and one by William E. Welsh. Those statements will be made part of the record in this case.

(The statements referred to follow :)

NEBRASKA IRRIGATION ENGINEERING, INC.,
Kearney, Nebr., February 21, 1964.

Hon. FRANK MOSS,
Chairman, Subcommittee on Irrigation and Reclamation,
U.S. Senate, Washington, D.C.

HONORABLE SENATOR: The following is a statement that I, Bill Pierce, wish to make on the proposed midstate project:

The Nebraska Irrigation Engineering Co., located in Kearney, Nebr., works throughout the proposed midstate project area doing complete land development for irrigation. This consists of a complete engineering service, the drilling of irrigation wells, the installation of pumps, engines, electric motors, underground pipelines, and natural-gas pipelines for irrigation power sources. The company also does a complete land-leveling service with large earthmoving equipment. They also install above ground gated irrigation and sprinkler systems for the irrigation of crops.

Irrigation development has made tremendous strides in the midstate area since 1940. This is directly reflected in land values. In 1940, land values for good arable land was approximately \$100 per acre. Since complete irrigation development, the value of well-developed land is up to \$600 per acre. In 1940, approximately 80 acres of the 160-acre farm could be irrigated in a haphazard manner. With complete development of the farm under irrigation, the production is probably four times as great as it was formerly.

According to records furnished by the Soil Conservation Service, there are 166,072 acres leveled for irrigation in Buffalo, Hall, and Merrick Counties. It

would be a conservative estimate that there be 130,000 acres now developed within the midstate project. It is estimated that there are now in excess of 5,000 irrigation wells serving the land in this area.

This increased production has not come about without considerable cost to the individual farmer. Our record indicate the landowner's investment in the wells, pumps, and land leveling per 160 acres will average throughout the area in which we have worked, approximately \$12,000. In some cases the expenditure would be as much as \$20,000.

Our ground water within the area is not inexhaustible, and, in certain areas, the water is being withdrawn faster than it is being replenished. The trend is toward the installation of more wells, which will be a further drain on the ground water supply. In some instances the 50-foot well has had to be replaced with a 200-foot well to obtain the necessary water to supply the farmers needs. This, in turn, increases his costs of installation from a \$2,500 pumping installation to a \$8,000 installation to do the same job. If the water table continues to be lowered by the existing pumps, as well as the pumps that will be installed in the future, the farmers could be in serious trouble. This would be further amplified if accompanied by a prolonged drought and the high investment per acre, as well as the high production, could be jeopardized.

With the construction of the midstate project with its reservoirs and canal systems, the water table will be maintained so that the pump irrigator will have an adequate water supply. There are also areas within the midstate project area where irrigation wells are unobtainable. These lands can be served by gravity irrigation from the distribution system of midstate. This land can be equally as productive as the land where there are irrigation wells, provided it can be served with irrigation water.

In some areas of the midstate project the water supply is inadequate or it is impractical to install a high-priced pump on a small acreage. The supplemental water from the midstate project will furnish the water they need to adequately irrigate their crops.

Bankers within the area feel that on a well-developed irrigated farm the gross income is \$10,000 a year more than on comparable dryland farms.

Forward thinking people realize that the water in the proposed midstate area is one of our most valuable resources. A resource that can be used to develop new lands for irrigation and create new wealth through out the community. Water from the Platte River can be used not only to stabilize the present high-productive capacity of the area, but will guarantee a water supply for a more intensified type of agriculture for generations yet to come.

The assurance of a dependable water supply will encourage continual growth of our towns, cities and of new industry.

Sincerely,

BILL PIERCE.

Bill Pierce, Agricultural extension engineer, irrigation and drainage, University of Nebraska; irrigation engineering specialist on Case-Wheeler reclamation projects; worked in 17 Western States, headquarters at Denver, Colo.; farm layouts, cost estimating, and new project development; zone engineer, Soil Conservation Service, Nebraska-Wyoming-Montana; past 18 years, Nebraska Irrigation Engineering, Inc., of Kearney, well and pump installation, land leveling, drainage, all types of irrigation and complete farm planning for irrigation or dryland operation by water-conserving practices.

STATEMENT OF WILLIAM E. WELSH, EXECUTIVE DIRECTOR, NATIONAL RECLAMATION ASSOCIATION

My name is William E. Welsh. I am executive director of the National Reclamation Association.

For quite a long period of years, it has been the policy of the board of directors of the National Reclamation Association to authorize the support of reclamation projects before the committees of the Congress which have the support of the responsible agencies within the State and which are noncontroversial between States. Most assuredly the midstate unit comes within that category and I am happy, therefore, to appear before your committee this morning in support of that project.

The pending legislation would include the midstate unit within and as a part of the Missouri River Basin project so that the construction, operation, and maintenance of the proposed unit may be undertaken by the Bureau of Reclama-

tion and integrated physically and financially with the overall Missouri River Basin project.

For a number of years the midstate project was proposed by the sponsors as a non-Federal project and the development plan was prepared by consulting engineers employed by the midstate reclamation district.

The proposed midstate unit would provide an irrigation water supply for approximately 140,000 acres of land, most of which is now being farmed along the Platte River Valley in south central Nebraska where it is dependent upon the rainfall only for the required moisture for the growing of crops. This area was in the center of the so-called Dust Bowl and bad dust storms of the 1930's. Unfortunately, the area has experienced a number of dry years since that time which have resulted in inadequate moisture for the growing of crops. This has resulted in heavy losses to the farmers and has thereby adversely affected the economy of the entire area.

The midstate unit will stabilize the ground water supply for an additional 160,000 acres. It will also provide flood control, recreation and fish and wildlife benefits, and power for pump irrigation.

It will include a diversion dam, a main supply canal, a reservoir system consisting of more than 20 interconnecting ravine reservoirs, and a well-gravity irrigation distribution system.

The water users will repay approximately 78 percent of the costs which are allocated to irrigation over a period of 40 years. The remainder of the costs allocated to irrigation will be repaid from power revenues from the main structures of the Missouri River. The midstate shows a very favorable benefit-cost ratio—approximately 1.57 to 1 based on a 100-year-study period.

As provided in the Flood Control Act of 1944, the midstate unit has been submitted to the Governors of the Missouri River Basin States and it is my understanding that they have all given their approval to the project.

A few days ago, when I appeared before this committee in support of the Garrison diversion unit, I attached to my statement a copy of Resolution No. 14 entitled, "Authorizations and Appropriations for Continued Reclamation Programs" which was adopted at the last annual meeting of the association in Sun Valley, Idaho, in October 1963. The members of your committee are familiar with this resolution and similar resolutions which our association has adopted over a period of years and I am sure, therefore, that each of you are well acquainted with the policies of our association and realize the strong support which we give to reclamation projects of this kind. I am therefore not requesting that this resolution be included in the records of this hearing.

It is indeed a privilege to appear before your committee today in support of such an important and much needed project as the midstate unit. I also wish to express my appreciation to the members of this committee for the strong support which the committee has given to our reclamation program over a long period of years.

Senator Moss. That concludes the hearings on S. 388. We will hold the record open for 2 weeks if anyone else wishes to submit a statement.

(Whereupon the hearing was adjourned.)

(Under authority previously granted the following statements and letters were ordered printed:)

FEDERAL POWER COMMISSION,
Washington, February 27, 1964.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Our attention has been called to the Department of the Interior's report of December 17, 1963, made to the Senate and House Committees on Interior and Insular Affairs concerning the financial position of the Missouri River Basin project. One of the recommendations is that the interest rate on the unamortized balance of the investment allocated to commercial power in project facilities constructed by the Corps of Engineers should be adjusted effective July 1, 1964, to a rate of 2½ percent per year (for facilities constructed or in construction on June 30, 1964, including associated transmission and marketing facilities).

The Bureau of the Budget has informed us that the Interior Department has forwarded proposed legislation to the Congress to accomplish this result, asserting that legislation is needed because "the unamortized balance of the commercial power allocation of the entire Missouri Basin project must now bear interest at the rate of 3 percent per year under reclamation law."

The proposed legislation rests on the premise, which we believe is erroneous, that the rates for surplus power from the Army plants in the Missouri River Basin are presently subject to determination under section 9(c) of the Flood Control Act of 1944 pursuant to standards established by the Reclamation Act. In the view of the Federal Power Commission the rates for power from these plants, including the interest rates to be used, are governed by section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), which does not specify any particular interest rate. In our opinion under existing law the proper way to effect any change in the rates for the power from these Missouri River projects, or the interest rate on which they are based, is for the Department of the Interior to propose new rates it believes appropriate under the general standard established by section 5, by submitting these rates to this Commission for its approval, as required by section 5.

The jurisdiction conferred by the Congress upon the Commission by the 1944 act followed the established pattern for approving Interior Department rates in disposing of Army-produced surplus power under the Bonneville Act (50 Stat. 731 (1937)), and the Fort Peck Act (52 Stat. 403 (1938)). The Department of the Interior, however, has classified the whole Missouri Basin project as a reclamation project subject to section 9(c) of the Flood Control Act and has treated the surplus power derived from the projects constructed and operated by the Corps of Engineers as governed by the provisions of section 9(c) and the Federal reclamation laws. Under section 9(c) only power from specified projects to be "undertaken" by the Secretary of the Interior was to be sold under the Federal reclamation laws.

We are attaching hereto for your information an opinion of the Solicitor of the Interior Department dated January 18, 1950, setting forth the reasons why section 5 rather than section 9(c) is applicable to the sales of power in issue. This is a view which has coincided with the views of this Commission over the years, but apparently the Department of the Interior has not followed it.

We regret that our views on this matter are being presented at such a late date, but we nevertheless believe the Congress should be aware of our view of the existing law. We feel that the question of the interpretation of the existing law should be settled by the agencies concerned, if possible, or if that is not possible, by the Attorney General. We suggest that if the Congress believes that the rates for power from the Missouri Basin project should not be subject to the jurisdiction of the FPC as provided under section 5 of the Flood Control Act, the pending legislation should expressly so provide.

This letter is being simultaneously addressed to the chairmen of the Interior and Insular Affairs Committees of both Houses, and copies are being sent to the Secretary of the Interior, the Army Chief of Engineers, the Director of the Bureau of the Budget, and the Comptroller General, who has discussed the interpretation of the existing law in several reports.

Sincerely,

JOSEPH C. SWIDLER, *Chairman.*

[Enclosure]

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., January 18, 1950.

M-36022.

Memorandum.

To: The Secretary.

From: The Solicitor.

Subject: Power rates—Missouri River Basin project.

The Commissioner of Reclamation has submitted to the Secretary a "Report on Proposed Interim Rate Schedules for Missouri River Basin Project." The Commissioner has requested that the Secretary approve the five interim schedules contained in the report (exhibit I-V) for use in a designated part of the area comprised within the Missouri River Basin project.

Former Secretary Krug asked me to consider the propriety of the proposed rate schedules from the legal standpoint.

The proposed schedules are based on rate studies for the purposes of which it has been assumed that a number of hydroelectric powerplants (report, pp. 21, 22), with a given installed capacity, will be constructed in the Missouri River Basin pursuant to section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891). Of the hydroelectric plants, five (Fort Randall, Gavins Point, Garrison, Oahe, and Big Bend) are to be constructed by the Corps of Engineers, Department of the Army, and one, the Fort Peck plant, is now in operation under the administration of the Corps of Engineers. (I shall hereafter refer to the hydroelectric plants at Fort Randall, Gavins Point, Garrison, Oahe, and Big Bend as the "Army plants," and this term will not include the Fort Peck plant, which requires special consideration.)

One of the standards used in formulating the rates embraced in the proposed schedules is that the power revenues must be adequate to pay, *inter alia*, the "reimbursable irrigation costs" of the Missouri River Basin project "which cannot reasonably be repaid by water users or from other revenues" (report, p. 6). The employment of this standard assumes, of course, that the revenues from the sale of power generated at the Army plants and at the Fort Peck plant may properly be used, together with the revenues derived from the sale of power generated at plants constructed in the basin by the Bureau of Reclamation, for the purpose, among others, of meeting part of the reimbursable costs of the project allocated to irrigation. This is based upon the premise that the Department of the Army is required to turn over to the Department of the Interior for disposition all the power generated at the Army plants and at the Fort Peck plant, and not needed in the operation of those installations; and that the Department of the Interior, in the marketing of such surplus power, is governed by the provisions of the reclamation laws relating to this subject (43 U.S.C., 1946 ed., sec. 485h(c)).

The disposition of power generated at the Fort Peck project is governed by the provisions of the special legislation relating to that project, and revenues derived from the sale of such power are not available to meet reimbursable irrigation costs.

Section 5 of the Flood Control Act of 1944 governs the disposition of surplus power generated at hydroelectric plants constructed by the Corps of Engineers, Department of the Army, in the Missouri River Basin under section 9 of that act.

Revenues derived from the sale of power under section 5 of the Flood Control Act of 1944 cannot be used to meet any part of the reimbursable costs of a project which are allocated to irrigation.

The legal question raised by the assumption mentioned in the preceding paragraph is not one of first impression in the Department. It was considered in a memorandum dated September 30, 1946, from Assistant Chief Counsel Schwab of the Bureau of Reclamation to the director of the branch of project planning of the Bureau. Mr. Schwab expressed the opinion that revenues derived from the sale of power generated at the Fort Randall Dam (one of the Army plants) could not be applied to the repayment of costs of the Missouri River Basin project allocated to irrigation. The memorandum made it clear that Mr. Schwab's conclusion applied to the revenues derived from the sale of power generated at any dam constructed by the Corps of Engineers in the Missouri River Basin under section 9 of the Flood Control Act of 1944, and to the Fort Peck power revenues as well. The chief counsel of the Bureau of Reclamation has stated that he concurred in Mr. Schwab's opinion when it was prepared, and that he has not altered his view. On the other hand, the regional counsel for region 6 of the Bureau of Reclamation has expressed a contrary view in a memorandum dated September 2, 1949.

Sections 5 and 9 of the Flood Control Act of 1944 (58 Stat. 887, 890, 891) are relevant to the question under consideration here. These sections provide as follows:

"Sec. 5. Electric power and energy generated at reservoir projects under the control of the War Department [now the Department of the Army] and in the opinion of the Secretary of War [now the Secretary of the Army] not required in the operation of such projects shall be delivered to the Secretary of the Interior, who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective upon confirmation and approval by the Federal Power Commission. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric

energy, including the amortization of the capital investment allocated to power over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and cooperatives. The Secretary of the Interior is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at said projects available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal Government, public bodies, cooperatives, and privately owned companies. All money received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts. [16 U.S.C., 1946 ed., sec. 825s.]

* * * * *

"SEC. 9. (a) The general comprehensive plans set forth in House Document 475 and Senate Document 191, Seventy-eighth Congress, second session, as revised and coordinated by Senate Document 247, Seventy-eighth Congress, second session, are hereby approved and the initial stages recommended are hereby authorized and shall be prosecuted by the War Department and the Department of the Interior as speedily as may be consistent with budgetary requirements.

"(b) The general comprehensive plan for flood control and other purposes in the Missouri River Basin approved by the act of June 28, 1938, as modified by subsequent acts, is hereby expanded to include the works referred to in paragraph (a) to be undertaken by the War Department; and said expanded plan shall be prosecuted under the direction of the Secretary of War and supervision of the Chief of Engineers.

"(c) Subject to the basin-wide findings and recommendations regarding the benefits, the allocations of costs and the repayments by water users, made in said House and Senate documents, the reclamation and power developments to be undertaken by the Secretary of the Interior under said plans shall be governed by the Federal reclamation laws (act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto), except that irrigation of Indian trust and tribal lands, and repayment therefor, shall be in accordance with the laws relating to Indian lands.

"(d) In addition to previous authorization there is hereby authorized to be appropriated the sum of \$200,000,000 for the partial accomplishment of the works to be undertaken under such said expanded plans by the Corps of Engineers.

"(e) The sum of \$200,000,000 is hereby authorized to be appropriated for the partial accomplishment of the works to be undertaken under said plans by the Secretary of the Interior."

Senate Document 191, which is referred to in subsection (a) of section 9, may be described generally as the detailed plan of the Bureau of Reclamation for the Missouri River Basin, and House Document 475 may be described as the plan of the Corps of Engineers for the basin. Senate Document 247 contains joint reports from the two agencies looking to the elimination of conflicts between the engineering features of the two plans.

A

I shall first consider the question whether revenues derived from the sale of power generated at the Army plants may be used to meet part of the reimbursable costs of the Missouri River Basin project allocated to irrigation. The matter of the power from the Fort Peck plant will be reserved for special consideration.

If the authority of the Secretary of the Interior to dispose of power generated at the Army plants is derived from section 5, then, for reasons which I shall give later, power revenues from these plants cannot, in my opinion, be used to meet any part of the reimbursable irrigation costs of the Missouri River Basin projects. If, on the other hand, the source of the Secretary's authority for the marketing of power generated at these plants is found in subsection (c) of section 9, a portion of the power revenues may, under the reclamation laws, be used for an irrigation subsidy (see 43 U.S.C., 1946 ed., sec. 485h (c)).

The language of section 5, if considered alone, seems to provide a ready solution for the problem mentioned in the preceding paragraph. The phraseology used by Congress to indicate the scope of the section is plain and unambiguous. The section clearly purports to cover the marketing of the surplus power generated at all reservoir projects under the control of the Department of the Army. No exceptions are provided for, either expressly or by implication. The

Army plants in the Missouri River Basin will, of course, be parts of "reservoir projects under the control of the War [Army] Department" and, hence, clearly seem to be within the plain coverage of section 5.

However, a special statutory provision prevails over a provision dealing in general terms with the same subject as that covered by the special provision. *Kepner v. United States*, 195 U.S. 100, 125 (1904); *Missouri v. Ross*, 299 U.S. 72, 76 (1936). The question arises whether subsection (c) of section 9, in providing that the "power developments to be undertaken by the Secretary of the Interior under plans shall be governed by the Federal reclamation laws," is a special provision covering the disposition of the surplus power generated at all plants constructed in the Missouri River Basin under section 9, including those constructed by the Army, thus removing the surplus power generated at the Army plants in the basin from the scope of the general language contained in section 5, or whether the only power covered by subsection (c) of section 9 is that generated at reservoir projects of the Bureau of Reclamation in the basin.

It will be noted in this connection that section 9(a) approved "the general comprehensive plans" of the Corps of Engineers and the Bureau of Reclamation "set forth in House Document 475 and Senate Document 191, * * * as revised and coordinated by Senate Document 247 * * *." The plan of the Bureau of Reclamation set out in Senate Document 191 clearly contemplated that the Bureau would be the marketing agent for the surplus power generated at all the plants included in the plan, whether the plants and reservoirs might be constructed by the Bureau or by the Corps of Engineers.

On the other hand, the plan of the Corps of Engineers contained in House Document 475 proposed (p. 4) that "Plans for the production, transmission, and sale of hydroelectric power should be worked out with the cooperation of the Federal Power Commission." Senate Document 247, the document revising and coordinating the previous plans of the two agencies, was silent on the matter of which proposal respecting the sale of surplus power from the Army plants in the basin should be adopted. In the light of this background, section 9(c) does not itself provide a clear answer to the question whether Congress, in declaring that "power developments to be undertaken by the Secretary of the Interior under said plans shall be governed by the Federal reclamation laws," was legislating only with respect to the generation, transmission, and sale of surplus power from the plants of the Bureau of Reclamation in the Missouri River Basin, or intended also to encompass the marketing of surplus power from the Army plants in the basin.

Since the plain and inclusive language used by Congress in section 5 clearly covers in general terms the sale of surplus power from all Army reservoir projects, including the Army plants in the Missouri River Basin, whereas the ambiguous reference in section 9(c) to "power developments to be undertaken by the Secretary of the Interior under said plans" does not expressly refer in clear language to the marketing of surplus power from the Army plants in the basin, I do not believe that section 9(c) should be regarded as a special provision applying to the disposition of surplus power generated at Army plants constructed in the Missouri River Basin under the Flood Control Act of 1944 and necessarily excepting such power from the general provisions of law (i.e., sec. 5) applicable to the marketing of surplus power generated at Army reservoir projects elsewhere.

Accordingly, when House Document 475, Senate Document 191, Senate Document 247, and the first three subsections of section 9 are considered together, it appears that subsection (a) of section 9 was intended only to allocate the construction of the several parts of the Missouri River Basin project between the Bureau of Reclamation and the Corps of Engineers; that subsection (b) was intended to apply to the parts of the project which were to be constructed by the Corps of Engineers; and that subsection (c) was confined to the parts of the project which were to be constructed by the Secretary of the Interior. Under this view, subsection (c) has no applicability to the marketing of surplus power from the Army plants in the basin, and that subject is covered elsewhere in the act (i.e., in sec. 5).

The meager portion of the legislative history of the Flood Control Act of 1944 that is pertinent to the issue under consideration here supports the view that section 5 is applicable to the marketing of surplus power from all Army reservoir projects constructed under that act, irrespective of where they may be situated and including, of course, the Army plants in the Missouri River Basin.

The bill which became the Flood Control Act of 1944 was H.R. 4485, 78th Congress. Both sections 5 and 9 were added to the bill by amendments made in the Senate. Section 5 was the result of a committee amendment; section 9 resulted from an amendment made on the floor of the Senate. Neither the committee report nor the debate in the Senate throws any light on the problem with which we are concerned. However, when the conference report on the bill was before the House, the following significant colloquy took place between Congressman Whittington, who was in charge of the bill, and Congressman Rankin regarding the Senate amendment that is now section 5 (90 Cong. Rec. 9282, 9283):

"Mr. RANKIN. Now, right now on that point I want to ask the gentleman another question. I thoroughly agree with that principle because it is fundamentally sound. That provision applies to all projects provided for in the bill where power is to be generated, does it?"

"Mr. WHITTINGTON. Wherever generated by the War Department.

"Mr. RANKIN. All projects provided for in this bill?"

"Mr. WHITTINGTON. That is, that are constructed by the War Department. There may be in some of the reclamation projects power developed that will be disposed of in accordance with existing reclamation law.

"Mr. RANKIN. Now, right there is one trouble we are up against. The cooperative power associations are having to pay higher rates for power generated at dams built by the Bureau of Reclamation that they are paying at other dams constructed by the Federal Government. I wondered why an exception was made as to them.

"Mr. WHITTINGTON. We have made no exception. This bill deals with projects that are constructed by the Corps of Engineers. We have limited our amendment, and I think properly, to those projects.

"Mr. RANKIN. This applies to all proposed projects on the Missouri River, as I understand?"

"Mr. WHITTINGTON. Yes; to be constructed by the Chief of Engineers.

"Mr. RANKIN. And also on the Connecticut River?"

"Mr. WHITTINGTON. Yes; to be constructed by the Chief of Engineers.

"Mr. RANKIN. In other words, at all projects provided for in this bill, which generate electricity, the electricity is to be turned over to the Department of the Interior to be distributed to public bodies, which, of course, includes municipal bodies which own their own facilities—I presume that is right, is it not?"

"Mr. WHITTINGTON. Yes; to facilities owned by the Federal Government, public bodies, cooperatives, and privately owned companies.

"Mr. RANKIN. In other words, all public bodies, whether owned by the Federal Government, cooperative power associations, or municipally owned systems, are to be able to purchase this power at such a rate as will amortize only that part of the development charged to power. That is correct, is it not?"

"Mr. WHITTINGTON. That is true with respect to all projects constructed by the Chief of Engineers.

"Mr. RANKIN. In other words we do not propose to unload onto the power consumers the costs of flood control, navigation, and reclamation?"

"Mr. WHITTINGTON. Not at all. I may say further in answer to the gentleman's question, there is preference to the public bodies and cooperatives in this bill and in this agreement, just as there is in the existing law passed by this body on the disposal of power at Bonneville."

Thus, the point now before us was squarely raised in the Congress, and the manager in charge of the bill on the floor of the House stated unequivocally that section 5 would govern the disposition of surplus power generated at all Army plants provided for in the bill, including those on the Missouri River. I do not believe that this Department should take a contrary position in administering the provisions of section 5.

B

As I stated earlier in this memorandum, revenues derived from the sale of power under section 5 cannot, in my opinion, be used to meet any part of the reimbursable costs of a project which are allocated to irrigation.

Section 5 directs the Secretary of the Interior to "transmit and dispose of such power and energy in such manner as to encourage the most widespread

use thereof at the lowest possible rates to consumers consistent with sound business principles," and, in drawing rate schedules, to have "regard to the recovery * * * of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years." As I read these mandates, the Secretary is required to fix the rates at the minimum figures which will return the costs incident to the operation of the power facilities and permit amortization of the capital investment in such facilities within a reasonable period. This statutory requirement leaves no room for the adoption of an additional standard in the formulation of rates—such as the use of power revenues to meet part of the reimbursable costs of a project which are allocated to irrigation.

Furthermore, section 5 expressly requires that revenues derived from the sale of power under this section shall be deposited in the Treasury as miscellaneous receipts. This is clearly inconsistent with any proposal looking toward the adoption, by administrative action, of a plan for the use of power revenues under section 5 as an irrigation subsidy.

C

The construction and operation of the dam, powerplant, and appurtenant works at Fort Peck, and the distribution of the surplus power generated at this plant, are covered by special statutory provisions clearly and expressly applying to this project alone (16 U.S.C. 1946 ed., ch. 12C). Hence, both section 5 and section 9(c) of the Flood Control Act of 1944 are inapplicable to the marketing of the surplus power from Fort Peck. See *Kepner v. United States, supra; Missouri v. Ross, supra*.

The special legislation relating to Fort Peck provides that the surplus power generated at this project shall be delivered by the Corps of Engineers to the Bureau of Reclamation for disposition (16 U.S.C., 1946 ed., sec. 833). However, the Bureau is not subject to the reclamation laws in the marketing of Fort Peck power and the use of the proceeds from this activity. On the contrary, the Fort Peck legislation specifically covers these subjects, and the provisions relating to power rates and the disposition of power revenues (16 U.S.C., 1946 ed., secs. 883d, 833e, 833i) are similar to those of section 5 of the Flood Control Act of 1944.

Accordingly, for the reasons stated in part B of this memorandum, it is my view that revenues derived from the sale of power generated at Fort Peck are not available to meet any part of the reimbursable irrigation costs of the Missouri River Basin project.

D

I am constrained, therefore, to concur in the conclusions reached by Assistant Chief Counsel Schwab in his memorandum dated September 30, 1946, and to regard the proposed schedules of interim rates as unsound from the legal standpoint insofar as they rest upon the assumed availability of power revenues from the Army plants and the Fort Peck plant to meet part of the reimbursable costs of the Missouri River Basin project allocated to irrigation.

MASTIN G. WHITE, *Solicitor*.

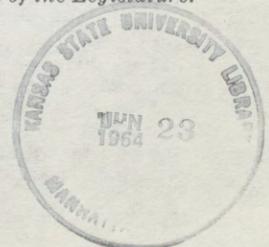
NEBRASKA STATE LEGISLATURE,
Lincoln, Nebr., May 10, 1963.

HON. HENRY JACKSON,
Chairman, Senate Interior Committee,
Senate Office Building, Washington, D.C.

DEAR SIR: Enclosed herewith is a copy of Legislative Resolution 37 which was passed by the Legislature of Nebraska in 73d regular session on the 9th day of May 1963.

Very truly yours,

HUGO F. SRB,
Clerk of the Legislature.



[Enclosure]

LEGISLATURE OF NEBRASKA—SEVENTY-THIRD SESSION

LEGISLATIVE RESOLUTION 37

Introduced by T. C. Reeves, 30th District; Richard Lysinger, 34th District; Don Thompson, 33d District

Whereas the Nebraska Legislature, in 1947 unanimously approved the Nebraska Reclamation Act which permitted the formation and organization of the 550,000-acre Nebraska Mid-State Reclamation District in Buffalo, Hall, and Merrick Counties, to further develop proposals of the multipurpose midstate project to utilize a portion of the water of the Platte River, now flowing unused to the Gulf of Mexico; and

Whereas there is now pending before the 88th Congress, Senate, file 388 and House roll 64, which provide for authorization of construction of the midstate project by the Secretary of Interior, under Federal reclamation law, as a unit of the Missouri River Basin project; and

Whereas legislation for this purpose has been introduced in the Congress of the United States for several sessions: Now, therefore, be it

Resolved by the members of the Nebraska Legislature in 73d session assembled:

1. That the legislature memorializes the 88th Congress and the respective Interior Committees thereof to support the proposals of the Bureau of Reclamation for the \$81 million midstate project and approve the above legislation for its authorization and construction.

2. That copies of this resolution, suitably engrossed, be transmitted by the clerk of the legislature to the U.S. Senate and House of Representatives, of the 88th Congress, to Hon. Henry Jackson, chairman of the Senate Interior Committee and Hon. Wayne Aspinall, chairman of the House Interior Committee and to each Member from Nebraska in the Senate and House of Representatives of the United States.

DWIGHT W. BURNEY,
President of the Legislature.

I, Hugo F. Srb, hereby certify that the foregoing is a true and correct copy of Legislative Resolution 37, which was passed by the Legislature of Nebraska in 73d regular session on the 9th day of May 1963.

HUGO F. SRB,
Clerk of the Legislature.

GIBBON, NEBR., March 25, 1963.

HON. CLINTON P. ANDERSON,
*Senate Office Building,
Washington, D.C.*

DEAR SENATOR ANDERSON: This letter prepared at the suggestion of 60 signers of a petition addressed to Department of Interior and others.

The midstate project will again be introduced for Federal approval and money will be asked for its construction. We feel such a costly project should not be undertaken until actual need is soundly established and all questions regarding the issue thoroughly understood.

The following, prepared by farmers, is offered that you may know why there is opposition to this project. The economic and financial responsibility lies heavily on farm people. Most of the voters in the district are city residents. Fear of the loss of domestic water supply due to pump irrigation was used to win the local election. This same method is being used today to support it locally and in Washington. To our knowledge, no man whose primary interest is in agriculture has endorsed or promoted this project.

A map prepared by Mid-State officials was brought before the Committee on Interior and Insular Affairs in June 1962. This map projects ground water levels 50 years into the future, showing a constant loss in ground water from the year 1930 to 1980, becoming dry in 1970. Also on this map are levels that they claim would result if the project had been in use, this showing a constant supply of ground water at the level existing in the year 1930.

Mid-State testimony in the hearing of 1962 claimed a general ground water loss of 13 feet in the district from 1930 to 1960. Bureau of Reclamation report of the midstate area 1961 shows some ground water loss previous to 1955. It also shows a constant gain amounting to about 3½ feet from 1955 to 1960. Dur-

ing the same period (1955-60) the number of irrigation wells has increased from 3,600 to 5,200 or more. The area immediately west of the midstate district increased in number of wells as much or more in the same period and is pumping from the same underground water supply.

On page 70 hearing report of June 1962, Mr. Johnson, president of the Mid-State, stated that the South Central Irrigation District of Nebraska had been of value in stabilizing the ground water in the area south of the Platte River adjacent to the midstate district. He stated water levels in some irrigation wells had risen 50 feet. Basements in some homes south of Kearney in the sand hill ridge have had to be filled because of this water. Seepage for the past 10 years has been occurring on the south side of the Platte River from Overton eastward to Lowell and beyond. Will not a 13-foot rise in the ground water level in this area hinder the building of interstate highway? This highway construction is now in progress in the district and has experienced trouble with high underground water levels in the past year.

It is estimated that the average depth to water in the midstate district is 20 feet. Much of the district has a high static water level at times appearing as surface water. The interstate highway is being constructed in the high static water level area.

An irrigation well one-fourth mile north of the city limits of the city of Grand Island was measured February 12, 1963, showing water level 19.6 feet below ground level. This and other wells on this farm are 100 feet deep, 80 feet being in good water-bearing strata. These wells have been used for 10 years and more and have never shown any sign of production loss and drawdown recovery is complete in 10 hours.

Unusually high ground water levels and seepage were reported in the Chapman and Archer area last spring. These locations are just east of the center of the district.

In reference to the statement made by Mr. Johnson, president of the midstate, about the 50-foot rise in the water level being due to the Central Nebraska Irrigation District south of the Platte River; could not the recent rise in the water level in the district north of the Platte River be the result of the same ground water flow he is referring to, also the Kingsley Reservoir on the North Platte River, its feeder canal extending eastward on the north side of the river 23 miles, and other canals continuing to the Kearney area?

Since the Mid-State is completely encircled by existing Missouri Basin projects would it not be well to defer the construction of midstate until the full extent of the ground water flow from these projects can be determined?

If the midstate had been completed in 1955, would they not have taken credit for the rise in water levels 1955 to 1960 and charged the irrigators for this recharge in water levels that came from another source? Our pumping season is limited from 30 to 60 days; area cropping is such that this is an abrupt start and stop. How do midstate engineers plan to control the ground water levels before and after the pumping season? Much of the district has at present underground water levels near the surface. Is it not possible that this project if built could cause extensive seepage damage?

The U.S. Conservation Service could be the answer to the flood problem in the district. Much has been accomplished by this Service. This method of impounding water where it falls is a proven soil and water conservation method and the benefits are lasting. Recreation sites also are provided in this program. A watershed district under Watershed Protection and Flood Prevention Act is now being formed in the Gibbon-Shelton area. Conservation of water by the use of terraces and small dams will not cause seepage problems or pose a flood threat. If the midstate plan of impounding in large reservoirs the water draining from these highly erosive lands is used, will it not tend to silt in the reservoirs and perch water such as is now the situation at Columbus, Nebr.? The flash flood damage in the area is limited to crops and roads with practically no threat to human life or other property.

It has been stated by Mr. Haley that the \$28½ million allocated to flood control by the Mid-State, if invested at 4 percent would pay double the Mid-State estimate of \$500,000 flood damage each year.

The midstate district is a small part of the Missouri River Basin and considering the damage to the land in the district that the midstate engineers have not accounted for, will the benefits of the project outweigh the costs?

The 25,000 acres of reservoirs are shown on the map to be mainly out of the district. If the project is built, who will control this area outside of the district that is covered with water? How much land will be used for canals, floodways,

water service laterals, access roads, etc.? Who will be liable for severance damage to farms, seepage, etc.—the local district or the Federal Government? Our growing season is limited; what nonsurplus crops can be grown?

Do we need this project when over 90 percent of the irrigable land in the district is now being pump irrigated from a proven supply? When power supplies are ample and other methods of power generation are more economical? When the flood problem can and is being solved and recreation sites are becoming available? When we have been asked to reduce our production at least by 20 percent? When, if built, will sever our fields with canals, disrupt our present farm practices, make us liable to seepage and other damage, and place an indebtedness of 52 percent of the cost of the project directly on the irrigated lands? The irrigators liability to this project should be retired with profits above the present farm earnings. The estimated irrigation costs per acre under the midstate exceeds the current pump irrigation cost.

The district comprises a thriving and productive community, its resources are abundant. According to geologists ours is the only area on earth with such an enormous supply of ground water that has a natural annual recharge.

The intent of this letter is to call to your attention some phases of this project which are in question. It is obvious the writers of this statement are in opposition to the project. However, if we are overruled and the project is built, may we rest our troubled souls, complacently, enjoying ourselves with the fishing and boating facilities so provided at the expense of our grandchildren.

MARK RANDALL.
MARK BOLIN.

STATE OF NEBRASKA GAME, FORESTATION, AND PARKS COMMISSION,
Lincoln, Nebr., August 21, 1963.

SUBCOMMITTEE ON IRRIGATION AND RECLAMATION
OF THE SENATE INTERIOR COMMITTEE,
U.S. Senate, Washington, D.C.

GENTLEMEN: This agency has testified repeatedly in behalf of the proposed midstate project in Nebraska. May we refer you to our testimony of the past, particularly to that appearing on pages 127 and 128 of the printed report of the hearings held by the House Subcommittee on Irrigation and Reclamation on H.R. 973, 3662, and 5073, 86th Congress.

This agency is already engaged in recreational developments in the Platte River valley which will complement the midstate project. Moreover, we intend to do our part in behalf of this State toward the maintenance of wildlife and recreational values inherent in the midstate project. We direct your attention to the fact that Nebraska has an established record of so doing on reclamation projects, and we refer you to the Department of the Interior for comment thereon.

In the wildlife and recreational fields, we consider the midstate project the most important Federal reclamation development proposed in this State, and we endorse it unreservedly. We recommend and urge your favorable consideration of S. 388.

Yours very truly,

M. O. STEEN, *Director.*

CENTRAL CITY CHAMBER OF COMMERCE,
Central City, Nebr., August 23, 1963.

Hon. FRANK E. MOSS,
Chairman, Subcommittee on Irrigation and Reclamation, Senate Interior Committee, Washington, D.C.

GENTLEMEN: The Central City Chamber of Commerce has been a firm advocate of the midstate program since its inception. We have offered statements in support of this program since 1959 and now wish to reaffirm this support and advocacy. It is our earnest hope that the committee will now see fit to advance S. 388 so that it may become law and our area receive the many benefits which it will bring.

Respectfully,

ARVID STRANBERG, *President.*

NEBRASKA MIDSTATE RECLAMATION DISTRICT,
Grand Island, Nebr., February 24, 1964.

Hon. FRANK MOSS,
*Chairman, Subcommittee on Irrigation and Reclamation, U.S. Senate,
 Washington, D.C.*

DEAR SENATOR MOSS: This letter, written in behalf of the directors of our district, is to thank you for your cooperation with the earlier request of Senator Carl Curtis in scheduling a hearing on S. 388 for March 3.

For your information, and for our requirements at this hearing, we wish to advise that Dan S. Jones, Jr., director of the Water Resources Department, State of Nebraska, and Mel O. Steen, director of the Game, Forestation, and Parks Commission, State of Nebraska, will appear as witnesses before your committee to make statements in our behalf. Also, Mr. Jones will submit a written statement by E. C. Reed, director of Survey and Conservation Department of the University of Nebraska and the State of Nebraska, pertaining to the ground water supply in our midstate district area, and its continuing decline due to more and more installations of irrigation wells each year without adequate replenishment. This purpose of our midstate project has become a primary one, in order to maintain and stabilize the growth of our agricultural economy since 1940.

Further, statements will be submitted, in our behalf, by Arthur C. Johnson and Walter P. Lauritsen, attorney for our district. In addition, we have invited Senators Hruska and Curtis, together with Congressmen Dave Martin, Glenn Cunningham, and Ralph Beermann to make statements in support of our proposals, to your committee.

Arthur Johnson and I, together with D. B. McOstrich, staff engineer, will arrive in Washington, D.C., Wednesday, February 26, for preliminary conferences with the staff of your committee and with officials of the Bureau of Reclamation relative to hearing procedures.

Again we wish to thank you and your associates on the committee in assisting us with this hearing. Since the Senate approved our proposals in 1961, we hope our 1964 efforts will prove adequate for approval, both in the Senate and the House.

Sincerely yours,

J. K. MCKINNEY, *Secretary.*

NEBRASKA RECLAMATION ASSOCIATION,
Lincoln, Nebr., August 20, 1963.

Hon. FRANK E. MOSS,
Chairman, Subcommittee on Irrigation and Reclamation, Senate Interior Committee, Washington, D.C.

DEAR SENATOR MOSS: I am told that Senator Carl Curtis has advised the Nebraska Midstate Reclamation District that your committee will hold a hearing on the Midstate project bill, S. 388, on August 29.

As the Nebraska director of the National Reclamation Association and as executive director of the Nebraska Reclamation Association, I have been familiar for 20 years with the multipurpose proposals of the midstate project and its need in that area to utilize the wasting flows of the Platte River past the district, and the replenishment of the declining water levels in the district.

Also, I am aware of the substantial amount of funds that the local people have already invested in this development, together with the wide support of these proposals by State officials of Nebraska, other power and irrigation agencies of the State, as well as that of local cities, civic organizations, and citizens of the district area.

Attached is Resolution No. 7, unanimously adopted at the annual meeting of the Nebraska Reclamation Association on November 29, 1962.

Personally, and in behalf of the association, I urge your committee to approve S. 388.

Respectfully submitted.

C. PETRUS PETERSON,
Executive Director.

[Enclosure]

RESOLUTION No. 7.—COOPERATION WITH NEBRASKA MIDSTATE PROJECT

(As adopted by the Nebraska Reclamation Association at the annual convention at North Platte, Nebr., November 29, 1962)

Whereas the Nebraska Midstate Reclamation District, since 1953, has had legislation before the U.S. Congress each year for approval of the multipurpose midstate proposals; and

Whereas such proposals have been supported by the Secretary of the Interior each year since 1959; and

Whereas legislation in 1960, 1961, and 1962 provided for the "authorization of construction of the midstate project as a unit of the Missouri River Basin project," on which hearings were held each year; and

Whereas the U.S. Senate approved such legislation in 1961 but authorization was not completed in 1962 by the 87th Congress, and similar legislation for the same purpose will be introduced in the 88th Congress: Now, be it

Resolved, therefore, That members of the Nebraska Reclamation Association hereby urge the 88th Congress, in 1963, and officials of the executive department of the U.S. Government, to support proposals of the Bureau of Reclamation, such being in conformity with present established Federal reclamation laws and policies, for the requirements of the district and to expedite such authorization of construction of the midstate project in Nebraska as proposed.

APPENDIX

"MISSOURI BASIN WATER PROBLEMS"

[Excerpt from Joint Hearings before the Committee on Interior and Insular Affairs and the Committee on Public Works, United States Senate, 85th Congress, 1st Sess., dated May 1, 2 and 3, 1957, Part 1.]

STATEMENT OF EDWARD WEINBERG, ASSISTANT SOLICITOR, POWER, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY EDWARD W. FISHER, ASSOCIATE SOLICITOR, WATER AND POWER, DEPARTMENT OF THE INTERIOR

Mr. WEINBERG. My name is Edward Weinberg, Assistant Solicitor of the Department of the Interior, and I have with me Edward W. Fisher, Associate Solicitor, Water and Power, of the Department of the Interior.

Senator ANDERSON. Mr. Weinberg, do you have some statement to present to the committee? You understand what the controversy is about or the question is about?

Mr. WEINBERG. Yes; I do, Senator. I understand basically it concerns the matter of release of water and storage of water.

Senator ANDERSON. It is not just a question of priority of water, the O'Mahoney-Millikin amendment. It has to do with the statement that electric-power rates must be fixed in such a fashion and at such a level to make sure that the irrigation would be properly subsidized.

Do you have any question as to whether or not section 5 or section 9 has any responsibility?

Mr. WEINBERG. Yes, Senator. That question accounts for our presence here today.

It was raised by letter of May 1 from Senator Murray to Secretary Seaton, asking for a statement of the position of the Department in connection with the application of power revenues, principally those from the Army developments in the Missouri River Basin against irrigation costs on projects in the basin being developed by the Bureau of Reclamation of the Department of Interior, and it is to that question, Senator, that I am prepared to address myself.

Senator ANDERSON. Go ahead.

Mr. WEINBERG. I want to express my apologies to the committee at testifying orally at length without giving the committee an opportunity to follow me in a prepared text.

Senator ANDERSON. May I read just the language to which I raised some question just the other day?

Mr. WEINBERG. Yes.

Senator ANDERSON. This is the testimony of Mr. Grimes. He said:

And I would like to add here that it is a very, very important understanding that we have in the basin that it is the power investments and those costs allocated to power with 3 percent interest that will be repaid in 50 years, but that the rates for the power sales shall be sufficient to return, within whatever the payment-period is that is provided by Congress, the portion of the irrigation costs which the irrigators themselves cannot pay.

Mr. WEINBERG. Yes, sir.

Senator ANDERSON. And it was to that question that I directed my attention first, and I think others came along and directed theirs, whether or not there is any obligation under the law that the rates shall be sufficient to return the power costs, and that portion of the irrigation costs that the irrigators cannot pay.

Mr. WEINBERG. Yes.

The question involves the interpretation of the application of the provisions of sections 9 and 5 of the Flood Control Act of 1944.

It is the position of the Department, and has been the position of successive Secretaries of the Interior from the enactment of the act, that section 9 of the Flood Control Act of 1944 authorized the comprehensive development of the Missouri River Basin consisting of two coordinated parts—one part to be undertaken by the Department of the Army, the other part to be undertaken by the Department of the Interior—together comprising an overall plan for multiple purposes, such as flood control, irrigation, power, navigation, fish and wildlife, and other beneficial purposes.

We have to consider in this matter first the question of the interpretation of the statute in the light of the plans appended in Section 2, second, there is the issue of the implementation or the administration of this statute by the Department charged with the marketing of power and of the development of the irrigation, and third, we come to the matter of the congressional recognition of the departmental implementation and interpretation of the statute.

Now, when we read section 9 and we read section 5, it is immediately apparent that there is raised here a problem originally of what was the intention of Congress, for, if the statutes were entirely clear on the matter, we would not be here trying to explain the departmental position and the question would not have been raised.

It is the view of the Department that the key to the matter is to be found in an examination of the plans that were authorized and adopted by section 9, although we must concede at the outset that while the Department has taken one view, other views can also be taken on a reading of the statute, and particularly could this have been the case at the beginning of operation under this statute especially if careful consideration is not given to the Senate and House documents comprising the Missouri Basin plans.

Senator ANDERSON. Why do you refer to section 9 and not simultaneously to section 5?

Mr. WEINBERG. The issue, Senator, is which of those sections applies. Upon examination of the plans that were approved in section 9, it is clear that the heart of the Interior Department's plan, which is one of those which was approved, was a basinwide development, under principles of reclamation law, in which all of those green areas shown on

the map there would be developed for irrigation purposes under the principle of reclamation law that all of their costs must be returned, with the consequence that that part of those costs which were to be returned which could not be returned by repayments by the water users would be met under reclamation law from revenues derived from the sale of power. The Department's plan recognized that most of this power would be developed by the Army engineers but that the Department would market it, would build the transmission lines, and the rates would be established under the provisions of reclamation law.

That being the case, Senator, upon the examination of the plans, it was the conclusion of the Secretary that section 5 had no application to the sale of power from Army projects in the Missouri River Basin.

Senator ANDERSON. House Document 475—what was that?

Mr. WEINBERG. House Document 475 is the Army's plan for the—

Senator ANDERSON. Army plan?

Mr. WEINBERG. Yes.

Senator ANDERSON. I was hearing you discuss it as though it was only the Department of the Interior's plan.

Mr. WEINBERG. Not at all, Senator.

Senator ANDERSON. There was then an Army plan?

Mr. WEINBERG. Oh yes; yes, indeed.

Senator ANDERSON. Good. We agree on that.

Mr. WEINBERG. We certainly do.

Senator ANDERSON. Because in the Army plan there were some programs set forth too, were there not?

Mr. WEINBERG. Yes; principally for flood-control purposes.

Senator ANDERSON. And erection of dams?

Mr. WEINBERG. Construction of dams.

Senator ANDERSON. Which would generate power?

Mr. WEINBERG. That is correct, Senator.

Senator ANDERSON. There are, therefore, two kinds of plans?

Mr. WEINBERG. That is correct.

Senator ANDERSON. Therefore, there might be two ways of selling power?

Mr. WEINBERG. That is entirely correct.

But, in the Army plan, there was not a consideration of the question of who was to market the power and under what circumstances the power was to be marketed. This was dealt with at length in the Interior plan. It was not dealt with in the Army's plan.

The Chief of Engineers recognized, in transmitting the Army plan, that there would be the opportunity and the necessity for other agencies to play a part in the Missouri Basin development, in order for all agencies to engage in the accomplishment of a truly comprehensive plan, and the Army report does not deal with the question of paying off the irrigation costs or the marketing of power, as such.

Senator ANDERSON. Would it have been proper for the Army, that does not have anything to do with the Bureau of Reclamation, to set forth in its plan how the irrigation costs would be paid for?

Mr. WEINBERG. I think that is a matter in which the Army properly deferred to the Department of the Interior, although I would not say it would be improper for the Army as an agency of Congress, when called upon to make a comprehensive survey, to offer its views to the Congress.

Senator ANDERSON. On irrigation?

Mr. WEINBERG. On irrigation, yes.

But the issue, as the Department saw it, was that there were these two plans developed.

The Army's plan was House Document 475. The Interior Department's plan was Senate Document 191.

There were certain physical differences between the two plans, and those were reconciled in Senate Document 247 of the 78th Congress, 2d session, which was a joint report to the Secretary of the Interior and Secretary of War from the Chief of Engineers and the Commissioner of Reclamation announcing the reconciliation of the plans.

The Commissioner and the Chief of Engineers announced their conclusions that they had now developed a unified plan in these words, which are quoted from paragraph 16 of Senate Document 247:

Development of the Missouri River Basin in accordance with House Document 475, 78th Congress, 2d session, and Senate Document 191, 78th Congress, 2d session, as coordinated in the included joint engineering report, if authorized as a unified plan, will secure the maximum benefits for flood control, irrigation, navigation, power, domestic and sanitary purposes, wildlife, and recreation.

I stress the phrase "if authorized as a unified plan."

We turn then to Senate Document 191 to see how the Interior plan dealt with this specific matter of marketing the power and meeting the costs of the irrigation development which were over and above the ability of the water users to pay, and I will refer to certain segments of Senate Document 191 at this point.

In the letter, at page 1 of Senate Document 191, from Secretary Harold L. Ickes to the President, dated May 1, 1944, transmitting the Interior Department report to the President for his review, prior to its submittal to the Congress, he had this to say:

The initial stage proposed in this report would involve expenditures estimated at \$200 million. The economic and human gains which can be expected will amply justify this expenditure. The plan has engineering feasibility. Water users, rural and urban, would be expected to repay in accordance with their ability and the benefits extended to them, part of the costs, and I find they can probably meet the charges indicated. Power users would be expected to repay additional parts of the cost. It reasonably can be expected that these returns to the United States Treasury will be effected. Flood Control and Navigation allocations would be nonreimbursable.

Then he goes on to say in the last paragraph:

I find desirable and feasible the development of the Missouri River Basin in accordance with this Report on the Conservation, Control, and Use of the Water Resources of the Missouri River Basin, and I recommend authorization for construction after the war of the initial stages, in accordance with the report and as contemplated in section 9 of the Reclamation Project Act of 1939.

The report of the Commissioner of Reclamation to the Secretary of the Interior, at pages 2 to 4 of Senate Document 191, had this to say, in describing the proposed plan:

The reclamation plan proposes a total of 90 reservoirs, with the combined capacity of 45,700,000 acre-feet, most of the reservoirs on tributaries of the Missouri for use in irrigation, flood control, and power development, but two-thirds of the reservoir capacity on the main stream for use in flood control, aid to navigation, power development, and irrigation.

I interpolate here to say when speaking of the reclamation plan, the Commissioner of Reclamation there was speaking of the ideas of the

Bureau of Reclamation as to what was to be constructed, but not that the Bureau of Reclamation was to construct the main-stream reservoirs.

He went on:

When fully developed, the plan would provide water for the irrigation of 4,760,400 acres of dry land and supplemental water for 538,000 acres of land now irrigated but not assured adequate water in years of low run-off. Seventeen power plants, in the completed power system—

and these plants let me point out, included plants to be constructed by the Department of the Army, as well as to be constructed by the Department of the Interior—

would supply seasonal power for pumping water for irrigation, and nearly 4 billion kilowatt-hours of firm power, annually for domestic, commercial, and industrial use.

Then later on in the Commissioner's report of April 28, 1944, appearing at page 4 of Senate Document 191, he commented upon the views of the Department of the Army in this fashion:

I agree with the Chief of Engineers that details can be worked out satisfactorily through cooperation as the projects are constructed on the tributary streams. I agree that the agency with the dominant interest should construct the dams and other works in the basin, and I agree that main-stem storage dams should be constructed by the corps, owing to their close relationship with flood control and navigation. The reclamation plan provides a storage capacity in main-stem reservoirs of 24,950,000 acre-feet, which is 10,250,000 acre-feet less than that proposed by the corps, but when considered together, with more than 10 million acre-feet of storage provided upstream, this amount is believed to be sufficient to provide full flood protection and ample storage for regulations for navigation.

Then followed some discussion in the Commissioner's report about the Garrison and Oahe Dams.

Following that the Commissioner went on to say:

I find that the proposed development of the Missouri River Basin is needed, as conclusively shown in the report. The plan has engineering feasibility. The ultimate cost is estimated at \$1,257,645,700, and the annual benefits of the completed development would be 2.57 times the annual cost.

Then follows a table of benefits, including the benefits from the Army power development, the flood control, navigation, and so on.

"Irrigation," he then says, "would be expected to repay in 40 annual payments \$298,000,000. Power revenues in 50 years would repay \$423,100,000, and municipal water users would repay \$20,000,000."

Then he went on to recommend the plan.

Senator ANDERSON. Will you tell us where you were reading from, now?

Mr. WEINBERG. I was reading from page 4 of Senate Document 191.

Senator CASE. That would be controlling with respect to Fort Randall, Big Bend, and the Oahe Reservoir?

Mr. WEINBERG. Yes, in terms of applying the revenues against the costs.

Senator CASE. But it would not be applicable with respect to the Gavins Point Reservoir and the Garrison Reservoir?

Mr. WEINBERG. There was agreement on those. There were conflicts in principal features which were adjusted.

Senator CASE. Well, paragraph (c) of section 9 says: "subject to"—and I will skip a few words to emphasize this—

subject to the allocations of costs and the repayments by water users made in said House and Senate documents.

And so forth. The coordinated document, No. 247, says, in paragraph 4, that it was agreed, and so forth, with regard to the other two subdivisions, that everything was agreed upon "with the following modifications."

(a) (1) the Gavins Point Dam and Garrison Reservoir to develop in accordance with House Document 475. That would be Army. Gavins Point and Garrison to be developed with the allocations of cost and repayments by water users, and so forth, as recommended in the Army report.

And the next paragraph (2) :

The Fort Randall Reservoir, the Big Bend Reservoir and the Oahe Reservoir to be developed in accordance with Senate Document 191.

That would mean that the Senate document, the Bureau of Reclamation plan for Fort Randall, Big Bend, and Oahe, would be followed.

Mr. WEINBERG. These go to the physical structures, Senator Case. There was disagreement as to the size of some of these main-stem reservoirs and where they should be located.

Senator CASE. Well, just a minute. Section 9 (c) does not go to the physical structures only.

Mr. WEINBERG. Oh, no.

Senator CASE. It says:

subject to the findings and recommendations regarding the benefits, the allocations of cost, and the repayments by water users made in such documents.

Mr. WEINBERG. That is correct. And that is the premise upon which the Secretary concluded that the power from these Army structures was to be marketed under reclamation law for the purpose of meeting the irrigation costs from these irrigation developments that were beyond the repayment ability of the water users. That is the significance of the basinwide findings and recommendations. And it is in that context that the Department's report discussed the amount that could be repaid by the water users and the balance of the irrigation costs that was to come from revenues developed from the sale of the power throughout the basin without regard to the agency which constructed and operated the powerplant. And there are some further recommendations in the Interior plan which bring that out.

Senator CASE. Going one step further: Under the Federal reclamation laws, where do repayments go when they are collected?

Mr. WEINBERG. From works that are constructed by the Secretary of the interior, they go into the reclamation fund.

Senator CASE. Where are the receipts going from the power sold from the main-stem reservoirs today?

Mr. WEINBERG. We have just recently advised the General Accounting Office that as we view it the revenues that are allocable to the Army powerplants should be deposited in the general fund of the Treasury to the credit of miscellaneous receipts.

Senator CASE. Under what authority?

Mr. WEINBERG. Under this: The deposit of revenue in the reclamation fund is controlled by the provisions of the Hayden-O'Mahoney

amendment to the departmental appropriation act for the fiscal year 1939. That provides that all revenue received from reclamation development constructed by the Secretary of the Interior through the Bureau of Reclamation should be deposited in the reclamation fund. Since the Bureau of Reclamation or the Secretary of the Interior has not constructed Gavins Point Dam, Oahe Dam, or the other main-stem dams, the Hayden-O'Mahoney amendment does not apply. Under general principles of law all revenues for which no other disposition is provided are for deposit in the general fund of the Treasury.

Senator CASE. Section 5 of the Flood Control Act of 1944, as you know, which relates to the power energy generated at reservoir projects under the control of the War Department, concludes with this sentence:

All moneys received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts.

And you are now saying, then, that the money presently being collected for power generated at the Army-constructed dams is going into the miscellaneous receipts of the Treasury, not under this sentence of section 5, but under application of general law.

Mr. WEINBERG. That is correct.

Senator CASE. How do you construe it that way, in the face of the specific provision in this act where the Missouri River program is authorized?

Mr. WEINBERG. Because the Department has taken the position from the outset that in proceeding to market power from Army dams in the Missouri River Basin it is proceeding under authority conferred by section 9, which brings in the reclamation law, Senator, and in the absence of a provision in the reclamation law dealing with the deposit of revenues from projects not constructed by the Secretary of the Interior, they must, under general principles of law, be deposited in the general fund of the Treasury.

Senator CASE. And you contend that section 5 does not apply to the Missouri River program?

Mr. WEINBERG. This is the position of the Department, Senator.

Senator CASE. And how does the Secretary of the Interior get the power from the dams constructed by the Corps of Engineers in the Missouri River Basin?

Mr. WEINBERG. Because that was a part of the two plans that were approved by the Congress in section 9 of the Flood Control Act of 1944.

Senator ANDERSON. What about transmission lines?

Mr. WEINBERG. The transmission lines are constructed under reclamation law.

Senator ANDERSON. Then the revenues from those flow back to the reclamation fund?

Mr. WEINBERG. That would go into the reclamation fund until there had been deposited therein, in accordance with the Hayden-O'Mahoney amendment, an amount equal to the costs to be returned from power, and thereafter under the Hayden-O'Mahoney amendment those revenues, too, would go into the general fund.

Senator O'MAHONEY. Mr. Chairman, would the Senator yield to me for a minute?

I venture to make the request, because I have another committee in progress, and I am doing some work for that, and I must leave. But I would like to make a comment, which is not at all relevant at the moment to what Mr. Weinberg is saying, but which nevertheless is prompted by some of the things that he has said.

This compact, and the plan that was finally developed, was the result of the final action of President Roosevelt in requesting, to use a mild word, the Bureau of Reclamation and the Army engineers to get together.

One of the great difficulties that I had, when I was before serving on this committee and trying to bring about the development of the Missouri River Basin, was that both the Army engineers and the Bureau of Reclamation were spending money which they sought from Congress year by year, planning for the development of the water sites. Both Bureaus wanted the same sites. Both Bureaus sought to draw plans for the same sites.

In my own State, the Boysen Reservoir was studied by the engineers and studied by the Bureau of Reclamation. We had lots of studies, but we had no construction.

I talked it over with the Secretary of War. I talked it over with the Secretary of the Interior. There were no results. And finally I went to the White House, and I said to Franklin D. Roosevelt, "Mr. Roosevelt, there is no power in the United States except yours to knock the heads of the Army engineers and the Bureau of Reclamation together so that we can get a Missouri Basin development plan."

I said, "Mr. President, you want to develop this area, you want to have this water used by the people who live there. Won't you please make these two subordinate bureaus of yours get together on a joint plan?"

That was the origin of the Pick-Sloan plan. Pick was the head of the engineers, General Pick, a very able man, and Sloan was a very able engineer, for the Department of the Interior and the Bureau of Reclamation.

But all of this rests upon the basic concept that water is to be used by the people who can use it. I have always been proud, on St. Patrick's Day, when addressing an Irish aggregation, to tell them that the only Brehon law, the ancient Irish law, which survives, of which I have any knowledge, is the water law of the West. Because the land in ancient Ireland could not be held by anybody in idleness. If anybody in the family or in the group or in the clan saw some land which was not being used, he could go to the authorities and say, "This land is not being used. I can raise my family on it." And he got the use of it.

Now, that is the rule with respect to Western water. That is why the Irish are so prosperous in the West.

Senator ANDERSON. I knew he would get the Irish into it.

Senator O'Mahoney, the discussion arose over a statement that was made here, which said that they had in the basin a very clear understanding that the power costs allocated to power with 3 percent interest would be repaid in 50 years, but that the rates for the power sales shall be sufficient to return within whatever the payment period is as provided by Congress, the portion of the irrigation cost which the irrigators themselves cannot pay.

Now, it is that latter part that some of us questioned a little bit, because there has been as yet no large interest in irrigation. There is \$21¼ million charged against irrigation, and apparently it is the contention that before any drop in our rates can take place, not only do the costs allocated to power have to be paid but you go out and set up another \$2 billion for irrigation projects that will never be built, that may never have feasibility and may never be approved by the Congress. And we wondered if the rates might not be lowered and adjusted when the power features had been paid for.

Senator O'MAHONEY. Well, of course, the objective of that amendment was, of course, to obtain revenue which would be applied to the construction cost.

Now, I adhere to the general principle that you can frequently increase your revenue by lowering your rates. And if by so doing the revenue applicable to irrigation and power costs can be enlarged, then I would have no objection to lowering the rates.

But I do believe that both in Congress and in the Department we should be very careful not now to suggest reclamation projects which are really not feasible.

The whole basis of the reclamation law is to build feasible projects.

Senator ANDERSON. And if there is an irrigation project running to several hundred thousand acres at a time when we are having some difficulty with our present agricultural production, that would add a burden of \$1,300 an acre to farmland—and not greatly improve.

Senator O'MAHONEY. It would certainly be an argument of infeasibility.

Of course, in 1939 we amended the reclamation law in order to provide for the multiple-purpose projects. Now we want to use the water for all proper purposes to the utmost. That was what was in the minds of those of us who sat on the Irrigation and Reclamation Project Committee at that time. We desired to promote not only reclamation and power but to promote reclamation and wildlife and those other water uses which bring people into an area. But there was always the rule of reason. We did not believe that reclamation should be carried on to an unreasonable extent.

I have had many a battle with the Bureau of Reclamation about projects which actually turned out to be infeasible after they had been constructed, because sufficient time had not been taken in the beginning to make sure that the land was actually arid.

Senator CASE. Well now, Mr. Chairman, that certainly is a very important question here. A great deal of the proposed irrigation under the Missouri River program is still in the state of examination.

The question of feasibility has not been determined, and particularly with respect to some of this land that Senator Anderson suggests may represent an investment by somebody of \$1,300 per acre, or whatever it may be.

Now, then, the question is: Shall the power users be saddled with a rate of power based upon the anticipation of taking care of the cost of an irrigation project which has not yet been proven feasible and which may never be constructed?

Senator O'MAHONEY. Well, I think that in looking into the future we must always look from the standpoint of what is feasible.

Senator ANDERSON. Here we have a project that is going to generate a tremendous lot of current. Now, if you try to put behind it \$2 billion of a potential future reclamation project that will involve very expensive irrigation, running a minimum of, let us say, \$500 an acre to all the land, and well over a thousand dollars to others, you will come out with a rate that is not an industrial rate that is at all competitive to what exists in the Pacific Northwest.

Senator O'MAHONEY. Well, as I said in the beginning, reduced rates can produce higher revenue. And that should be the controlling factor. In other words, you cannot sit around the table now and judge what the rates ought to be 25, 30, or 50 years from now.

Senator ANDERSON. No, but there are two sections of this Flood Control Act in 1944, as you know better than I do. But section 5 has one provision about the sale of electric power, and section 9 has another that throws it under the Reclamation Act. They take that part of section 5 that says the funds shall be put back and covered into miscellaneous receipts so that it does not get into the reclamation fund, but use section 9 to say that the rates must be sufficient to pay for subsequent irrigation.

That results in a 4 or 5-mill rate; where if you were only seeking to pay for the power—

Senator O'MAHONEY (interposing). Well, of course, feasible irrigation was what was understood.

Senator ANDERSON. It is not so understood now, apparently.

Senator O'MAHONEY. Of course, I know every bureau wants to expand its activities.

Senator CASE. Senator O'Mahoney, do you recall the reason for this language in section 5:

The Secretary of the Interior is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at such projects available in wholesale quantities—

and so forth?

My recollection is that there was a Bailey amendment, which would have required that the power be sold only at the dam site, and this authorized the Bureau of Reclamation to construct transmission lines, but only such transmission lines as were necessary.

Senator O'MAHONEY. The Bailey amendment was not adopted.

Senator CASE. It was not adopted. That is right.

Senator O'MAHONEY. And this was the policy that was decided upon.

Senator CASE. Now, would you consider that that sentence was intended to apply to the projects in the Missouri River program?

Senator O'MAHONEY. Well, I have not read the record recently, and I would prefer to reserve my judgment. This I do know, and that is that there has been a constant battle over the length to which the Government may go in making available the power resources which it develops. And attempts have been made to hamper the Government. Attempts have been made to expand the powers of the Government. And as a former member of the Appropriations Committee, I know that many a legislative provision has come into the Senate and passed into law on an appropriation bill.

Senator CASE. I think you gave a very good answer. I really was not intending to trap you. I was trying, however, to get the benefit of your personal connection with a lot of the history of this legislation.

I was going to ask that question of the legal representatives, or the gentlemen from the Solicitor's Office of the Department of the Interior. I want to ask them too if they regard the Missouri River projects as bound by that language on the construction of transmission lines.

Mr. WEINBERG. No, sir. We do not.

Senator O'MAHONEY. I thought there was some additional law here.

Mr. WEINBERG. The reclamation law, Senator.

Senator ANDERSON. Section 5 has no bearing, then.

Mr. WEINBERG. Not in the Missouri River Basin, Senator.

Senator CASE. He has to say that to be consistent in his other statement that section 5 does not apply to the Missouri River Basin.

Mr. WEINBERG. Sometimes it would be nice to quote Emerson's dictum about consistency being the hobgoblin, but this is one occasion when we are consistent on the view that section 5 does not apply in the Missouri River Basin.

Senator CASE. Now, that is interesting, because I think it has been generally assumed through the area that the only transmission lines that the Secretary of the Interior could construct in the Missouri River program were these as described in that sentence of section 5.

But, of course, if you deny the application of section 5 altogether, then you are consistent.

Mr. WEINBERG. Senator, the Bureau of Reclamation and the Department come before the Appropriations Committees and justify their requests for transmission lines in the Missouri River Basin in the same manner and in the same fashion as they do in the Central Valley and in any other area in which the Bureau of Reclamation operates through the marketing of power.

Senator CASE. And you think that if the Bureau of Reclamation came before the Appropriations Committee and asked for the building of transmission lines to carry power to consumers, which would be over and beyond that necessary to make the power available in wholesale quantities, it would be legally within its rights?

Mr. WEINBERG. This is controlled by the Keating amendment, Senator, to the Bureau's portion of the departmental appropriation act, which is carried annually, and which in effect precludes the construction of any transmission lines in areas covered by wheeling contracts unless wheeling over privately constructed lines is not available.

Senator CASE. When was the Keating amendment adopted?

Mr. WEINBERG. I will have to rely on Mr. Lineweaver.

Mr. LINEWEAVER. About 1948 or 1950.

Senator CASE. Then it was subsequent to this. Between 1945 and 1948 you would not have been bound by it.

Mr. WEINBERG. That is right. There was very little construction of transmission lines in the Missouri Basin between 1945 and 1948, which was at the outset, really, of the construction program.

Senator CASE. What is the basic provision in the Federal reclamation laws, then, with respect to the sale of power to cooperatives and public bodies?

Mr. WEINBERG. Section 9 (c) of the Reclamation Project Act of 1939, Senator.

Senator CASE. Is that substantially as it appears in section 5?

Mr. WEINBERG. No.

Senator CASE. Would you read it for the record?

Mr. WEINBERG. Yes; I would be glad to.

I am reading from section 9 (c) of the Reclamation Project Act of 1939:

Any sale of electric power or lease of power privileges, made by the Secretary in connection with the operation of any project or division of a project, shall be for such periods, not to exceed forty years, and at such rates as in his judgment will produce power revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost, interest on an appropriate share of the construction investment at not less than 3 per centum per annum, and such other fixed charges as the Secretary deems proper: *Provided further*, That in said sales or leases preference shall be given to municipalities and other public corporations or agencies; and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 and any amendments thereof. Nothing in the subsection shall apply to provisions in existing contracts, made pursuant to law, for the use of power and miscellaneous revenues of a project for the benefit of users of water from such project. The provisions of this subsection respecting the terms of sales of electric power and leases of power privileges shall be in addition and alternative to any authority in existing laws relating to particular projects. No contract relating to municipal water supply or miscellaneous purposes or to electric power or power privileges shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes.

Senator CASE. Mr. Chairman, the section 5 sentence reads:

preference in the sale of such power energy shall be given to public bodies and cooperatives.

Mr. WEINBERG. Oh, Senator Case, excuse me. If you were asking about the particular sentence, yes; there is an almost identical provision in the reclamation law.

Senator CASE. Yes; although the reclamation law, I think, is a little more specific.

Mr. WEINBERG. Yes; it refers to co-ops.

Senator CASE. And perhaps more comprehensive.

Mr. WEINBERG. Yes. I am sorry. I misunderstood your question, Senator.

Senator CASE. I just wanted to make the record clear here.

Mr. WEINBERG. Yes, there is that preference provision in reclamation law.

Senator CASE. There is that preference in reclamation law. And it is your contention that the preference provision which would apply to the projects developed under the Missouri River program is that section which you have read rather than this sentence in section 5 of the 1944 act?

Mr. WEINBERG. That has been the Department's position.

Senator ANDERSON. This does not say anything about having to recover the funds that the irrigators have paid, does it?

Mr. WEINBERG. This is found in section 9 (a), which must be read together with 9 (c), and reclamation law has from the beginning been such as to require that all costs, except those made specifically non-reimbursable such as flood control and navigation, must be returned, or the project cannot be constructed. And it is on that basis, Senator Anderson, that the Department premised its whole report on the Missouri River Basin. It is on that basis that the Department is proceeding with the expenditure of millions of dollars annually in the

construction of facilities in the Missouri River Basin today. It is on the basis that all of the irrigation costs will be returned in part by the repayment from water users, and in part by the power revenues, unless the Congress wishes to approve a direct nonreimbursable for the irrigation.

In the absence of that, the only basis upon which the Department can undertake an irrigation development is on the basis of full return of all of the irrigation costs through repayments by the water users and the balance from power or municipal water revenues.

Senator ANDERSON. I was trying to find the legal basis for a statement I have already read a couple of times. And again the witness went on to say "I have seen references and particular wording which to me sometimes infer that it is only power costs."

Where do you develop the theory? You say that reclamation costs have to be repaid. Supposing there are no reclamation projects that are approved. When you have approved the plan, you have approved the \$400 million that was going to be repaid for reclamation. Now you have it up to \$2½ billion or \$2¼ billion. Suppose you made it \$10 billion, by looking at the possibility of running tunnels up against the Rockies and irrigating everything east of the Rockies from that Missouri River water, and it got up to \$10 billion. Do the power rates to the users in Iowa, the Dakotas, Montana, have to be hiked up to 15 mills or some other figure to take care of this? How do you draw the line?

Mr. WEINBERG. Let me put it this way, Senator. In the plans that were approved in 1944—and then there were additional authorizations in the 1946 Flood Control Act as well as in the 1950 Flood Control Act, going to the irrigation developments to be undertaken—certain irrigation units were authorized.

Senator ANDERSON. Were they? Where?

Mr. WEINBERG. Pardon.

They are set forth in Senate Document 191. There was a limit on appropriations, Senator, of \$200 million, to get started. That was later raised, in the 1946 act, I think, by another \$200 million, or \$150 million, and in the 1950 act there was a further increase in the amount authorized to be appropriated, and it went to the entire plan and not merely to the initial stages.

Senator CASE. And in the omnibus flood-control bill which passed the Senate this session, an additional \$200 million for each side, \$200 million for the engineers and \$200 million for the Bureau; that is, to prosecute the works as authorized back here.

Senator ANDERSON. Where are the irrigation projects?

Senator CASE. They are scattered somewhat. In the basic authorization, or in the basic plan, the projects were put into three classes, as I recall, the irrigation projects were. There was a class A, B, and C. "A" were those ready for construction?

Mr. WEINBERG. Yes, Senator Case. I think in the 1946 or 1950 act, they removed the limitation that restricted appropriations to the initial phase, so that now the appropriations are available to any unit in any of the three stages. But as Mr. Bradley pointed out, before funds are actually requested, there is another review from the standpoint of whether the project is still feasible under the circumstances that then prevail.

Senator CASE. Currently, for example, the largest of the irrigation projects that we know about, South Dakota, was that for the James River unit of the Oahe project, which at one time was envisioned for 750,000 acres and now has been shifted considerably to the north-east. And whether, if developed, it would be 750,000 acres or something less, nobody knows today.

Mr. WEINBERG. That is correct. It is being reviewed.

Senator CASE. So that you have a ghost irrigation project, so to speak, or an anticipated project, which has not been really born yet, but the possible costs of which you take into consideration in determining the amount of charges for power.

Senator ANDERSON. Will you answer this for me, here.

Do you understand the language in 9 (c) that says:

Subject to the basinwide findings and recommendations regarding the benefits, the allocations of costs, and the repayments by water users, made in said House and Senate documents, the reclamation and power developments to be undertaken by the Secretary of the Interior under said plans shall be governed by the Federal Reclamation laws, except—

do you regard that as approval of all this long list of irrigation projects by the Congress?

Mr. WEINBERG. Yes; as amplified, Senator Anderson, in 1946 and 1950.

Senator ANDERSON. Three million and a third acres were approved just in blank.

Senator CASE. Initially, however, in those three stages, those that were ready for construction, those that were under planning, and those that were under investigation. But subsequently—

Senator ANDERSON. They do not have to come back to the Congress with any plans or specifications or anything.

Mr. WEINBERG. So long as they are the same essential development as that envisioned in the authorization, that is correct, Senator.

Senator ANDERSON. The authorization. Well, the authorization started out to be \$400 million and went to \$2 $\frac{1}{4}$ billion. You mean you have authority to spend \$2 $\frac{1}{4}$ billion?

Mr. WEINBERG. I was speaking to the physical features. As to how much we have authority to spend, there is an overall limit on the total amount authorized to be appropriated, which is now \$550 million, and another \$200 million is being carried in the pending flood-control bill, which will bring the amount authorized to be spent on the prosecution of the total plan by the Bureau of Reclamation to some \$700 million.

Senator ANDERSON. How much of that has been spent?

Mr. WEINBERG. I would have to defer to Mr. Bradley on that.

Mr. BRADLEY. Mr. Chairman, approximately \$450 million to \$475 million.

(NOTE.—The Bureau of Reclamation accounts show accrued expenditures of \$456,847,371 as of March 31, 1957.)

Senator ANDERSON. On irrigation work?

Mr. BRADLEY. On works of a multiple purpose character including irrigation undertaken by the Secretary of Interior through the Bureau of Reclamation.

Mr. LINEWEAVER. That includes transmission lines.

Mr. BRADLEY. That includes transmission lines; yes, sir.

Senator CASE. Mr. Chairman, when we were considering the omnibus flood control bill in public works this year, there was a paragraph in there which called for adding \$200 million to the prior authorizations for the Department of Interior. We had no table or anything to indicate to what that \$200 million worth of authorizations would be applied. I asked for such a table. We had a considerable hearing on that one day, and you will find in the back part of the hearings on the omnibus bill a revised table which indicates where they expected to apply funds that might be appropriated under that additional \$200 million authorization. It lists projects which had been completed—I think projects which were under construction and projects which were being surveyed. Or at least they had a lump-sum item for the survey.

Mr. LINEWEAVER. Mr. Chairman, I think with respect to further clarification on your question I should add: Where there is a departure from the description in Senate Document 191, it has been found necessary to come back to the Congress for a reauthorization, or authorization, as in the case of Farwell and Ainsworth in Nebraska, and Glendo.

Senator ANDERSON. Yes. I can understand; as to those we have approved.

Senator CASE. Those represented a substantial modification of the plan envisioned for them in the Sloan report on which you have your hand.

Senator ANDERSON. I am just a little surprised that 3 or 4 million acres has been approved without putting in a few of the riders put on the others—that you cannot grow crops for 10 years, and so on. You had better start watching these. Is there any regulation on it?

Mr. LINEWEAVER. No, no regulation, except feasibility according to accepted standards.

Senator ANDERSON. Why did we put that on all of the other reclamation laws?

Mr. LINEWEAVER. We have just started that in the last few years.

Senator CASE. Any limitations in effect as of December 22, 1944 would be applicable under this paragraph (c), because they would be actually amendatory of the 1902 act, or supplementary thereto.

Senator ANDERSON. Go ahead.

Mr. WEINBERG. In the report of the Board of Review to the Commissioner on the Interior Department portion of the Missouri Basin plan, I would like to refer to paragraph 7, which appears at page 11 of Senate Document 191. There, the Board of Review, which was an agency within the Bureau of Reclamation set up to review the plan as developed by Mr. Sloan, stated:

The agency with primary interest in the dominant function of any feature proposed in the plan should construct and operate that feature, giving full recognition in the design, construction, and operation, to the needs of other agencies with minor interests. All reservoirs where flood control and navigation are dominant should be operated by the Corps of Engineers, and where the flood control and navigation functions are minor, the reservoir should be operated in accordance with regulations of the Corps so far as flood control and navigation are concerned. All irrigation features should be operated by the Bureau of Reclamation or its agents. All reservoirs in which irrigation, restoration of surface or ground water, or power, is dominant, should be operated by the Bureau of Reclamation. Where these functions are minor the reservoirs should be operated

under regulations of the Bureau of Reclamation insofar as such functions are concerned. * * * The Bureau of Reclamation should construct and operate all power-transmission facilities and should have the responsibility for the disposal of the power generated.

I would like further to read paragraph 9 of the report of the Board of Review, which appears at page 11 of Senate Document 191:

The average unit costs of power and energy for the power developments described in the report—

and that includes the Army developments as well as those to be constructed by the Bureau of Reclamation.

Senator CASE. Now, why do you say that?

Mr. WEINBERG. Because that was part and parcel of the whole plan. It is demonstrated by tabulations, to which I will come, Senator.

Senator CASE. And you are reading now from the Senate document, which was the Bureau of Reclamation report.

Mr. WEINBERG. Yes. That is right.

Senator ANDERSON. What page is that from?

Mr. WEINBERG. Page 11, Senator Anderson, bottom of the page, paragraph 9.

Senator CASE. Can a one-sided statement in the Bureau of Reclamation report, which is the Senate document, be binding upon the Army engineer structures?

Mr. WEINBERG. The Congress approved both plans. The Army report did not deal with these matters, Senator. The Department of the Interior report dealt with them in this fashion. It is this that makes the construction of the irrigation developments possible, while meeting requirements of the reclamation law, in the absence of a provision for direct subsidy by nonreimbursable appropriations.

That, we contend, is at the heart of the Interior Department report and plan.

Senator CASE. Did the Pick report, as embraced in House Document 475, make no provision for the allocation of charges or the determination of rates?

Mr. WEINBERG. Not substantially, Senator.

If I may complete the reading of paragraph 9:

The average unit costs of power and energy for the power developments described in the report will be such as to accomplish a repayment of the construction costs of power development within a reasonable period of years and, in addition, will permit substantial contributions from power revenues to assist in the repayment of other project features as well as providing low-cost power for irrigation pumping purposes.

Senator ANDERSON. You do not go straight through the one report, do you? You have to take one report and go back.

Mr. WEINBERG. All together, these memorandums accumulatively comprise the Department report, which is Senate Document 191.

I would like to read recommendation (c), at page 16, of Senate Document 191:

That the Bureau of Reclamation under the direction of the Secretary of the Interior make all arrangements for the sale and distribution of electric energy generated at all hydroelectric developments hereafter constructed by any Federal agency within the basin as defined in the report, and be authorized to construct, operate, maintain, and improve such electric transmission lines and substations as it finds necessary or desirable in connection therewith.

I would like to refer to the statements contained on page 17 of Senate Document 191, and particularly the paragraph beginning at the bottom of page 17, which, after discussing both the Bureau and the corps plans, said:

This basinwide plan provides for a number of reservoirs on the upper reaches of the Missouri River and its tributaries, for the purpose of storing water, and releasing it during periods of low flow. Such reservoirs will contribute to flood control not only on the lower river but at all points from the mouth of the river to the reservoir sites; they will aid navigation on the lower river by reducing flood damage to navigation works and by increasing the dry-season flow; they will enlarge the supply of water for irrigation; and they will make practicable the generation of electric energy at many places.

Senator ANDERSON. That does not have much to say about the market, does it?

Mr. WEINBERG. All of these things treat of the entire development, the Army projects as well as the Interior projects, as parts of an overall plan.

Senator ANDERSON. I thought 191 was part of the Army plan. I thought 191 was different. I thought it was 247 that was the consolidated plan.

Mr. WEINBERG. Yes. I was referring to Senate Document 191.

Senator ANDERSON. You read from the bottom of page 17, did you not?

Mr. WEINBERG. Yes, from the bottom of page 17.

Senator ANDERSON. That does not tie in the Army plan, does it?

Mr. WEINBERG. Yes. They were speaking there of all of the developments in the basin.

Let me read from the preceding paragraph on page 17:

Incorporates the Corps of Engineers' proposed plans for flood control.

and at other places in the plan similar indications are given. The reasoning was that the corps should construct these developments that are primarily for navigation and flood control, but that the whole development, the entire complex of the projects, be considered as one overall plan.

Senator ANDERSON. Why did they need 247, then?

Mr. WEINBERG. Because there was a disagreement between the two departments as to some of the physical features. For example, there was a disagreement concerning the role of Garrison.

Senator ANDERSON. How do you take this and tie it into the Army for a grant, when this was competitive with the Army program?

Mr. WEINBERG. This was cited, Senator, to the point that whatever the agreement was upon physical features, when agreement was achieved the entire program was to be operated in terms of an overall comprehensive development.

Senator ANDERSON. I merely point out that you are quoting from what might be termed a competitive document, in order to tie it into the document that it was competing with, and say "Therefore we should use what is in the document it is competing with." That makes it a little hard to follow.

Mr. WEINBERG. No. In terms of the plans for the sale of power and the payout of irrigation costs, it is the Department's position, that these were embraced in the authorization in 9 (c) when it referred

to the plans to be undertaken by the Department of the Interior, in accordance with the basinwide allocations and benefits.

Senator ANDERSON. Just so I get this straight in my own mind again, it was your contention that this language from the Flood Control Act of 1944 authorized \$4 or \$5 billion worth of work on the Missouri River Basin.

Mr. WEINBERG. Well, the initial appropriation was limited to \$200 million.

Senator ANDERSON. We both recognize that there would have to be an authorization and an appropriation. That was not the question, was it? The question was: Is it your assertion that this section of the Flood Control Act authorized \$5 billion worth of work on the Missouri River Basin?

Mr. WEINBERG. Yes, with this limitation, Senator. The original recommendation for construction, for the actual initiation of construction, related to what was described as the "initial stages." In 1946, the reference to the "initial stages" was eliminated.

Senator ANDERSON. No. I am trying to get here in this pamphlet, in 247 and 191, and so forth—there are a whole list of things that might be done across the whole geography of the United States. And by setting up some method by which they could coordinate them, is it your contention that the Congress authorized \$5,345 million worth of work?

Mr. WEINBERG. The Congress approved the entire plans. It authorized at that time the construction of the initial stages in accordance with the recommendations. In 1946, the limitation to the initial stage was removed.

Senator ANDERSON. In 1946 it was removed by what? By a rider on the appropriation bill?

Mr. WEINBERG. No, by a provision in either the Flood Control Act or the Rivers and Harbors Act of 1946.

Senator ANDERSON. And did that then authorize \$5,345 million worth of projects?

Mr. WEINBERG. It removed the restriction on authorization and left the entire control in terms of a limitation on the amount to be appropriated.

Senator ANDERSON. Did it authorize \$5,345 million?

Mr. WEINBERG. In that sense I would have to say "Yes."

Senator ANDERSON. I do not think the Congress realized it at the time.

Senator CASE. I think you would have to say that it was an open-end authorization subject to the limitation of the dollar amounts from time to time authorized.

Mr. LINEWEAVER. Subject to the allocations from specific appropriations for the Missouri River Basin project.

Senator CASE. In the basic act those last two subparagraphs have a hundred million dollars respectively for the separate agencies, and that uses the phrase "for the partial accomplishment," and each succeeding authorization has "for the partial accomplishment of" and so forth.

Mr. LINEWEAVER. Mr. Weinberg, where do you find, in the Flood Control Act, the authorization for the initial phases?

Mr. WEINBERG. In the 1944 act.

Mr. LINEWEAVER. It goes back to Senate Document 191.

Mr. WEINBERG. Yes, paragraph 23, and the recommendations immediately following that paragraph at pages 15 and 16 of Senate Document 191.

Senator ANDERSON. I am interested, because we spent years and fought, bled, and died, because everybody thought we had to spell out everything that went into the Colorado River legislation, and it was going to cost a billion dollars, and here you say that by a little simple language and a few innocent words we authorized \$5,345 million worth of projects.

I wonder if the Congress knew it, and if so what the Congress is going to do about it.

Mr. LINEWEAVER. I may state this, Mr. Chairman: At each subsequent appropriation hearing for years, the Bureau of Reclamation has laid out the estimated increased costs each year, and kept the Congress informed, through the Appropriations Committees, of the increased cost from time to time, which jumped from a billion and so up to now more than \$5 billion.

Senator ANDERSON. My interest in it is not to try to stop the building of these dams or reservoirs along the river in the slightest. But I can hardly believe that the Congress has authorized each and every one of these reclamation projects without a look at a single one of them, without any feasibility reports at any time by anybody, and that thereby, not having done it, they are authorized just the same as every irrigation project in the United States is authorized, and therefore the power rates must be built up to include \$2¼ billion worth of these projects that you look forward to hopefully, but not a one of which has ever been before the Congress for approval.

I do not believe the Congress thought that in writing that language it was giving you a blank check to go ahead with a project where the costs are \$1,300 an acre. And if you have heard anything about what some of the people from some of the dry-farming States, such as Illinois, said about bananas on Pike's Peak at \$1,200 an acre, how much are they on Horny Peak at \$1,300 an acre? I just do not believe they went quite that far.

Mr. WEINBERG. I think Senator Case put it quite accurately, Senator, when he said that what we have here is an open-end authorization. It is subject to control in the appropriation process. The Secretary and the Commissioner come before the Appropriations Committees each year, and they justify their requests. They make continuing economic analyses of these matters. And in that fashion the Congress exercises its control.

Senator ANDERSON. Have they approved the irrigation projects themselves, the construction of the ditches and laterals, for any of these irrigation projects under this?

Mr. WEINBERG. When you say "they"—

Senator ANDERSON. The Congress.

Mr. WEINBERG. Yes.

Senator ANDERSON. When?

Mr. WEINBERG. By its action in 1944, 1946, and 1950.

Senator ANDERSON. What were in the initial stages that were recommended?

Mr. WEINBERG. Paragraph 23, page 15, of Senate Document 191.

Senator ANDERSON. Why, you cannot just take that one. You have got to take all of them. All the initial stages.

Mr. WEINBERG. Those are the initial stages.

Senator CASE. That is described as the initial stage; the recommendation for the initial stage.

Senator ANDERSON. In Senate Document 191 alone?

Senator CASE. In 191 alone.

Senator ANDERSON. But you have two other documents that you are citing here. He does not confine it to 191.

Senator CASE. Mr. Chairman, General Reybold, in his report transmitting the report of the Army engineers, which letter I suppose is technically the thing that was approved in the authorization for the Corps of Engineers, said, at paragraph 14:

This comprehensive plan should be approved now, and at least the first phase of development to be authorized in the same manner as existing law for large river basins. Approval at this time will permit details to be worked out through cooperation with all other agencies concerned and will enable working plans to be prepared, so that construction can be initiated expeditiously and prosecuted with efficiency and dispatch throughout the postwar period.

I think that it was inherent in the plan that several main-stem reservoirs were to be authorized at one time in order that there could be a coordinated plan of operation.

Senator ANDERSON. No question about it at all.

I am talking about irrigation projects. It is the irrigation projects that are involved in this power rate.

Mr. WEINBERG. Those are the ones that are set forth in 191, Senator. The Army plan did not embrace them.

Senator CASE. I do not want to interrupt here, but there is a little different aspect. In General Reybold's letter also, at paragraph 11, he said:

The Department—

meaning the War Department then—

recognizes waterflow retardation, soil-erosion prevention, and production of hydroelectric power, as important parts of the Missouri Basin program. The generation of power in multipurpose projects now authorized for flood control and in those proposed in the expanded plan of development is a definite part of the recommended program. Plans for the production, transmission, and sale of hydroelectric power should be worked out with the cooperation of the Federal Power Commission. Installation of power facilities so as to meet the economic needs of the Missouri Basin should be approved from time to time by the Secretary of War upon recommendations by the Federal Power Commission and the Chief of Engineers.

Senator ANDERSON. I am not questioning these dams at all.

Senator CASE. I wanted to ask the question whether or not there is coordination now with the Federal Power Commission in the planning of the production, transmission, and the sale of hydroelectric power.

Mr. WEINBERG. I will have to defer to the technical people on that, Senator.

Mr. BRADLEY. There is in the sense that through the interagency committee the Federal Power Commission participates with the corps and the Bureau in power-marketing studies, demands, loads, and so forth.

Senator CASE. What about in the sale? Is there a coordination on the determination of rates?

Mr. BRADLEY. There is not, sir.

Senator CASE. Then the Bureau of Reclamation is the final answer under the theory of operation that you have had. The Bureau of Reclamation is the final answer as to the determination of power rates?

Mr. BRADLEY. The Secretary of the Interior, to be technical, yes. The operating agency is the Bureau, of course.

Mr. Weinberg. I would like to refer to page 23 of the Senate Document 191. The last paragraph on that page reads as follows:

Complementing irrigation development, the construction of 17 powerplants is proposed with an aggregate installed capacity of 758,500 kilowatts. These plants will be capable of generating 3,809,200,000 kilowatt-hours of firm energy annually.

Then follows a tabulation of the powerplants, including the power developments to be undertaken by the Corps of Engineers at the main-stem dam, which list of main-stem dams was, of course, revised in the coordinating document, Senate Document 247.

Senator ANDERSON. I will bet we will get some riders on appropriation bills from here on out.

Mr. WEINBERG. I would like also to refer to the last 2 paragraphs on page 25 of Senate Document 191, which deals with the repayments that might be expected from the irrigators under reclamation law and the revenues from power, including the fact that power revenues would provide a substantial surplus applicable to other project costs in addition to returning the power costs with interest.

Senator CASE. May I say that the chairman is apparently worrying about that \$1,300 an acre. The farmers in the valley, however, are worrying about them, too.

Senator ANDERSON. No; I am honestly worried about steadily piling up behind every kilowatt of energy that is sold from any of these dams the possibility that at some subsequent date you are going to be faced with \$5 billion worth, and that is what these irrigation projects will probably go into—\$5 billion worth of irrigation charges if you never build one of them.

Senator CASE. If you never build one. That is the question I have been trying to bring up here, that you may be making the power users pay for some ghost projects which will never even be born.

Senator ANDERSON. That is why I think this power question ought to be related to the likelihood of completing part of it.

Go ahead.

Senator CASE. There is just that one point, though. I am not sure whether you were here when I brought that out. I think perhaps Mr. Bradley ought to make that clear at this time. That is that the allocation to power has a definite period of years for payout before the power user returns are theoretically paying off the irrigation.

Mr. BRADLEY. Yes. Shall I restate that, Senator? Is that your purpose?

Senator ANDERSON. Just read it from the law.

Mr. BRADLEY. I was deferring to the lawyers as to the law.

Senator CASE. The lawyer has already said that the power costs have to be within what period of years? Forty years?

Mr. WEINBERG. No, the maximum length of contract is 40 years, Senator. There is no stipulation within the law of a period within which the power costs to be met from power revenues are to be returned.

Senator CASE. What term is the 5 mills predicated on?

Mr. BRADLEY. The 5½ mills and the other associated rates for the other classes of power are sufficient to pay out the allocation to power, which is paid out before any funds are applied from the power revenues in aid of anything other than power—it pays out in about 43 years after the time when all power is in. And all power is assumed to be in by the period starting, I believe, approximately 1970. The units come in from time to time. As each one comes in, it is picked up for repayment purposes. Power only is paid out from power revenues initially. The total power system is paid out at a point 43 years after the last power plant joins the system. Then the irrigation subsidy starts.

Senator ANDERSON. You have here “any sale of electric power or lease of power privileges made by the Secretary in connection with the operation of any project or division of project shall be for such period not to exceed 40 years.” You do not mean 43, do you?

Mr. BRADLEY. Senator, if I may answer your question, it is my understanding, and I will have to yield back to the lawyers, that that term of 40 years relates to a contract and not to a repayment period.

Mr. WEINBERG. That is correct. That 40 years expression in the law does not relate to the length of the period over which the costs are to be returned from the sale of power. It refers to the maximum length of power sales contracts.

Senator ANDERSON. The costs do not have to be returned in 40 or 50 or 60?

Mr. WEINBERG. As a matter of policy, 50 years has been selected.

Senator ANDERSON. No, as a matter of law.

Mr. WEINBERG. As a matter of law, the limitation on the period is that which is dictated by the application of sound administrative judgment.

Senator ANDERSON. One hundred years, if you want?

Mr. WEINBERG. In some circumstances if that were sound policy.

Senator ANDERSON. I am not talking about the judgment factor. As a matter of law, can you make it for 100 years?

Mr. WEINBERG. Senator, the law requires the application of a judgment factor. You will not find in the reclamation law or in the Flood Control Act, or in section 5 either, for that matter, a statement of any period of years.

Senator ANDERSON. What is this 40-year business?

Mr. WEINBERG. That is the length of contract.

Senator CASE. In other words, if the judgment of the Secretary was that 50 years, being the length of time used for payout on the irrigation project, were equally a desirable period of time, it would be possible to take the power allocations and base them on a 50-year payout rather than a 43-year payout?

Mr. WEINBERG. Yes.

Senator ANDERSON. Or a 60-year payout?

Mr. WEINBERG. If that commended itself as sound administrative judgment.

Senator ANDERSON. Or a 90-year payout?

Mr. WEINBERG. Well, Senator, obviously, you reach a point where the thing becomes unreasonable.

Senator CASE. The useful life of the facility is a test.

Mr. WEINBERG. That is one test. Another test would be what action Congress might take in all circumstances.

Senator CASE. Clearly, Mr. Chairman, this is an area in which congressional action would be appropriate if the committees wanted to do something. What is the payout period now on irrigation projects? Fifty years?

Mr. WEINBERG. You mean by the water users?

Mr. FISHER. General reclamation law provides for 40 years, plus a 10-year development period.

Senator CASE. Plus a 10-year development period. In effect, 50 years.

Mr. FISHER. Fifty years. There are individual projects which have been authorized for longer payout periods.

Senator CASE. Is the life of an irrigation project greater than the life of a hydroelectric development?

Mr. FISHER. I doubt that I could answer that. I would feel quite certain that there are certain features of an irrigation project, such as flumes, siphons, and that sort of thing, that would not be. As to the main reservoirs, I would assume that it would be the same.

Senator CASE. Then it certainly would be particularly out of line if the Secretary wanted to say, "Since we allow a 10-year development period and a 40-year payout period for an irrigation project, we will base this on a 50-year payout for power." It would certainly be within the law.

Mr. FISHER. Oh, yes.

Senator ANDERSON. You say this is a contract, where this 40 years comes in.

Mr. FISHER. Yes.

Senator ANDERSON. How do you differentiate? The law says you shall make it so that it does not exceed 40 years. You say that is a contract. But the law says payout in 40 years, does it not?

Mr. WEINBERG. No.

Senator ANDERSON. What does it say—

any sale of electric power or lease of power made by the Secretary with the operation of any project * * * shall be for such periods not to exceed 40 years.

Mr. WEINBERG. You get to the repayment at such rates as in his judgment will produce the annual maintenance cost, interest, and such other fixed charges as the Secretary deems proper.

Mr. LINEWEAVER. But no repayment period of 40 or 50 years is fixed by reclamation.

Mr. WEINBERG. Not generally. There are individual projects, as you know, when the law specifies the payout period.

Senator ANDERSON. The upper Colorado River project.

Mr. WEINBERG. And Boulder Canyon is another one.

Senator ANDERSON. Because the Bureau of the Budget recommended it. But they did not want to spend \$800 million on the Colorado River storage project without limitation, but they are perfectly willing to spend this money here without it.

Mr. WEINBERG. I am going to have to defer on that.

Senator ANDERSON. The actual effect of the laws now existent is that in the upper Colorado River storage project the power revenues must be such as to payout in 40 years, but in the Missouri River Valley project they can pay out in 200 years if need be.

Mr. WEINBERG. Well, it is subject to the qualification of reasonableness, Senator. Now, people will differ as to what is reasonable.

Senator ANDERSON. Where is the reasonableness in this?

Mr. WEINBERG. This is just inherent in the job that anyone has to do.

Senator ANDERSON. That may be 25 years. I do not understand the "inherent" business. There either is a legal limitation on it, or there is not.

Mr. WEINBERG. It is committed to the judgment of the Secretary. If the Secretary exercises that judgment in a way in which the Congress disagrees, then the Congress can exercise appropriate controls over him.

Senator ANDERSON. So that if there is to be any limit on how long any of these projects shall pay out, 40, 50, 60, or 75 years, it would have to be written in by the Congress specifically now.

Mr. WEINBERG. If there is to be a definite statutory limit, yes, Senator, that is correct.

Senator ANDERSON. Is that true also, then, of this question of rates being sufficient to repay it in 50 years at 3 percent interest?

Mr. WEINBERG. May I ask to what you are referring?

Senator ANDERSON. This testimony that we have: "The power investments from those costs allocated to power with 3 percent interest will be repaid in 50 years."

Mr. WEINBERG. At the bottom of page 3? Yes, that is a matter of policy.

Senator ANDERSON. What about the 3 percent?

Mr. WEINBERG. That is specified in the act.

Senator ANDERSON. Well, in the 1939 act it speaks about the sale at 3 percent.

Mr. WEINBERG. If each sale has to bear 3 percent, when you put them all together it amounts to 3 percent. In that sense, if each and every contract must return 3 percent, then they all together must return 3 percent.

Senator CASE. Mr. Chairman, it seems to me whatever the law be as far as specific requirements are concerned, if the Department accepts section 9 as giving them the authority for the projects, and giving them the guidance as to the policies to be followed, the language in paragraph (c), which says:

Subject to the basinwide findings and recommendations regarding the benefits, the allocations of costs and the repayments by water users, made in said House and Senate documents, the reclamation and power developments to be undertaken by the Secretary—

and so forth—

shall be governed by the Federal reclamation laws, and acts amendatory thereof or supplementary thereto—

at least, the Federal reclamation laws would be advisable as to the principles they should follow in the repayments.

Senator ANDERSON. I would also point out that it says—

rates as in his judgment will produce power revenues at least sufficient to cover an approximate share of the annual operation and maintenance cost— and an appropriate share could be 10 percent, 20 percent, 50 percent, or 100 percent;

interest on an appropriate share of the investment—

which could be 10, 20, 30, 50, 70 percent, or any other figure. It does not say 3 percent of the cost “of an appropriate share”; whatever the Secretary thinks is appropriate.

Mr. WEINBERG. Within the limitation that he has to accomplish payout.

Senator ANDERSON. Where is that?

Mr. WEINBERG. That is inherent. Well, that is found in section 9 (a), Senator.

Senator ANDERSON. That he has to accomplish payout?

Mr. WEINBERG. Yes. All of the costs and all of the repayments must be equal, save for the allocations to nonreimbursable purposes like flood control, navigation, and fish and wildlife, which was added by an amendment to the law in 1946, unless the Congress determines otherwise in connection with any individual project authorization.

Senator ANDERSON. You think they would have said that rather than “appropriate share.”

Mr. WEINBERG. This was a general statute intending to cover all reclamation projects. It is written in general terms.

Senator ANDERSON. Do you have any more of your statement?

Mr. WEINBERG. Yes. There are other provisions in Senate Document 191 to which attention might be called along the same general line of 1 overall development consisting of 2 coordinated comprehensive plans, with the power developments to be undertaken by the Department of the Interior spoken of in section 9 (c) of the 1944 Flood Control Act, including the marketing of power from the Army reservoirs and the application against irrigation costs, as well as the construction by the Bureau of Reclamation of powerplants.

But the hour grows late, and this grows tedious; so I will not cite any more.

I would like to turn now to the implementation by the Department of the provisions of the 1944 Flood Control Act in terms of its actual practice.

The first overall Missouri Basin power rates were approved by the Secretary of the Interior, on March 24, 1950, on recommendation of the then Commissioner, Michael W. Straus, who is seated in the room.

Senator ANDERSON. I am sure a very wise decision was reached. Go ahead.

Mr. WEINBERG. Those rates were premised on the principles to which I have referred; that is, they were developed under reclamation law. They applied to the sale of power from the Army reservoirs as well as from those constructed by the Bureau of Reclamation. And on that basis, with the approval of those rates, the Department undertook the negotiation and the making of power contracts.

Senator ANDERSON. Would you check that decision to see whether the then Solicitor of the Department approved the theory on which this was done?

Mr. WEINBERG. He did not.

Senator ANDERSON. And was it not somewhat unusual that against the approval of the Solicitor of the Department they went ahead and established a rate that was higher than he thought was necessary?

Mr. WEINBERG. It is unusual. But the law commits the matter to the Secretary, and this is the position that the Secretary took.

Mr. LINEWEAVER. Mr. White did not withhold his approval on the ground that the rate was higher than he thought was necessary.

Senator CASE. On what basis did he withhold the opinion?

Mr. LINEWEAVER. I am not advised. I never could find out why.

Senator ANDERSON. He felt it was not in accordance with the law. That is what he thought. He thought the sections you have been talking about had some applicability.

Senator CASE. That section 5 had some applicability.

Senator ANDERSON. Correct.

Mr. LINEWEAVER. But it was not because the rates were not high enough. It was because the general impression was that if the Federal Power Commission fixed them they would be higher.

Senator ANDERSON. My question was: Were they too high? If they were just trying to cover the terms of power investment, the rate might have been lower. The rate was fixed high enough to provide a rate sufficient for irrigation purposes, and he questioned whether that was sufficient under the approval of the law.

Mr. WEINBERG. He concluded that in its enactment of section 9 the Congress had not acted with sufficient clarity, and that therefore, in Mr. White's judgment, the power revenues from the Army power developments could not be applied against any irrigation costs for any project in the Missouri River Basin.

Secretary Chapman did not agree with that position.

Senator CASE. Did Mr. White state that position in writing at any time?

Mr. WEINBERG. There are memorandums in the Department.

Senator CASE. Mr. Chairman, I think we ought to ask for a copy of that memorandum.

Senator ANDERSON. I would be very happy to do so, and it will be put in the record.

(See p. 389.)

Mr. LINEWEAVER. You will want the copy of the Secretary's order finally in the record, too?

Senator ANDERSON. Yes.

Mr. WEINBERG. I would like to offer this and the rate study attached for the record, if I may.

Senator ANDERSON. I would like to ask the staff to go through this. I am a little touchy on what we have put in the record in print. I would like not to print any more than is necessary. But I would like also to make sure that the representatives of the office do not feel that we just put in a one-sided viewpoint of it. So if you will clear with him before you actually decide—

Mr. LINEWEAVER. I do not think it is actually necessary to put the rate study in there.

Senator ANDERSON. No. I do not, either.

Senator CASE. Mr. Chairman, the Commissioner's letter of March 10, 1950, is just a little over two pages. I think that letter should go in, but not the report of the study.

Senator ANDERSON. That is the Commissioner's letter. But is that the Solicitor's letter?

Mr. WEINBERG. No. That is the Commissioner's recommendation and the Secretary's approval.

Senator CASE. And I have previously asked for the Solicitor's memorandum.

Senator ANDERSON. Let the Solicitor's memorandum accompany that.

(See p. 401.)

Mr. WEINBERG. Do you intend to address a letter to the Secretary, Senator, and request that?

Senator ANDERSON. Well, if it has to be done that way, yes; but I would rather if you would take this request back to him, and if he decides he wants a written letter, I will be very happy to see that he gets one.

Mr. WEINBERG. I will be very happy to relay the request. You understand that these documents are not in my custody, and I am not authorized to release them.

Senator ANDERSON. Secretary Seaton has many friends on this Hill and we all like him very much, and I think he understands we would not be asking for something inappropriate.

Mr. WEINBERG. I am sure the Secretary will appreciate those kind words.

It is on the basis of these rates, and on the basis of the conclusion that the Federal Power Commission approval was not required, that power contracting proceeded and has continued to this day. And to date approximately 185 firm-power contracts have been entered into, calling for the delivery of a total of approximately 648,000 kilowatts of power.

Now, shortly after the making of one of the early contracts, the Federal Power Commission addressed a letter, dated September 27, 1950, to Commissioner Straus, asking that the rate schedules embraced in a contract with the city of Lakota, N. Dak., be submitted for approval under section 5.

To this letter, Secretary Chapman replied on October 21, 1950, stating that, in his view, the matter was governed by section 9 (c) and not by section 5, and declining to submit the rates for approval.

Senator CASE. What did the Federal Power Commission then do?

Mr. WEINBERG. The Chairman of the Federal Power Commission wrote to the Secretary on December 1, 1950, in response to the Secretary's letter of October 21, 1950, stating that the Commission disagreed, and again requesting that the rates be filed. No further reply was made by the secretary or the Commission, and there the matter has rested so far as exchange of views between the Department and the Federal Power Commission is concerned.

Mr. LINEWEAVER. There were subsequent communications, were there not?

Mr. WEINBERG. No further communications from the Commission. However, the matter was gone into at quite some length in 1952 in the hearings before the Jones committee, which was a subcommittee of the House Committee on Public Works, set up to study civil works. And I am sure that you gentlemen will recall that the Jones committee held very extensive hearings on the whole field of water policy, allocations of costs, planning, repayments, and so on.

Both the Federal Power Commission and the Department of the Interior stated their views on this question of the applicability of section 5 to the Army power developments in the Missouri River Basin before the Jones committee. The particular page references, if you would like them for the record, are as follows.

I refer to hearings entitled "Study of Civil Works" No. 82-17, "Hearings before the Subcommittee to Study Civil Works of the Committee on Public Works, House of Representatives, 82d Congress, 2d session," part 3, covering April 30, May 2, 6, 7, 14, 15 and 16, 1952. The page references are pages 399 to 400, 447 to 448, and 504 to 506.

After hearing the matter, the Jones committee took no action on this; it made no recommendation, although it made extensive recommendations on other matters, such as the responsibility for cost allocation, and so on, but it had nothing to say on this particular issue.

Senator CASE. Do you know whether the matter has ever been referred to the Comptroller General for an opinion?

Mr. WEINBERG. No, I know it has not been referred to the Comptroller General for an opinion. The Comptroller, however, annually audits the Department's accounts, and he is acquainted with this issue.

Senator CASE. Has he ever commented on it in his annual report?

Mr. WEINBERG. Not as such. Inquiry has been made through the audit report and by letters from the auditors dealing with specific issues but not with the general question of applying power revenues from Army projects against irrigation costs in the Missouri River Basin. That the Comptroller has not questioned. However, he did question the matter of where the revenues should be deposited.

Senator ANDERSON. Did he want to put them in the reclamation fund?

Mr. WEINBERG. No; he did not. And he asked the Department what its views were.

Senator ANDERSON. We would have been happy to encourage him.

Mr. WEINBERG. He thought that they should be deposited in the general fund, and he referred to section 5. And the Department replied to the questions raised by the head of the Audit Division of the General Accounting Office. It would not be correct to say Mr. Campbell himself raised this question, although the question was raised in the audit report which he presented to the Congress.

Senator CASE. When was it raised?

Mr. WEINBERG. Oh, it was raised within the last couple of years.

Mr. LINEWEAVER. Several times. It has been raised in several reports.

Mr. WEINBERG. Yes.

Mr. LINEWEAVER. Were there ever, subsequent to this exchange of correspondence between Secretary Chapman and Mr. Wallgren, the Chairman of the Federal Power Commission, in recent years any communication with the Federal Power Commission? Have you raised it again?

Mr. WEINBERG. No, sir.

Mr. LINEWEAVER. They have not?

Mr. WEINBERG. They have not.

Mr. LINEWEAVER. You think that they were satisfied with it?

Mr. WEINBERG. I draw no inferences at all, Mr. Lineweaver. I cannot speak for the Federal Power Commission.

Senator CASE. I have been handed the audit report to the Congress of the United States by the Comptroller General, which was transmitted to the chairman of the committee on Interior and Insular Affairs by Mr. Campbell under date of December 3, 1956. The report is headed "Missouri River Basin Water Resources Development Program, Corps of Engineers, Civil Functions, Department of the Army, and Bureau of Reclamation, Department of the Interior, for fiscal year ended June 30, 1955." At page 14 of the report, under paragraph 12, I read this recommendation:

We are recommending that the Chief of Engineers and the Secretary of the Interior jointly establish comparable accounting and financial policies and apply practices thereunder uniformly and consistently on (1) allocations to power and nonpower purposes of joint costs and expenses of operating and maintaining multiple-purpose projects; (2) provisions for depreciation of plant and service and allocation of the provisions on the multiple-service plant to purposes; (3) computation and recording of interest on the Federal investment in commercial power and municipal and industrial water-supply facilities.

The establishment jointly of comparable policies and effective application of them by each agency is necessary before financial statements of the Government's water-resource operations can be fairly presented. General agreement has been reached between the Department of the Interior, Corps of Engineers, Federal Power Commission, and General Accounting Office on the use of simple interest during construction and the proportionate method of accounting for the operation of joint facilities on multiple-purpose projects.

We are recommending also that statements be designated specifically to show the status of repayment of the Federal investment based on memorandum records for scheduled repayment requirements for theoretical return of funds which would be sufficient to repay the Federal investment within the administratively determined repayment period.

Now, I recognize that this report was probably made available late in 1956. What steps, if any, have been taken by the Corps of Engineers, or by the Chief of Engineers and the Secretary of the Interior, jointly, to establish comparable accounting and financial policies as recommended by the Comptroller General?

Mr. WEINBERG. I do not know, Senator, but I will undertake to develop the information for the record. I know that the Department has had correspondence with the General Accounting Office on the report.

(See p. 358.)

Senator CASE. I notice at one point you made some reference to the Comptroller General's inquiry, and it related to section 5.

Mr. WEINBERG. Yes.

Senator CASE. Did the Comptroller General indicate that he thought section 5 should be applicable?

Mr. WEINBERG. He thought that revenues should be deposited in the general fund because of section 5, and at other points in the report he recognized that the Department's position was that section 5 did not apply.

The Department has responded to the request of the Audit Division of the General Accounting Office for its views on that point, and the response was along the lines that I indicated earlier in my testimony. And I would be glad to obtain a copy of that letter for the record if it is available.

The position was taken that the reclamation laws governed: that, since the Army plants were not constructed by the Bureau of Reclamation, the Hayden-O'Mahoney amendment did not apply, and, there-

fore, under general provisions of law requiring the deposit of all funds in the general fund of the Treasury in the absence of any other specific provision, an appropriate allocation of revenue has to be made to the Army powerplants, and the sum represented thereby must be deposited in the general fund.

Mr. LINEWEAVER. That does not cover the transmission.

Mr. WEINBERG. Well, you do not receive revenue separately from the powerplants and from the transmission.

The Department has in mind allocating a portion of the revenues from the sale of power to cover the costs of the Department of the Army that are allocated to power.

Mr. LINEWEAVER. It will be a proportionate amount. It will not follow each kilowatt?

Mr. WEINBERG. That is correct.

Senator CASE. Now, can you supply for the record the exchange of correspondence between the Secretary of the Interior and the Comptroller General with reference to the application of section 5 or any portion thereof to which we have referred?

Mr. WEINBERG. Yes.

Mr. LINEWEAVER. And also if there is any correspondence with the Federal Power Commission subsequently.

Mr. WEINBERG. If there is any, I will ascertain if it is available, although I know of none.

(See p. 358.)

Senator CASE. On page 130 of the Comptroller General's report on this Missouri River Basin water resource development program for the fiscal year ended June 30, 1955, the Comptroller says this, under the heading of "Recommendations":

* * * We recommend that the Chief of Engineers and the Secretary of the Interior adopt a policy for recording interest on the Federal investment based on the principles set forth in the following paragraphs.

The interest cost for each year should be determined on the net Federal investment in the project applicable to power or municipal water supply purposes at the beginning of the year and on the accrued Federal expenditures, plus transfers of property from other Federal agencies, less any funds returned from the United States Treasury for the fiscal year. Computations of interest should be based on the average monthly expenditures, plus property transfers for the month, less any funds returned to the Treasury. During the construction period, interest should not be computed on a compound basis.

The rate of interest should be based on the long-term borrowing rate for several years and determined in consultation with the Secretary of the Treasury unless otherwise provided by law.

Interest applicable to the investment in facilities to the in-service States shall be charged to construction cost as interest during construction, and interest cost thereafter should be classified as an operating expense.

Now, do you know whether this recommendation by the Comptroller General would involve a change in determining the interest rate as employed by the Bureau of Reclamation in fixing the charges or the rates heretofore?

Mr. WEINBERG. I do not know, Senator Case.

Senator CASE. Do you know whether any change has been made since this recommendation was made?

Mr. WEINBERG. I do not.

Senator CASE. Could you listen to two sentences? The Comptroller's report also said, at page 4 [reads from p. 5 of the report].

Senator CASE. It appears to me that the Comptroller is saying there that he thinks the power rates can be properly established only when you have got all the costs in, but must be established in accordance with section 5.

Senator ANDERSON. He, in other words, agrees with Mr. White, when he was Solicitor of the Department of Interior. That is what some of us have been trying to say.

Of course, whenever you get into this, you get into the possibility that the rates can move up and down. We found that out in connection with some natural gas rates the other way. Everybody wanted them fixed. When they got them fixed they wished to the Lord they had not had them fixed. So you never know.

I do want to say, before Senator Case finishes his questioning, if he has not finished, that we do appreciate your appearance here and the way in which you have been cross-examined does not indicate that we do not think that you have tried hard to give us a good presentation, but it is the only way I know to get down to what may be insights and new questions.

Did you have additional material you wanted to submit?

Mr. WEINBERG. I did not have.

My main problem on the notice we had was to gather the material, and I did not have time to prepare a formal statement. I have been speaking from an outline.

Senator ANDERSON. Would you submit for the record an additional formal statement, which you would have time to prepare formally? I would be glad to hear you on through.

Mr. WEINBERG. Well, Senator, I would appreciate very much the opportunity to file a formal statement. I was about to inquire of the Chair his pleasure as to my presence here, because if we are to continue for much longer, I have car pool arrangements that I have to make.

(See p. 344.)

Senator ANDERSON. I think you had better get to your car pool, and we had better get to this morning's mail.

Thank you very much.

Senator CASE. I would just like to second what the Chairman has said with respect to appreciating the testimony, and it is true that we have been asking a lot of questions here, but we are trying to find our way.

And I also recognize that the Department has had a practical problem of trying to find some rule to follow where the Congress did not spell it out in the first place.

Mr. WEINBERG. Well, I have attempted to explain the Department's position.

Senator ANDERSON. Let me just say that we will make available to you the transcript of what we went through this afternoon. And if you will study it and try to amplify those points and clear them up, it will be deeply appreciated by the members of the committee.

Mr. WEINBERG. I thank you, sir.

(Mr. Weinberg subsequently submitted the following:)

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D. C., May 16, 1957.

HON. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.*

DEAR SENATOR MURRAY: In accordance with the invitation tendered me by Senator Anderson, temporarily presiding, at the conclusion of my oral testimony at the May 3 joint hearing of the Missouri Basin problems held by the Committee on Interior and Insular Affairs and the Committee on Public Works, I enclose for inclusion in the record a prepared statement which continues and supplements my oral testimony.

Also enclosed, as requested by the committee during the course of my testimony are the following documents, which are transmitted pursuant to appropriate departmental authorization:

(1) Letter from Administrative Assistant Secretary D. Otis Beasley dated November 26, 1956, to Mr. Adolph T. Samuelson, Director, Civil Accounting and Auditing Division, General Accounting Office, together with enclosure thereto.

(2) Letter from Administrative Assistant Secretary Beasley dated April 22, 1957, to Mr. Samuelson.

(3) Opinion M-36022, dated January 18, 1950, by Solicitor Mastin G. White, subject Power Rates—Missouri River Basin Project.

(4) Memorandum dated September 2, 1949, from William J. Burke, regional counsel, Bureau of Reclamation, Billings, Mont., to Chief Counsel, Bureau of Reclamation, Washington, D. C., subject Establishment of Power Rates—Missouri River Basin Project, enclosing memorandum of identical date by Mr. Burke re: Establishment of power rates—Missouri River Basin project.

(5) Memorandum from Assistant Chief Counsel Schwab, dated September 30, 1946, subject Use of Revenues Received From the Distribution and Disposal of Power From Dams Constructed by the Corps of Engineers.

The last two memoranda above itemized are enclosed along with Solicitor White's memorandum of January 8, 1950, so that the committees may have in the record copies of all of the divergent legal opinions prepared within the Department on the matter dealt with.

I take this occasion to express to the committees my appreciation of the opportunity to complete the presentation of the Department's position through the medium of the prepared statement enclosed.

Sincerely yours,

EDWARD WEINBERG, *Assistant Solicitor.*

MAY 16, 1957.

PREPARED STATEMENT OF EDWARD WEINBERG SUPPLEMENTING AND CONTINUING ORAL TESTIMONY GIVEN ON MAY 3, 1957

This prepared statement is submitted in response to the invitation kindly tendered me at the conclusion of the hearing on May 3 by Senator Anderson, temporarily presiding, to submit an additional formal statement for the record. This prepared statement does not repeat the material covered by my oral testimony. Rather, it represents a continuation of my analysis from the point where oral testimony was concluded.

SUMMARY OF ISSUES INVOLVED

At the outset of my oral testimony I stated that the issue of application against irrigation costs of power revenues allocable to power generated at hydroelectric projects of the Corps of Engineers constructed pursuant to the authority of section 9 of the Flood Control Act of 1944 involves three fields of inquiry. The first of these concerns the meaning to be accorded the reference in section 9 (c) of the Flood Control Act of 1944 to "the reclamation and power developments to be undertaken by the Secretary of the Interior" in the light of the actual scope of House Document 475 and Senate Document 191, 78th Congress, as revised and coordinated by Senate Document 247, 78th Congress. The second inquiry is concerned with the implementation or the administration of the statute by the Department of the Interior following its enactment. The third field of inquiry

is concerned with congressional recognition and acceptance of the Department's administration of the statute.

The first field of inquiry was covered by my oral testimony.

DEPARTMENTAL PRACTICE IN ADMINISTRATION OF MISSOURI RIVER BASIN PROJECT

At the conclusion of the hearing on May 3, I had been discussing the Department's practices following the enactment of the Flood Control Act of 1944. I had in that connection discussed such matters as the approval of Missouri River Basin power rates on March 24, 1950; the Secretary's exchange of correspondence with the Federal Power Commission late in 1950 in which he declined to submit rate schedules to that Commission for approval; and the testimony before the Jones committee in 1952. I had, as the meeting adjourned, reached the recent statement by the Department to the Audit Division of the General Accounting Office. This statement consists of a letter dated April 22, 1957, from Administrative Assistant Secretary D. Otis Beasley to Mr. A. T. Samuelson, Director, Civil Accounting and Auditing Division, General Accounting Office. A copy of that letter, together with a copy of an earlier letter of November 26, 1956, from Assistant Secretary Beasley to Mr. Samuelson comprising the Department's comments upon the Missouri Basin audit report of the General Accounting Office for the fiscal year ended June 30, 1955, are submitted with this statement for inclusion in the record as requested by Senator Case.

In the spring of 1955 the Bureau of Reclamation completed an economic analysis of the Missouri River Basin project bringing earlier analyses up to date in the light of more recent estimates of costs and reflecting current conclusions as to allocations of costs and repayment periods. This analysis was embraced in a document entitled "Economic Analysis, Missouri River Basin Project," as revised April 1955.

The economic analysis was transmitted to the chairmen, respectively, of the House and Senate Committees on Interior and Insular Affairs, Public Works, and Appropriations by letter from Assistant Commissioner Nielsen of the Bureau of Reclamation dated January 16, 1956.

Basic to the economic analysis is the inclusion of costs and revenues of Corps of Engineers projects in the Missouri River Basin and the application against irrigation costs on a basinwide basis of power revenues realized from the sale of power developed at all powerplants authorized to be constructed by section 9 of the Flood Control Act of 1944, including those constructed and to be constructed by the Corps of Engineers.

As is observed in the preface to the analysis, it was made on the basis of current (April 1955) economic practices of the Bureau of Reclamation. Particular reference is directed to the summary of economic analysis and the itemization of the procedures used in economic analysis which appear in the economic analysis immediately preceding the table of contents. A copy of the summary and the procedures are, for convenient reference, included in the appendix to this statement.

By letter dated May 9, 1956, from Assistant Secretary Aandahl to the chairman of the Senate Interior and Insular Affairs Committee, the Department indicated its endorsement and approval of the economic analysis. This letter was written in response to a request from the chairman for departmental comment on the findings of the analysis and upon the related average rate and repayment study for the Missouri River Basin dated December 1955. The chairman's request was reiterated by the committee in its report of April 23, 1956, on S. 2206, 84th Congress, which bill provided for the approval of the report of the Secretary of the Interior on the Ainsworth unit of the Missouri River Basin project (S. Rept. 1709, 84th Cong., 2d sess.). The pertinent paragraphs from Assistant Secretary Aandahl's letter of May 9, 1956, are noted at this point. The entire letter is included in the appendix to this statement:

"In respect to the Missouri River Basin economic analyses, members of the Department staff participated in preparation of the documents sent to you. Within the limitations and the assumptions set forth in those documents, we are confident that they present a valid appraisal of the economic aspects of the Missouri River Basin project.

"Based on the information in those documents, further analysis indicates that the Missouri River Basin project, comprising only those units constructed or under construction, may be substantially expanded and still repay all reim-

bursable costs within 50 years from completion of the last added unit at existing power rates. Units considered for addition in this analysis include Ainsworth, East Bench, Farwell, initial phase of Garrison division, Hardin, Lavaca Flats, Nickwall, first stage of North Loup division, Red Rock, and Shoshone extension units, and completion of the Cedar Bluff, Heart Butte, Kirwin, Lower Marias, St. Francis, and Webster units. It was to this situation that Assistant Secretary Aandahl referred when he stated 'I would only make a very general comment, and that is the study is sufficiently reassuring so that we should have confidence in going ahead with the matters that are immediately before us.'

"As to the long-range future, judgment as to the adequacy of power rates for the ultimate plan involves consideration of such factors as length of total payout period, the rate of construction of future units, the units finally selected for development, their cost, and other factors that cannot be evaluated now.

"The Bureau of the Budget has been furnished copies of the Economic Analysis and the Average Rate and Repayment Study. We are not aware of any views the Bureau of the Budget has expressed nor that it was intended to use the documents other than for information purposes."

In addition to the foregoing specific examples of departmental interpretation and implementation of the Missouri Basin authorization as including, on a basinwide basis, the application of revenues derived from the sale of corps-generated power to assist in the payout of irrigation costs, mention should be made of the presentations that have been made to the Appropriation Committees of the Congress continuously since enactment of the 1944 act.

The Department has consistently advised the Appropriation Committees in its annual budget presentations regarding its practice. Citation of extensive examples would lengthen this statement beyond reasonable limits. However, to demonstrate the consistency of the Department's practice reference will be made to the presentation made to the House Appropriations Committee upon the occasion of the initial request for funds following enactment of the Flood Control Act of 1944. This presentation represents a construction of the statute which was contemporaneous with its enactment.

The Flood Control Act of 1944 became law on December 22 of that year. On March 22, 1945, a supplemental appropriation request embracing funds for the Bureau of Reclamation with which to undertake initiation of preconstruction and planning activities in the Missouri Basin was submitted to the Congress. Hearings were held by the Subcommittee on Interior Appropriations of the House Appropriations Committee on March 24, 1945. These hearings are identified as Part 3: Missouri River Basin, of the printed hearings on the Interior Department appropriation bill for 1946.

The Commissioner and Assistant Commissioner of Reclamation, Harry W. Bashore and William E. Warne, respectively, made an extensive presentation to the subcommittee in which they developed the concept that the Missouri River Basin project comprised the execution on a coordinated basis of the integrated plans of the Bureau of Reclamation and the Corps of Engineers that had been approved by section 9 of the 1944 act. Extensive reference was made to Senate Document 191 and the history of the development of the Pick-Sloan plan, and its objectives, were gone into at considerable length. The following exchange between the chairman of the subcommittee, Representative Johnson, of Oklahoma, and Assistant Commissioner Warne and the comment of Representative Cannon, then, as now, the chairman of the full committee, are particularly illuminating on the issue before us:

"REIMBURSEMENTS

"Mr. JOHNSON of Oklahoma. I have one final question, Mr. Warne. I see, on page 2 of the same supplemental estimate, 118, under the Missouri River Basin is a word that has been in so many other estimates, the word 'reimbursable.' Does that mean 'reimbursable,' or is that just a sort of catchall word that is put in there to assist in securing sufficient funds?

"Mr. WARNE. Mr. Chairman, that means reimbursable in accordance with the plan as set up and as included in the material I submitted a little earlier from Senate Document 191 showing reimbursement.

"Mr. JOHNSON of Oklahoma. Of how much?

"Mr. WARNE. I shall give you the figures. The figure of \$741,100,000 is the total estimated to be reimbursed, the rest of the cost being chargeable to flood control and navigation.

"Mr. JOHNSON of Oklahoma. Yes.

"Mr. WARNE. Of that total of reimbursement, \$298 million would be expected to be returned by irrigation; \$421,100,000 by power; and \$20 million by payment of municipalities for municipal water supply. This 'reimbursable' here would bear a direct relationship to the total cost and would be allocated in the end among the functions in like manner as that indicated for the total cost.

"Mr. JOHNSON of Oklahoma. In other words, so that there would be approximately 50 percent of the actual cash outlay reimbursable and the other would be paid back in terms of flood control which might really be more than the cash involved?

"Mr. WARNE. Yes. In other words, this appropriation, if granted, will be accounted for in the same way as other later appropriations that we would bring before you. About half would be nonreimbursable.

"Mr. JOHNSON of Oklahoma. Mr. Chairman, would you like to ask the witness some questions?

"Mr. CANNON. No further questions, Mr. Johnson. I think you have covered the situation very thoroughly."

The figures cited by Mr. Warne are those embraced in Senate Document 191. They embrace, as is clear from the hearing and the material submitted to the committee in connection therewith, the revenues from Army-generated power as well as Reclamation-generated power and the application of such revenues against irrigation costs on a basinwide basis. Indeed, the entire hearings demonstrate without question that the Bureau of Reclamation and the Department of the Interior viewed section 9 of the Flood Control Act of 1944 as embracing all of the activities of the Bureau of Reclamation in connection with the Missouri River Basin project, including payout analyses, the construction of transmission lines and the marketing of Army-generated power, on a basinwide basis under principles of reclamation law. It is likewise clear that the Appropriation Committee so understood the presentation.

CONGRESSIONAL RECOGNITION AND ACCEPTANCE OF DEPARTMENT'S POSITION

A. Appropriations

Until the format of the annual departmental appropriation act was changed, commencing with the General Appropriation Act, 1951, to eliminate appropriations by specific projects, the appropriations to the Bureau of Reclamation for the Missouri River Basin project were consistently made by the Congress with direct reference to section 9 of the Flood Control Act of 1944. This evidences, in a manner completely consistent with the presentation annually made by the Bureau of Reclamation and the Department of the Interior, a congressional understanding that the Bureau of Reclamation was carrying on its portion of the Missouri River Basin project entirely under the authority of section 9 in accordance with reclamation law.

For example, the initial appropriation item for the Missouri River Basin project appearing in the Interior Department Appropriation Act, 1946 (act of July 3, 1945. 59 Stat. 318, 343), reads as follows:

"Missouri River Basin (reimbursable): For the partial accomplishment of the works to be undertaken by the Secretary of the Interior, pursuant to Section nine of the act of December 22, 1944 (Public Law 534), \$3,200,000, to remain available until June 30, 1947: *Provided*, That this appropriation shall be expended, either independently or through or in cooperation with existing Federal and State agencies, only for detailed surveys, preparation of plans and specifications, and the performance of other work, preliminary to construction of the initial stages, and for the continuation by the Bureau of Reclamation of investigations on the general plan of development."

Note the reference to section 9 of the 1944 act. Substantially similar references to section 9 are found in the Missouri River Basin appropriation items in the First Deficiency Appropriation Act, 1946 (act of December 28, 1945. 59 Stat. 632, 648); the Interior Department Appropriation Act, 1948 (act of July 25, 1947. 61 Stat. 460, 476); the Interior Department Appropriation Act, 1949 (act of June 29, 1948. 62 Stat. 1112, 1129) and the Interior Department Appropriation Act, 1950 (act of October 12, 1949. 63 Stat. 765, 783).

Commencing with the departmental appropriation act for fiscal year 1947, transmission lines were included by specific reference to the appropriation lan-

guage for the Missouri River Basin item. For example, the pertinent provision of the fiscal year 1947 act reads as follows:

"Missouri River Basin (reimbursable); For the partial accomplishment of the works to be undertaken by the Secretary of the Interior, pursuant to Section nine of the act of December 22, 1944 (Public Law 534), \$17,500,000, to remain available until expended for carrying out the initial stages (including the construction of transmission lines) and for continuing investigations on the general plan of development: *Provided*, That this appropriation shall be expended, either independently or through or in cooperation with existing Federal and State agencies."

Commencing with the fiscal year 1948 act, the reference to "initial stages" was dropped. I note this inclusion by the Congress of transmission lines as being included within the section 9 authorization in view of Senator Case's question during my oral testimony as to the source of statutory authorization for transmission line construction.

Over this entire period the only appropriation act carrying Missouri River Basin project funds that failed specifically to refer to section 9 of the 1944 Flood Control Act was the First Deficiency Appropriation Act of 1949 (act of May 24, 1949, 63 Stat. 76, 85) which carried an additional amount of \$4,800,000 for the Missouri River Basin project with only a general reference to the act of December 22, 1944.

B. Other legislation

Equally persuasive of a congressional understanding and ratification of the Department's interpretation of the scope and breadth of section 9 of the 1944 act is to be found in a series of recent congressional enactments dealing with individual units of the Missouri River Basin project. These are the act of July 16, 1954 (68 Stat. 46) dealing with the Glendo unit, the act of August 21, 1954, authorizing the inclusion of the Ainsworth, Lavaca Flats, Mirage Flats extension and O'Neill units in the Missouri River Basin project; the act of May 2, 1956 (70 Stat. 126) dealing with the Red Willow and Wilson Dams; the act of May 18, 1956 (70 Stat. 160) giving approval to the construction of the Ainsworth unit; and the act of August 3, 1956 (70 Stat. 975) dealing with the Farwell unit.

The effect of each of these acts was a direction by the Congress that the particular unit or units dealt with should be coordinated and integrated, physically and financially, with the other Federal works constructed or authorized to be constructed by both the Bureau of Reclamation and the Department of the Army under the authority of section 9 of the Flood Control Act of 1944, as amended and supplemented.

In the Glendo joint resolution of July 16, 1954, the Congress gave its approval to the definite plan report on the Glendo unit which had been approved by the Secretary on February 19, 1954, and authorized construction and operation of the unit, "through its physical and financial coordination and integration with the other Federal works constructed or authorized to be constructed under the comprehensive plans approved by section 9 of the act of September 22, 1944 * * *, as amended and supplemented, with the financial objective of returning its reimbursable costs during a 50-year payment period."

In the act of August 21, 1954, which added the Ainsworth, Lavaca Flats, Mirage Flats extension, and O'Neill units to the Missouri River Basin project as theretofore authorized, the Congress directed that:

"The Secretary shall cause these units of the Missouri River Basin project to be coordinated and integrated, physically and financially, with the other Federal works constructed or authorized to be constructed under the comprehensive plans approved by section 9 of the Act of December 22, 1944, as amended and supplemented."

The act of May 2, 1956, provided for a transfer of jurisdiction as between the Secretaries of the Interior and Army over two units of the Missouri River Basin project that had been authorized as a part of the original authorization in section 9 of the Flood Control Act of 1944. Under the act, the Red Willow Dam was transferred to the jurisdiction of the Secretary of the Interior from the Secretary of the Army and conversely, jurisdiction over Wilson Dam was transferred from the Secretary of the Interior to the Secretary of the Army. Section 2 of the act provides as follows:

"Both the Secretary of the Interior and the Secretary of the Army shall cause these units of the Missouri River Basin project to be coordinated and integrated physically and financially with the other Federal works constructed or authorized to be constructed under the comprehensive plans approved by section 9 of the Act of December 22, 1944, aforesaid, as amended and supplemented."

The purpose of the act of May 18, 1956, dealing with the Ainsworth unit, was to approve a feasibility report on the Ainsworth unit that had been prepared by the Secretary of the Interior. Congressional approval of such reports was, by the act of August 21, 1954, which authorized the Ainsworth and the other units dealt with therein, made a condition prerequisite to the initiation of construction in accordance with the 1954 authorization. In the act of May 18, 1956, the Congress described the report of the Secretary, which it thereby approved, as "demonstrating the physical and economic feasibility of the Ainsworth unit of the Missouri River Basin project integrated as a part of said project by the act of August 21, 1954."

The act of August 3, 1956, reauthorized the Farwell unit of the Missouri River Basin project. Extensive changes had been made in the plans for that unit as embraced in Senate Document 191, necessitating reauthorization. In the re-authorizing legislation, the Congress directed that:

"* * * appropriate portions of the costs of constructing, operating, and maintaining such works shall be allocated to irrigation and returned in the same manner and under the same conditions as other irrigation costs of the Missouri River Basin project;"

The act further directs that—"The Farwell unit shall be integrated, physically and financially, with the other Federal works in the Missouri River Basin constructed or authorized to be constructed under the comprehensive plan approved by section 9 of the Act of December 22, 1944, as amended and supplemented."

The references in each of the foregoing enactments to financial integration or coordination can have meaning only in the context of the application on a basinwide basis of power revenues from all power developments embraced by section 9 of the 1944 Flood Control Act, whether constructed by the Department of the Army or the Department of the Interior, against irrigation costs beyond the ability of the water users to repay, in accordance with principles of reclamation law.

In each of these enactments, save for the reauthorization of the Farwell unit, the reference is to the "comprehensive plans" approved by section 9 of the Flood Control Act. While the reference in the Farwell unit is in the singular, to the "comprehensive plan," such reference is without significance. This is demonstrated on the face of the enactment itself by the requirement that the irrigation costs should be returned "in the same manner and under the same conditions as other irrigation costs of the Missouri River Basin project." This reference to the "same manner and conditions" makes it clear that the Congress intended that Army power should be included in the source of revenues for irrigation assistance, since that is the basis of power-revenue assistance in irrigation payout in the case of all other irrigation costs of the Missouri River Basin project.

In addition, as will be seen, the legislative history of the Farwell Act conclusively confirms a congressional understanding that the Missouri River Basin project embraces both the works constructed by the Army and Interior Departments, with marketing of energy by Interior under reclamation law and with basinwide payout in accordance with reclamation law principles.

In the case of each of the foregoing enactments, the Congress had before it reports from the Department indicating the Department's approach was on a basinwide basis. In a number of instances significant comments appear in the committee reports demonstrating, completely consistent with the text of the enactments, a congressional understanding that basinwide payout in accordance with Reclamation law is at the heart of the Missouri River Basin project as authorized by section 9 of the 1944 Flood Control Act.

In the case of the Glendo authorization, the Senate Interior and Insular Affairs Committee stated in its report (Report No. 1615, 83d Cong., 2d sess., June 17, 1954) that:

"The resolution would authorize the Secretary to include the modified Glendo (Wyoming) project in the comprehensive plans for the development of the water resources, and other purposes, of the Missouri River Basin as approved by sec-

tion 9 of the Flood Control Act of 1944, and authorized in that act and in the corresponding act of 1946."

The Senate committee report also includes the following statement:

"The report of the Department of the Interior is approved by the resolution. It shows that the reimbursable costs of the project can be returned in 50 years with interest on the power allocation. The committee notes, particularly, this claim for financial feasibility, and approves of the aid from power revenues for allocations to irrigation."

The reports of the House and Senate Interior and Insular Affairs Committees on the legislation that became the act of August 21, 1954, authorizing the Ainsworth, Lavaca Flats, Mirage Flats extension, and O'Neill units as parts of the Missouri River Basin project (S. Rept. 2212, 83d Cong., 2d sess., Aug. 4, 1954; House Rept. 1868, 83d Cong., 2d sess., June 15, 1954); each set forth the full text of the Department's report to the Congress dated June 10, 1954. In the course of the Department's report it advised the Congress that—

"The remaining costs allocated to irrigation could, under the terms of the bill, be met by application of power revenues from Federal plants in the Missouri River Basin in excess of those necessary to return the costs allocated to commercial power. They could also be met, in part, by irrigators' payments over a period longer than the 40 years assumed in this report."

The other three statutes involved were each enacted by the Congress following the transmittal to the Congress of the Missouri River Basin project economic analysis early in 1956.

In the case of the act of May 18, 1956, dealing with the Ainsworth unit, the report of the Senate Interior and Insular Affairs Committee (S. Rept. 1799, 84th Cong., 2d sess., April 23, 1956) made the following significant comments:

"The irrigation water users, over a 40-year period, will repay approximately \$3 million or approximately 30 percent of the estimated cost. The annual payment capacity of the lands in the Ainsworth unit is estimated to average \$8.35 per acre with operation and maintenance cost of \$2.30 per acre.

"The remainder of the construction costs will be repaid from surplus power revenues of the Federal Missouri River Basin project. The committee inquired of the Department of the Interior regarding the availability of surplus revenues from the Missouri River Basin system to absorb the excess cost of the Ainsworth and other units in the reclamation program for that project.

"On January 16, 1956, the Acting Commissioner of Reclamation, Neilsen, of the Bureau of Reclamation, submitted an economic analysis of the Missouri River Basin project which reflects findings of that agency that anticipated power revenues in the Missouri River Basin system will be adequate during the repayment period to absorb construction costs of the Ainsworth and other units listed, which are beyond the ability of the water users to repay. The chairman of the committee has requested the Secretary of the Interior to provide departmental comment on the findings of the analysis as well as the average rate and repayment studies and payout study of December 1955.

"On the basis of the analysis, there appears no question as to adequacy of surplus power revenues under present rates to absorb the irrigation construction costs of the Ainsworth and other units programed for construction beyond the ability of the water users to repay. Nevertheless, the committee concurs in the request of the chairman to the former Secretary of the Interior that the Department should comment officially on the economic analysis of the Missouri River Basin project and average rate and repayment studies and payout study as of December 1955. In view of the concern that the Bureau of the Budget has indicated in this phase of the Missouri River Basin financial operations, the Department should include the comments of that agency also."

As indicated earlier in the text of this statement, the Department of the Interior responded to the request for official comments embraced in the committee report, by letter of May 9, 1956, from Assistant Secretary Aandahl to Chairman Murray, expressing complete concurrence in the economic analysis.

In its report (H. Rept. 1764, 84th Cong., 2d sess., February 14, 1956), the House Interior and Insular Affairs Committee observed that, "The estimated cost of the project is about \$25,934,000, of which 98 percent would be repaid

under the repayment plan for the Missouri River Basin project." The House committee's report also stated the committee's conclusion that the report submitted by the Secretary of the Interior on the Ainsworth unit met the requirements of the authorizing act of August 21, 1954. The letter report of the Commissioner of Reclamation dated March 16, 1955, to the Secretary of the Interior, which is a part of the Secretary's report and is set forth in House Report 1764, states that, "Our analyses of the Missouri River Basin project indicate that the basinwide net revenues will be adequate to pay all reimbursable costs, including those of the Ainsworth unit in a period of time well within the useful life of the works."

The following is quoted from the report of the Senate Interior and Insular Affairs Committee upon the legislation which became the act of August 3, 1956, reauthorizing the Farwell unit (S. Rept. 2532, 84th Cong., 2d sess., July 12, 1956) :

"DESCRIPTION OF THE FARWELL UNIT

* * * * *

"Repayment: Maximum repayment ability of lands in unit to be irrigated is \$11,160,000 or 41 percent. - Remainder of repayable costs of not less than \$17,488,000, would be repaid from Missouri River Basin project's surplus power revenues.

"Period of repayment: 40 years with a 5-year development period for costs to be repaid by irrigators, with consideration of variable repayment formula which might extend period; 50-year repayment period for costs to be repaid by surplus power revenues."

* * * * *

"AID FROM SURPLUS POWER REVENUES

"The committee calls attention to the benefits accruing to an entire river basin from the development of public power facilities in connection with the Missouri River Basin project. More than 60 percent of the construction costs of the Farwell irrigation unit will be repaid from surplus power revenues of hydroelectric generating facilities located outside the State of Nebraska. This is only one of many irrigation developments in the States of Montana, North and South Dakota, Wyoming, Nebraska, and Kansas, areas of the Missouri River Basin that have been made possible by the integration of the financial aspects of the Missouri River Basin project.

"The Department of the Interior has reported that the surplus revenues of the Missouri River Basin project, as now foreseen, will be adequate to repay the construction costs of a substantial group of irrigation developments beyond the ability of the water users to repay."

* * * * *

"CONCLUSIONS OF THE COMMITTEE

"The committee concludes the project plan for the Farwell unit, which is reauthorized by S. 3594, is in keeping with the objectives of the original authorization of the Missouri River Basin project. It, therefore, recommends that the bill do pass."

The House Committee on Interior and Insular Affairs in its report on the Farwell legislation (H. Rept. 2595, 84th Cong., 2d sess., July 3, 1956), stated in part :

"* * * The Farwell unit would be integrated physically and financially with the other Federal works in the Missouri River Basin."

* * * * *

"The remainder of the construction costs would be derived from other revenues of the Missouri River Basin project. A recent reanalysis of the Missouri River Basin project economics indicates that the basinwide net revenues will be adequate to pay all reimbursable costs, including those of the Farwell unit which are beyond the ability of the water users to repay. Economic justification for the unit is demonstrated by the fact that the overall benefits exceed the costs by a ratio of 1.88 to 1."

* * * * *

"The committee believes that the Farwell unit is a sound development from a physical and economic standpoint and is a desirable addition to the Missouri

River Basin project. The committee, therefore, recommends that H. R. 7435, as amended, be enacted."

Finally, there is the following excerpt from the July 21, 1955, report of the Senate Committee on Interior and Insular Affairs on the legislation which became the act of May 2, 1956; dealing with the Red Willow and Wilson Dams (S. Rept. 1066, 84th Cong., 1st sess.). No clearer indication of congressional recognition of the nature of the Missouri River Basin project as a coordinated development embracing the comprehensive plans of both Departments, with basin-wide application of power revenues from all sources against irrigation costs in accordance with reclamation law could be desired:

"The theory of the coordinated agreement between the Bureau of Reclamation and the Corps of Engineers which led to the authorization of the Missouri River Basin project in the Flood Control Act of 1944 was that where a dam was primarily for irrigation, the construction would be authorized to the Department of the Interior through the Bureau of Reclamation. Where a dam was primarily for flood control or navigation, the construction assignment would be made to the Department of the Army through the Corps of Engineers. Under this arrangement, all of the large main-stem dams on the Missouri River, with the exception of Canyon Ferry in its headwaters in Montana, were assigned to the corps, together with a limited number of dams on certain tributaries. Most of the dams on western tributaries of the Missouri were assigned for construction by the Bureau of Reclamation since practically all of these structures were primarily for the storage of water for irrigation. Under the agreement which was approved by the Flood Control Act of 1944, power produced at any of the dams in the Missouri River Basin project, whether by the Corps of Engineers or the Bureau of Reclamation, would be transmitted and sold by the Secretary of the Interior.

"The net revenues from power are pooled under the law and are available for financial aid to irrigation construction beyond the ability of irrigation water users to repay.

"In addition, the Secretary of the Interior is responsible for the disposal of water for irrigation or space reserved for this purpose in any of the dams in the Missouri River Basin project, while the Secretary of the Army is responsible for flood-control regulation."

CONCLUSION

From the foregoing, including the testimony orally given to which this prepared statement is a supplement, the following conclusions are reached:

1. Certainly the construction originally placed by the Department of the Interior upon the Flood Control Act of 1944 to the effect that the Department's actions are governed entirely by the provisions of section 9 and not by section 5 is not an unreasonable one considering the text of the two sections and the contents of the comprehensive plans approved by section 9. At worst, it can be argued that sections 5 and 9 both provide for power developments. However, section 5 does not deal at all with irrigation. It can hardly be considered, in the light of the Army and Interior plans, that irrigation, including the payout of irrigation costs by basinwide pooling of power revenue costs, is not an essential element of the Missouri Basin development.

In these circumstances, it is arguable, to say the least, that since section 5 deals at the most only with one of the elements of the Missouri Basin project, i. e., the marketing of power from Army projects, whereas section 9 deals not only with that but with all of the elements as well, it is legally permissible, in construing the Flood Control Act, to conclude that section 5, for that reason alone, has no application to the Missouri River Basin.

Moreover, considering that both sections 5 and 9 deal with the subject of power development, section 5 deals with that subject generally whereas section 9 deals specifically with power of the Missouri River Basin project. Ordinarily, the courts hold in construing statutes that a special provision in a statute will prevail over a provision dealing in general terms with the same subject as that covered by the special provision (*Kepler v. United States*, 195 U. S. 100, 125; *Missouri v. Ross*, 299 72, 76). Application of that rule here likewise supports the construction placed upon the statute by the Secretary of the Interior from the outset.

The Secretary's construction moreover results in an application of the statute which is in harmony with the statement of policy embraced in section 1, and particularly in subparagraph (b) of section 1, a policy of facilitating the

beneficial consumptive use of water for multiple purposes. Applicability of section 5 to power matters in the Missouri River Basin would tend to defeat the achievement of that purpose since it would render realization of the comprehensive development impossible because payout of the irrigation costs could not be accomplished. On the other hand, the construction placed by the Department on section 9 facilitates the achievement of the objective of the statute as set forth in section 1 since it makes possible the construction of irrigation developments by providing a means of payout in accordance with Reclamation Law.

Finally, it must again be emphasized that without the application of power revenues from the Army developments, the irrigation units of the Missouri River Basin could not be undertaken because payout as required by reclamation law could not be accomplished. To read section 9 narrowly so as not to cover this essential requirement would result in the complete frustration of the intent of the Congress as set forth in the section for it would render it impossible even to undertake the reclamation developments covered by the Department's plan which were concededly intended to be approved and authorized by section 9. Such an absurd result should be reached only if the statutory language permits of no other construction. Statutes are to be construed in their entirety to accomplish results in harmony with their overall purposes (*Silver v. Ladd*, 74 U. S. 219; *United States v. Gaskin*, 320 U. S. 527; *United States v. Menasche*, 348 U. S. 528; *Mastro Plastics Corp. v. N. L. R. B.*, 350 U. S. 270). They will not be construed, where any other construction is possible, in such manner as to lead to absurd results (*Fleckner v. U. S. Bank*, 21 U. S. 338; *Armstrong Paint Co. v. Nu Enamel Corp.*, 305 U. S. 315; *United States v. Brown*, 333 U. S. 18).

2. The practice of the Department in proceeding in the Missouri Basin on the premise of the applicability of section 9 of the 1944 act has been consistent and open. It is well known to the Congress.

3. The Congress has not only appropriated funds in the light of knowledge of the Department's practice; it has by subsequent legislation recorded its understanding that the Department's practice is an essential element of the administration of the Missouri River Basin project and is completely consistent with the provisions of section 9.

In these circumstances, even if it be conceded that there might have been reasonable grounds for a differing construction of the statute immediately following its passage, the Department's interpretation should not now be overturned. It is a rule of statutory construction of long standing that a continued, uniform interpretation by the agency charged with the carrying out of the provisions of an ambiguous statute will be regarded as controlling, even though originally the court might have reached a different conclusion than the administering agency had the matter been before it at that time (*Brown v. United States*, 113 U. S. 568; *Logan v. Davis*, 233 U. S. 613; *United States v. Jackson*, 280 U. S. 183; *United States v. Chicago, North Shore Railroad Co.*, 288 U. S. 1).

Particularly should such a construction be favored when, as here, the Congress has acted on the basis of that construction and given its own expressions of concurrence therein through appropriations and substantive legislation as well.

EXHIBIT I TO THE PREPARED STATEMENT OF EDWARD WEINBERG

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., May 9, 1956.

HON. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.*

MY DEAR SENATOR MURRAY: Your letter of April 2, 1956, requests the official views of this Department on two matters: The recently released Economic Analysis, Missouri River Basin Project, as revised April 1955, and the related Average Rate and Repayment Study for the Missouri River Basin dated December 1955 and, secondly, the Helena Valley repayment contract situation.

In respect to the Missouri River Basin economic analyses, members of the Department staff participated in preparation of the documents sent to you. Within the limitations and the assumptions set forth in those documents, we are confident that they present a valid appraisal of the economic aspects of the Missouri River Basin project.

Based on the information in those documents, further analysis indicates that the Missouri River Basin project, comprising only those units constructed or under construction, may be substantially expanded and still repay all reimbursable costs within 50 years from completion of the last added unit at existing power rates. Units considered for addition in this analysis include Ainsworth, East Bench, Farwell, Initial Phase of Garrison Division, Hardin, Lavaca Flats, Nickwall, First Stage of North Loup Division, Red Rock, and Shoshone Extensions Units, and completion of the Cedar Bluff, Heart Butte, Kirwin, Lower Marias, Saint Francis, and Webster Units. It was to this situation that Assistant Secretary Aandahl referred when he stated "I would only make a very general comment, and that is the study is sufficiently reassuring so that we should have confidence in going ahead with the matters that are immediately before us."

As to the long-range future, judgment as to the adequacy of power rates for the ultimate plan involves consideration of such factors as length of total payout period, the rate of construction of future units, the units finally selected for development, their cost, and other factors that cannot be evaluated now.

The Bureau of the Budget has been furnished copies of the Economic Analysis and the Average Rate and Repayment Study. We are not aware of any views the Bureau of the Budget has expressed nor that it was intended to use the documents other than for information purposes.

In specific relation to S. 2206 concerning the Ainsworth unit, the views of the Department are expressed in Assistant Secretary Aandahl's letter to you of March 27, 1955.

With regard to the Helena Valley unit of the Missouri River Basin project, we share with you the desire that construction of this unit proceed as promptly as circumstances permit. We believe, however, that under the present circumstances construction should not proceed until there is firm assurance of adequate repayment coverage. This is the position recommended by the Bureau of Reclamation and endorsed by us. Contrary to the assertions of your letter, it does not represent a reversal by the Department of plans by the Bureau of Reclamation to initiate construction of the Helena Valley unit.

Admittedly, some confusion developed during the various appropriations hearings as to what constituted adequate repayment coverage in the case of the Helena Valley unit. We made a sincere effort subsequently to clarify our position on this matter as evidenced by the testimony of our representatives in the hearings which you called on September 29, 1955, and January 19, 1956. This was the purpose also of the communications dated September 23, 1955, addressed to the chairmen of the House and Senate Appropriations Committees to which your letter makes reference.

We recognize that the reclamation law does not require the execution of repayment contracts prior to construction; however, such contracts are required under the law before the actual delivery of water. It would appear self-evident that the only prudent course to follow in connection with proposed projects is that construction of such projects not be commenced until local interests definitely indicate that the project is desired and that they are willing to accept responsibility for repayment as evidenced by the execution of repayment contracts in advance of construction. Consideration of the construction and repayment program for the Helena Valley unit should give full recognition to this principle.

The Helena Valley unit works as designed and proposed for construction include capacity and facilities to serve 17,600 acres—13,000 acres with a full water supply and capacity to provide a supplemental water supply to some 4,600 acres currently being irrigated. It was contemplated that the full and supplemental water supply lands would repay approximately \$1.5 million in 40 years, or about 12 percent of the construction cost of the unit.

The Helena Valley Irrigation District, as now organized, comprises only the irrigable lands in need of a full water supply and for which irrigation distribution facilities are proposed for construction. The water service and repayment contract proposed with this District is estimated to return about \$800,000, or only about 7 percent of the construction cost of the Helena Valley unit. This 7 percent repayment return involving the full water supply lands is only slightly more than one-half of the approximately 12-percent return involving the 17,600 acres for which the unit would be constructed. Attempts to organize the supplemental water supply lands for purposes of contracting with the United States have not been successful.

In an effort to assure the financial integrity of this unit and attain the optimum development of the unit, the Bureau of Reclamation has proposed a water service arrangement with the city of Helena under which an additional 5 percent construction repayment would accrue to assure approximately 12 percent repayment coverage. Negotiations with the city on the proposed arrangement have progressed to the point where the city has recently requested the Bureau to submit a preliminary draft of contract for the city's consideration. If the negotiations with the city are concluded successfully and if the water users of the Helena Valley Irrigation District accept the contract which has been negotiated with the district's board of directors, we shall be in a position to move ahead with construction of the Helena unit.

The House Appropriations Committee will have an opportunity to review the matter soon and may at that time make known its views on proceeding to construction solely on the basis of a satisfactory contract entered into with the Helena Valley Irrigation District.

Your later letter, dated April 27, 1956, concerning the above has been received and this reply is intended to cover both letters. We regret any inconvenience that delay in answering your letter of April 2 may have occasioned. Because of the very short period between receipt of your letter and Secretary McKay's departure, it was not practical to prepare a reply in time for his personal attention.

We are sending a copy of this reply to Senators Hayden and Mansfield and Representative Metcalf, who received copies of your April 2 letter.

Sincerely yours,

(Signed) FRED G. AANDAHL,
Assistant Secretary of the Interior.

SUMMARY OF ECONOMIC ANALYSIS—MISSOURI RIVER BASIN PROJECT,
REVISED APRIL 1955

	<i>Project capacity</i>	
Irrigable area :		<i>Acres</i>
Full		3, 598, 100
Supplemental		736, 900
Total		4, 335, 000
		<i>Kilowatts</i>
Power installation		2, 434, 400

Cost (See table 3 and table 4)

Bureau of Reclamation :	
Missouri River Basin project.....	\$2, 701, 083, 000
Fort Peck transmission system.....	23, 277, 000
Share of Kendrick project storage.....	1, 116, 000
Other Interior agencies.....	38, 510, 000
Corps of Engineers.....	2, 557, 513, 000
Estimated total cost.....	<u>5, 321, 499, 000</u>
INTERSET DURING CONSTRUCTION	
Commercial power.....	53, 814, 000
Municipal water.....	426, 000
Total interest during construction.....	<u>54, 240, 000</u>
Total cost to be allocated.....	<u>5, 375, 739, 000</u>

Allocation and repayment

	Allocation	Repayment
Reimbursable:		
Irrigation.....	\$2, 235, 749, 000	\$385, 528, 000
Commercial power: (includes \$53,814,000 for interest during construction).....	1, 144, 238, 000	¹ 3, 066, 405, 000
Municipal water (includes \$389,000 interest during construction).....	7, 600, 000	¹ 7, 600, 000
Recreation.....	16, 037, 000	
Fish and wildlife.....	342, 000	
Buford-Trenton work—investigations of inactive units and other Interior agencies.....	55, 567, 000	
Total reimbursable.....	<u>3, 459, 533, 000</u>	<u>3, 459, 533, 000</u>
Nonreimbursable:		
Flood control and navigation.....	1, 849, 576, 000	
Fish and wildlife.....	1, 950, 000	
Rapid City Air Base water supply (includes \$37,000 for interest during construction).....	1, 037, 000	
Total nonreimbursable.....	<u>1, 852, 563, 000</u>	
Deferred:		
Investigations of potential units.....	6, 665, 000	
Future power system additions.....	56, 978, 000	(²)
Total deferred.....	<u>63, 643, 000</u>	
Total allocation and repayment.....	<u>5, 375, 739, 000</u>	<u>³ 3, 459, 533, 000</u>

¹ Also interest paid on unpaid balance of cost allocated to this function.

² Considered self-liquidating.

³ Exclusive of payments for self-liquidating future additions to the power system.

COMPLETION AND PAYOUT

Interest rates: Commercial power, 3 percent; municipal water, 2½ percent.

Power rates:

Firm energy, 5.5 mills per kilowatt-hour.

Nonfirm energy, 3.3 mills per kilowatt-hour.

Irrigation pumping energy, 2.5 mills per kilowatt-hour.

Excess capacity for peaking, \$15,000 per kilowatt.

20 percent of total power costs are allocated to irrigation pumping (interest-free) and 80 percent to commercial power (interest-bearing).

Irrigation repayment by water users: Irrigators pay for 40 years following the development period for each block of land.

Completion

	Construction period in years after 1950	Date all facilities are in service
Power.....	20	1970
Municipal water.....	25	1975
Irrigation.....	50	2000

Repayment

	Repayment period in years after all facilities in service	Date of completion of repayment
Power.....	43	2013
Municipal water.....	50	2025
Irrigation.....	67	2067

BENEFIT-COST RATIO

Construction cost estimates based on prices as of June 1954. Period of analysis—100 years.

Total project benefit-cost ratio for all Bureau of Reclamation units=1.62.

PROCEDURES USED IN ECONOMIC ANALYSIS—ACTIVE UNITS, MISSOURI RIVER BASIN
PROJECT, REVISED APRIL 1955

1. Analysis includes all active units of the Missouri River Basin project.
2. Construction cost estimates are official estimates of the Bureau of Reclamation, other Interior agencies, and the Corps of Engineers for their respective programs.
3. Allocations of cost are made by the separable costs-remaining benefits method for units where separable costs are available, and by the alternative justifiable expenditure method for other units. Allocations to fish and wildlife and to recreation are generally limited to specific costs. Allocations of six multiple purpose main-stem dams were provided by the Corps of Engineers.
4. To reflect the installed power capacity required for irrigation pumping, 20 percent of costs allocated to power are suballocated to irrigation pumping plant and are distributed among individual pumping units, for use in benefit-cost analysis.
5. Reservoir costs allocated to irrigation, including storage in main-stem reservoirs, are distributed among individual units served by reservoirs, for use in benefit-cost analysis.
6. Benefits are based on existing Reclamation procedures, and include both direct and indirect benefits for irrigation. Power benefits are based on alternate costs according to interagency agreement. A 100-year period of analysis is used in benefit-cost computations, as lesser periods would not be consistent with the life of the works or the schedules of investment and repayment. Benefit-cost ratios are shown for each reclamation unit.
7. Costs allocated to irrigation are repaid without interest. Municipal water and power investments include 2.5 percent interest during construction. Municipal water investment is repaid with 2.5 percent interest on unpaid balances, and commercial power investment is repaid under assumption of 3 percent interest on unpaid balances.
8. Power revenues are based on rates of 5.5 mills per kilowatt-hour for firm energy, 3.3 mills for nonfirm energy, 2.5 mills for irrigation pumping energy, and \$15 per kilowatt for peaking capacity.
9. Energy generated at all reclamation plants and six Corps of Engineers plants, together with energy in excess of project use at Shoshone, Riverton, Kendrick, and Colorado-Big Thompson projects, is marketed through the Missouri Basin transmission network.
10. Revenues from irrigators and conservancy districts were assumed to extend 40 years following a development period of not more than 10 years for each block of land. Revenues from municipalities were assumed to extend for 50 years.
11. Power revenues are used to assist in repayment of costs allocated to irrigation and other miscellaneous reimbursable costs. Surplus municipal water revenues are not applied to assist irrigation in the present study.
12. A portion of municipal water costs and costs allocated to fish and wildlife are nonreimbursable under special legislation. Costs allocated to flood control and navigation are shown as nonreimbursable.

EXHIBIT II TO THE PREPARED STATEMENT OF EDWARD WEINBERG

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., November 26, 1956.

Mr. ADOLPH T. SAMUELSON,
Director, Civil Accounting and Auditing Division,
General Accounting Office, Washington 25, D. C.

MY DEAR MR. SAMUELSON: By letter dated June 1, 1956, you transmitted to us the observations of the Civil Accounting and Auditing Division on the deficiencies and weaknesses in the operation of the Missouri River Basin project, Bureau of Reclamation, for the fiscal year ended June 30, 1955. Attached herewith are two copies of our reply to the comments.

We wish to thank you for making the observations of the Civil Accounting and Auditing Division available for our review and comment.

The three copies of the proposed report transmitted to us with your letter of June 1, 1956, are returned herewith.

Sincerely yours,

(Signed) D. OTIS BEASLEY,
Administrative Assistant Secretary.

DEPARTMENT OF THE INTERIOR: COMMENTS ON PROPOSED REPORT OF DIVISION OF
AUDITS ON MISSOURI RIVER BASIN PROJECT, GENERAL ACCOUNTING OFFICE

1. Allocation of construction costs and multiple-purpose projects

The report indicates that the Federal water resource program is based on a large number of laws that are administered by several agencies and that these laws do not provide uniform provisions, policies, or criteria that are fundamental in carrying out this program. While the report recognizes that general agreement on cost allocations of multiple-purpose projects has been reached by the Department of the Interior with the Corps of Engineers and the Federal Power Commission, it points out that in the past the allocation of construction costs by the Corps of Engineers and the Department has differed substantially through the choice and application of methods of allocation and that as a result a wide range of power rates could be justified. Therefore, it recommends that Congress provide the policies and criteria to be applied for allocation of costs of multipurpose projects and that the criteria for cost allocations provide for (1) period for repayment of construction costs, (2) rates of interest, and (3) subsidies to nonpower purposes.

Comments.—The Department has commented at some length on these matters in connection with the audit report of the southeastern area river basins and related facilities for the fiscal year ended June 30, 1955. Comments therein are equally applicable to the proposed report on the Missouri River Basin project.

2. Inclusion of Fort Peck project as a part of Missouri River Basin project

The report states that the Fort Peck project is considered by the Bureau of Reclamation as an integral part of the Missouri River Basin project for purposes of determining Missouri River Basin project feasibility and repayment, although separately authorized.

It recommends that if the Bureau desires to continue to so treat the earnings of Fort Peck project, specific legislative authorization should be obtained from the Congress.

Comments.—For the purpose of determining an average commercial rate for power and energy in the marketing area of the Missouri River Basin project the Fort Peck Dam and powerplant are considered as an integral unit of the Missouri River Basin project. However, the economic feasibility of units of the Missouri River Basin project is appraised in individual unit definite plan reports or justifications prior to approval for construction. Such material has been submitted to the House Appropriations Committee in connection with requests for appropriations, and full unit justification data are presented in budget documents.

The Department feels that this issue has been needlessly confused by current and prior General Accounting Office comments which fail to recognize the purpose served by the Bureau's presentation of consolidated studies of the two projects involved. Such consolidation is very useful, and perhaps the only realistic manner in which market area rate level application can be equitably determined. It has in no way permitted looseness or laxity in construction of separate units of the Missouri River Basin project by the assumption of allegedly inflated repayment prospects of the basinwide plan, because such construction is rigidly governed by the criteria for economic justification which the Bureau has consistently prepared for the Congress, and by the requirements of law, specifically section 9 (a) of the Reclamation Project Act of 1939.

The Fort Peck dam was separately authorized for navigation by the Rivers and Harbors Act of August 30, 1935, and the Fort Peck power production and transmission facilities were authorized by the act of May 18, 1938. The Flood Control Act of December 1944, which authorized the Missouri River Basin project, created a physical interrelationship of features which requires integrated rather than separate economic and engineering determinations of power system rates. The magnitude of power production from Fort Peck powerplant influences and is influenced by water storage, release and production of the five additional larger projects downstream on the Missouri River. Transmission properties of the Fort Peck project interconnect at several points with transmission properties of the Missouri River Basin project. Energy in large quantities is interchanged frequently between projects. The market area for the two projects is not distinguishable by subdivisions on the basis of power source. It follows from these facts that rate determination cannot be on the basis of dual computations.

With further reference to the matter of authorization, the plans presented in S. Doc. 191, 78th Congress, contemplated the incorporation of the Fort Peck project as an integral part of the Missouri River Basin project. This includes the Fort Peck reservoir as well as the power plant. There are a number of references to the Fort Peck facilities in S. Doc. 191 that support the inclusion of the Fort Peck project in the Missouri River Basin project, some of which follow:

(1) From page 115:

"The reauthorization of the Fort Peck dam on May 18, 1938, was for the purpose of improving navigation on the Missouri River and for other purposes incidental thereto, including power. The plan herein presented makes irrigation a primary use of water, and substitutes other storage downstream for the Fort Peck Reservoir, to serve navigation and other purposes."

(2) From page 116:

"Water stored in the Oahe Reservoir will be available for navigation purposes on the lower river, as a substitute for water taken from the Fort Peck Reservoir for irrigation and other purposes."

(3) From the discussion of main stem storage on page 116:

"By the construction of these three reservoirs, the river will be sufficiently regulated to control floods, develop all power possibilities, eliminate silt, create enormous recreational possibilities, permit the use of Fort Peck Reservoir for irrigation, * * *"

(4) From the discussion of Missouri River pumping plants on page 117:

"These pumping plants will be served with electrical power for pumping from the Fort Peck powerplant."

(5) From the discussion of the Missouri-Souris diversion on page 114:

"Power required to pump the water over the divide near Grenora will be developed at the Crosby and Des Lacs powerplants, but for short periods the powerplant at Fort Peck will be drawn upon to assist these plants to the extent of 30,000 kilowatts."

The Fort Peck powerplant is included in a tabulation of the Missouri River Basin project, "Hydroelectric plants to be operated for firm power" on page 136 of S. Doc. 191; and also in a second tabulation of plants to be operated" * * * for seasonal power."

A similar tabulation on page 141 includes the Fort Peck plant showing installed capacity, annual generation, and costs. In reference to this tabulation it is stated:

"The costs of facilities to be used in the production of firm power, and the distributions of such costs, are summarized in the following table, in which 1940 costs were used."

From the same page:

"Two plants, one at Fort Peck and one on the Tongue River, will be used chiefly to generate power for pumping, but each will yield some firm power. The costs of those two powerplants are divided, an appropriate part being charged to power."

Also the Fort Peck power transmission line system is shown on drawing 58-D-495, page 138, as an integral part of the proposed Missouri River Basin project transmission system. The power production from Fort Peck is included with the production of the proposed Missouri River Basin project plants throughout the discussion of power on pages 134 to 142, inclusive.

From the references above, it is clear that the plans presented in S. Doc. 191 incorporated the Fort Peck project as an integral part of the Missouri River Basin project.

3. Status of repayment of construction costs allocable to power

The report states that definitive agreements have not been executed between the Corps of Engineers and the Bureau of Reclamation for an allocation of a share of revenues as return of reimbursable power costs to corps constructed and operated powerplants on the main stem of the Missouri River. It indicates further that until this determination is made, it is not possible to ascertain the amounts of revenue applicable to return of reimbursable costs of the Bureau constructed and operated plants.

To afford the basis for showing the status of repayment of the Government's investment in water resource development in Missouri Basin, and a financial evaluation of operating results, it recommends that agreements be reached and negotiated between the agencies.

Comments.—For several years the Bureau of Reclamation has prepared a Missouri River Basin project power system average rate and repayment study. The studies consolidate the operations, costs, revenues and investments of the Bureau and the Corps of Engineers in the Missouri River Basin. Detailed working papers, on file in the Bureau of Reclamation, segregate specifically all the data applicable to each agency.

For the first 10 years of operation of the Fort Peck project the Bureau of Reclamation prepared the Fort Peck project annual report for the Congress under provisions of the act of May 18, 1938. This is a complete financial statement of the project involving both agencies, on the basis of standard accounting procedures. This report was fully informative on the status of repayment and was a matter of public information. It was discontinued under the provisions of Public Law 706, 83d Congress, 2d session, approved August 30, 1954 (H. R. 6290).

During this 10-year period and subsequently there has been no need for or purpose to be accomplished by an agreement between the Bureau of Reclamation and Corps of Engineers on allocation of revenues.

The Bureau of Reclamation and the Corps of Engineers comply in full and individually with the reporting requirements of the Federal Power Commission by the submission of the annual FPC Form 1 report on operations.

The department has serious doubts respecting the usefulness of separate reporting of Corps-originating and reclamation-originating revenues to the Congress or to the public. Moreover, a degree of arbitrary assignment of revenue would be required. In the first place, Corps power production and Bureau production are integrated in order to maximize system output of energy of the highest commercial value. Most Federal powerplants in the Missouri River Basin are interconnected, and it is intended that in a very few years all will be interconnected. Thereupon it will be impossible to identify the source of all energy sold by energy class, such as firm, nonfirm, and irrigation pumping, and by powerplants contributing to the system total. In the second place, a major share of the Bureau of Reclamation transmission investment is in facilities designed to market energy generated at Corps powerplants. Were it possible to associate precisely the income value of energy generated at Corps powerplants, such income should not accrue entirely to the Corps and appear on that agency's financial statements because it could not be realized without the expenditure of over \$100,000,000 to transmit the energy from the Missouri River plants to the load centers. Here again an arbitrary assignment of revenue to transmission plant would be necessary due to the benefit-creating function which this transmission plant performs. But, here again, this transmission plant is or will be interconnected and fully integrated with Bureau of Reclamation generation, serving each agency jointly but in an indeterminate monetary degree.

The department considers that the consolidated statement of the financial and repayment status of the Missouri River Basin project and associated works is consistent with the physical and operating facts and accurately and informatively reflects the results of these works.

6. Classification of preconstruction costs of Bureau of Reclamation as construction work in progress.

This comment has been previously included in audit reports, and as pointed out in this report action has been taken to establish standard practices and procedures which will overcome the objection raised. The Bureau has already acted in removing significant amounts from the construction category and returning them to an investigations status. Examples are Narrows, Shoshone Extensions, Moorehead, and Missouri division units, all of which are mentioned in the report. Future actions will be consistent with this, and in the case of units moving from an investigations to a construction category for the first time, such action will be taken when physical construction is certain.

The Bureau is conducting studies to determine appropriate and justifiable costs which may be classified either as abandoned or deferred. When this determination has been made, appropriate adjustments will be effected.

7. Financial integration of power systems in Missouri River Basin

The report indicates that power revenues resulting from integrated operation of the western division, Missouri River Basin project, power system are apportioned without reference to quantity of power delivered to the system, and that consolidated operation does not disclose actual financial results of the individual projects. It recommends that the Department obtain specific legislative authorization for the consolidation of power operations and that the basis for allocation to participating projects of power revenues be reviewed.

Comments.—The Department has previously furnished comment and reference in this matter. Relative to obtaining specific legislative authorization for these consolidations, reference is made to pages 1072 to 1074, inclusive. Hearings of the Subcommittee on Appropriations, House of Representatives, for fiscal year 1953. It is the position of the Department that this complete disclosure to the Congress in 1953 and similar presentations in subsequent years of the administrative steps which were taken to accomplish power system integration is entirely proper and sufficient without further specific enactment by the Congress.

With respect to the basis of revenue distribution to participating projects, the Bureau of Reclamation has, as the audit report states, followed the procedure of allocating predetermined repayment amounts based on the 1951 average rate and repayment studies. The governing principle involved is that repayment of participating projects should be not less or no more financially favorable than was forecast prior to integration with the Missouri River Basin project. Payments during the first 3 years of integrated operations were designed to assure this principle.

During the first 3 years of integrated operation, however, it became apparent that the energy contributions by projects to the system were not, for various physical reasons, in accordance with energy forecasts which were the basis for 1951 revenue and repayment studies. These physical circumstances gave rise to inequitable payments among projects. Therefore, the method of revenue distribution was modified, effective in FY 1956, the fourth year of integrated operation, so as to relate the payment directly to energy generated and delivered to the system. The principle of full and equal financial soundness of each project was maintained by computation of a rate sufficient to meet all costs and obligations as estimated prior to integration, with provision for review at 5-year intervals and for minor rate adjustments if necessary. This modification in procedure has proven satisfactory, and it should answer the objections of the auditors. The Bureau of Reclamation was aware of this situation which now has been improved through normal review processes and procedural changes.

8. Federal power service to Government installations

The report states that the overall advantage to the Federal Government would have been greater if power had been furnished the Great Falls air base from Federal power facilities in the area, rather than permitting service to be established from the privately-owned utility. It recommends that an agency in the Executive Department should be designated to review and enforce the making of arrangements that would provide lower power costs to the Government's operating installations and increased power revenues to Federal power installations.

Comments.—In this instance it is felt that the General Accounting Office auditors generalized from a particular situation. The Bureau of Reclamation offered service to the Air Force at the Rainbow substation, 1½ miles from the air base, and at the standard Fort Peck project rate schedule. The Air Force desired service at the air base which would have required construction of 1½ miles of low-voltage line. Construction of the line would have been a departure from system-wide Departmental policy limiting service to customers at major Bureau substations. To federally construct the additional facility would have involved added investment, an inconsistency in established and well-known policy, and a dangerous precedent which in the long run could result in an over-all increase in Federal costs in serving preference-type customers far in excess of the amount of money involved in this instance. In addition, such action would not have improved public relations. The privately-owned utility owned a distribution line to the air base. The outcome in this case was that the Air Force rented the utility's line for \$450 per month and contracted with the utility for energy at exactly the same price as the Fort Peck rate level—with a saving to the Air Force over the original company offer (before the Bureau of Reclamation was considered as a supplier) of \$21,000 annually in the power bill. The Air Force expressed written appreciation to the Bureau of Reclamation for effectuating a saving in energy costs without investment outlay by the Federal Government.

9. Expenditures at Fort Peck project, Montana, not subject to annual congressional approval

As expressed in previous reports, the General Accounting Office feels that receipts of the project are available for expenditure without review or control by the Congress. It suggests that the Congress may wish to provide annual appropriations for power operations and, in addition, a reasonable amount as a continuing fund to defray emergency expenses and to insure continuous operation.

Comments.—The Department's previous response in this matter notes that the auditor's reports state that the permanent annual appropriation is not subject to Congressional review. Previous departmental response also indicates that this statement is not entirely factual from a budgetary standpoint. While the act of May 18, 1938 (52 Stat. 403, 16 U. S. C. 833), authorizes expenditures of revenue from the sale of electric energy at Fort Peck project without Congressional action, it should be noted that data on the program and financial status is clearly set out in the President's budget each year.

In accordance with requirements of Budget Bureau Circular A-11, "Instruction for Preparation and Submission of Annual Budget Estimates," the following statements are prepared reflecting actual data for the last completed fiscal year and estimates for the current and budget years and submitted to that Bureau:

1. Statement of sources and application of funds.
2. Statement of income and expenses.
3. Statement of financial condition.
4. Working capital changes.
5. Accrued expenditures by objects.
6. A narrative justification of work proposed in the budget year.
7. Program schedule is also furnished upon request.

These statements are reviewed in detail by Budget Bureau examiners and with the exception of items 4 and 6 above are printed in the President's United States Budget annually. Copies of the United States Budget are made available to all members of the Congress. In addition, the justification material submitted to the Appropriation Committees of the Congress included a statement on the Fort Peck project, including a comparison of the estimate of expenditures for the current and budget years.

Therefore, data is available for review and consideration by Appropriation Committees and other members of the Congress in connection with this project. The Congress has accepted such data and it is apparent that it is satisfied with the operation of the project as performed by the Bureau.

In addition, the Congress has by recent legislation authorized precisely the same procedures for the upper Colorado storage project as are now in practice on the Fort Peck project. It is a satisfactory acceptable and efficient procedure which in this case is being administered carefully and scrupulously by the Bureau of Reclamation. In recent years similar procedures have been adopted by other agencies with the approval of Congress.

10. Power revenues applicable to participating projects of the western division

The report notes that western division power revenue receipts allocated to participating projects are returned to the Treasury by the Missouri River Basin project, and that revenues are recorded as an investment account transaction as cost or property transferred to or from projects. It is recommended that formal fund transfers be made from Missouri River Basin project to each participating project to more accurately reflect financial status of each.

Comments.—Little is to be served by a detailed identification within the area of reclamation power activities of the source of receipts to the reclamation fund of the Treasury. Direct return by Missouri River Basin project, rather than roundabout return through the projects gain nothing from the standpoint of the reclamation fund accounting, and it would involve additional accounting. Net investment—the more useful and informative account on Reclamation's books than the total investment account—would remain exactly the same under either procedure. And under either procedure the financial status of participating projects is equally clear and complete.

11. Deposit of revenues of Corps projects into reclamation fund

The report states that receipts from the sale of power generated at the Fort Randall project constructed and operated on the main stem of the Missouri River by the Corps of Engineers are deposited by the Bureau of Reclamation to the credit of the reclamation fund. The Flood Control Act of 1944 (16 U. S. C. 825s), provides that moneys received from disposal of power generated at Corps projects shall be deposited in the Treasury of the United States as miscellaneous receipts.

Recommendation is made that the General Accounting Office be furnished with a citation or authority for depositing these receipts into the reclamation fund.

The question raised concerning the depositing of these receipts into the reclamation fund is under review by the solicitor's office. Upon receipt of a ruling on this matter, your office will be advised by separate letter.

12. Accounting and financial policies.

With respect to the recommendation contained on page 13 of the report, it can be stated that these matters, together with other pertinent problems, are receiving current consideration of the interior cost allocation and financial practices committee. Our views with respect to accounting and financial policies cannot be determined until such time as the committee's recommendations have been received and considered by the Department.

Suballocations of power investment.

Regarding the suballocation of the power investment between commercial power and irrigation pumping power, the report indicates that the construction of power facilities usually precede construction of irrigation facilities and during the interim the power to be used ultimately for irrigation is sold as "commercial power." The report continues that reservation of 20 percent of power capacity for irrigation will not be necessary until the irrigation construction catches up with the power development. It is stated further that the method used for the Bureau does not give adequate consideration to the factor of energy uses. The report points out that on the premise that irrigation pumping has first call on available energy and that firm energy can be provided for, irrigation pumping will use about 9.4 percent of the total electric energy. The report concludes that a method of suballocation that takes into consideration the lag in construction of irrigation facilities and the load characteristics of pumping demands would be more realistic. It suggests that the use of stages in construction development, 5 or 10 year periods for example, should provide such a method.

The suballocation of the power investment to reflect plant-in-service for commercial power and irrigation pumping power is based upon the ratio of simultaneous peak pumping demand in kilowatts to system dependable capacity after ultimate project development. This method rests upon the premise that a portion of the investment in power facilities is made to meet irrigation requirements; hence, a portion of the plant-in-service is reserved for irrigation use. Application of the auditors' recommendation will create technical problems in handling shifting investments in both payout studies and in accounting operations. This problem, however, has been recognized in the past and is receiving continuing study.

Accounting for accrued leave.

The report states that leave should be accrued and charged to costs as earned.

The letter of October 6, 1950, to the Secretary of the Interior from the Comptroller General approving the accounting system for the Bureau of Reclamation states: "This problem of accounting for accrued leave is under consideration by this office for the Government as a whole. At the present time there is no legal authority to fund leave, i. e., to charge an appropriation account in a fiscal year for leave accrued but not taken." No advice has been received of the results of this study nor has any legal authority to fund leave been provided.

The lack of any legal authority to fund leave is of primary importance insofar as the Bureau is concerned. The project is the accounting entity and the Bureau policy is to obtain reimbursement from the project for expenditures made from reimbursable funds. As no provision may be made for funding accrued leave, expenditures for unliquidated accrued leave cannot be made from the project appropriations.

At the time the Bureau's uniform system of accounts was submitted to the Comptroller General for approval it was acknowledged by representatives of the General Accounting Office that the primary concern of that office was to see that a uniform method of costing leave was adopted by the Bureau. It was granted by such representatives that there were several methods of costing which would achieve this purpose.

The method suggested by the GAO would require an extremely close and constant check on the estimate of leave expense to be incurred. It would be very difficult to anticipate the leave expense in connection with construction activity and especially when construction was ending. Normally at such times there would be appreciable amounts paid in terminal leave. However, such is not always true. Furthermore, no purpose would be served by accrual of leave for nonreimbursable appropriations such as general administrative expense, soil and moisture conservation, and Colorado River development fund.

Other objections are (1) leave is liquidated at a rate different from that at which it was accrued whenever a change of pay occurs, (2) leave sometimes is not taken and lapses without liquidation, (3) leave is sometimes liquidated by some other agency when transfers out occur, and (4) leave is sometimes liquidated which was accrued from service with some other agency when transfers in occur.

The Bureau has adopted a policy of costing leave as taken by charge to clearing accounts with a periodic distribution on an equitable basis. It is believed this policy is satisfactory and meets the needs of the Bureau and requirements of law.

NOTE.—Items 4 and 5 under "Principal Findings and Recommendations" pertain to the Corps of Engineers and have not been replied to.

DEPARTMENT OF THE INTERIOR,
Washington 25, D. C., April 22, 1957.

Mr. A. T. SAMUELSON, *Director,*
Civil Accounting and Auditing Division,
General Accounting Office,
Washington 25, D. C.

DEAR MR. SAMUELSON: Your letter of November 8, 1956, referred to the then proposed General Accounting Office audit reports for fiscal year 1955 on the Missouri River Basin and the Central Valley Basin upon which the Department's comments had been requested and your letter reiterated a request for the Department's views on three specific matters. The three matters referred to were whether legislation was required to include to Fort Peck project as an integral part of the Missouri River Basin project in determining overall economic feasibility and payout, whether revenues from the sale of power generated at the Fort Randall development of the Corps of Engineers should be deposited in the reclamation fund, and a similar question with respect to revenues received in connection with contracts for irrigation service from Pine Flat Dam, a Corps of Engineers development of the Kings River in the Central Valley Basin of California.

In our letter to you of November 26, 1956, respecting the then proposed Missouri River Basin audit report for fiscal year 1955 we commented at some length regarding the status of the Fort Peck project in relation to overall Missouri River Basin economic studies, payout analyses, and average rate studies. We believe these comments dispose of any question of the Department's views on the necessity for

legislation. We have noted in this regard the general observation in footnote 2 at page 15 of the audit report as transmitted to the Congress on December 3, 1956, that the Department's comments of November 26 were received too late to be evaluated in the formulation of the findings and recommendations included in the audit report.

The comments contained in our letter of November 26 might be expanded by noting that the Missouri River Basin project economic analysis has, of course, been brought to the attention of the appropriate committees of the Congress and that the legislative committees have moreover taken cognizance of this analysis in reporting on legislation relating to the Missouri River Basin project. See in this connection the reports of the House and Senate Interior and Insular Affairs Committees on the legislation reauthorizing the Farwell unit of the Missouri River Basin project, Public Law 952, 84th Congress, approved August 3, 1956. The reports are identified as H. Rep. 2595 and S. Rep. 2532, 84th Congress, 2d session.

Accordingly and consistent with our comments of November 26, we do not view further specific legislation as necessary to the continued inclusion of the Fort Peck project in our economic analyses and payout studies as we have been doing.

The second inquiry concerns the question of the deposit of revenues from the sale of power generated at the Fort Randall project. The same issue is, of course, presented with respect to other Department of the Army projects in the Missouri River Basin which were authorized as a part of the overall Missouri River Basin project by section 9 of the Flood Control Act of 1944 (58 Stat. 891).

After further consideration of the question, we are inclined to agree that a portion of revenues from the sale of power of the Missouri River Basin project appropriately allocable to these Corps of Engineers developments should be deposited in the general fund of the Treasury to the credit of miscellaneous receipts.

We wish to make clear, however, that we do not premise this conclusion on the applicability to the Missouri River Basin project of the provisions of section 5 of the Flood Control Act of 1944, and in the light of the emphasis in the audit report as well as in your letters to section 5, we believe it desirable to make some comments thereon as well as to state our conclusions in relation to the narrower question relative to the deposit of revenues.

The audit report quite correctly notes that the undertakings of the Departments of the Interior and the Army dealt with in section 9 of the Flood Control Act of 1944 constitute interrelated, component parts of a single, integrated program (audit report, pp. 1 and 2; see also pp. 18-24). And the report likewise recognizes that basic to this program as authorized by the Congress is, of course, the application, against total project irrigation costs not returned from other sources, of power revenues, including revenues from Corps of Engineers generated power, in excess of the costs allocated to power (audit report, pp. 24, 47).

It has been the longstanding position of the Department that in proceeding to dispose of power from the Corps of Engineers developments authorized by section 9 of the 1944 act, as well as from the Bureau of Reclamation power developments therein authorized, and in the establishment of rate schedules and payout analyses the Bureau of Reclamation is proceeding under the authority of section 9 (c) of the 1944 act, which in turn provides for the applicability of the Federal reclamation laws on a basin-wide basis.

While the audit report and your letters, as above indicated, make reference to section 5 of the 1944 act in discussing this question and in certain other respects relative to the role of the Federal Power Commission, the audit report likewise refers to our position that section 9, rather than section 5, is the applicable provision of law. See, for example, pages 30, 32, and 104 of the audit report.

In these references, the particular issue under discussion is the role of the Federal Power Commission in rate making in the Missouri River Basin and the report suggests that the Congress may wish to clarify the question of the applicability of sections 5 and 9 (c). It is, of course, the position of this Department that section 5 has applicability neither to the issue of the Department's responsibilities for rate making in the Missouri River Basin project nor to the issue of the deposit of revenues.

The question of the applicability of section 5 to the Missouri River Basin project was discussed in testimony before the Jones Committee (the subcommittee to study civil works of the House Public Works Committee) in its 1952 hearings. See Hearings No. 82-17, "Study of Civil Works," part 3, pages 399-400; 447-448; 504-505. The Jones Committee made no recommendations by way of legislation or otherwise on this point.

That the Department has consistently proceeded to establish rate schedules and market power in accordance with the requirements of the reclamation law in the Missouri River Basin project has long been a matter of record. We see no reason to conclude at this date that section 5 of the Flood Control Act is applicable.

While section 5 is not regarded as controlling on the issue of the deposit of power revenues from Corps of Engineers developments in the Missouri River Basin in our continued analysis of the provisions of section 9 of the Flood Control Act considered in the light of the authorizing reports and the provisions of the Federal reclamation laws respecting the deposit of revenues, we do not find a sufficiently firm basis for the deposit of such moneys into the reclamation fund. Accordingly revenues will be deposited in the general fund of the Treasury in accordance with allocation procedures and principles which the Department will develop. It might be observed in this connection that the determination of the basis for such distribution is itself a question of considerable complexity in view of the integrated nature of the projects, the extensive transmission plant constructed by the Bureau of Reclamation under reclamation law and other similar factors. It is, in this context, perhaps an oversimplification to approach the problem of apportionment in terms of revenues received from the marketing of energy developed at Corps of Engineers plants per se.

The third question relates to the deposit in the reclamation fund of revenues received in connection with contracts for irrigation service from Pine Flat Dam.

Pine Flat Dam is one of a number of Corps of Engineers developments from which the Bureau of Reclamation is now or will in the future dispose of irrigation benefits pursuant to the provisions of section 8 of the Flood Control Act of 1944 (43 U. S. C. 390).

As in the case of the Corps of Engineers power developments discussed in the answer to the second question, we fail to find in the Federal reclamation laws or in the pertinent authorizing documents a sufficiently clear basis whereunder revenues received in connection therewith (other than as they may relate in part to works constructed by the Bureau of Reclamation) may be deposited in the reclamation fund and such revenues will, therefore, be deposited in the general fund of the Treasury as miscellaneous receipts.

We regret the delay in responding to your requests and trust that the foregoing will clarify the position of the Department on the questions that have been raised.

Sincerely yours,

(Signed) D. OTIS BEASLEY,
Administrative Assistant Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington 25, D. C., January 18, 1950.

M-36022

Memorandum.

To : The Secretary.

From : The Solicitor.

Subject : Power rates—Missouri River Basin project.

The Commissioner of Reclamation has submitted to the Secretary a "Report on Proposed Interim Rate Schedules for Missouri River Basin Project." The Commissioner has requested that the Secretary approve the five interim schedules contained in the report (Exhibit I-V) for use in a designated part of the area comprised within the Missouri River Basin project.

Former Secretary Krug asked me to consider the propriety of the proposed rate schedules from the legal standpoint.

The proposed schedules are based on rate studies for the purposes of which it has been assumed that a number of hydroelectric power plants (report, pp. 21, 22), with a given installed capacity, will be constructed in the Missouri River Basin pursuant to section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891). Of the hydroelectric plants, five (Fort Randall, Gavins Point, Garrison, Oahe, and Big Bend) are to be constructed by the Corps of Engineers, Department of the Army, and one, the Fort Peck plant, is now in operation under the administration of the Corps of Engineers. (I shall hereafter refer to the hydroelectric plants at Fort Randall, Gavins Point, Garrison, Oahe, and Big

Bend as the "Army plants," and this term will not include the Fort Peck plant, which requires special consideration.)

One of the standards used in formulating the rates embraced in the proposed schedules is that the power revenues must be adequate to pay, inter alia, the "reimbursable irrigation costs" of the Missouri River Basin project "which cannot reasonably be repaid by water users or from other revenues" (report, p. 6). The employment of this standard assumes, of course, that the revenues from the sale of power generated at the Army plants and at the Fort Peck plant may properly be used, together with the revenues derived from the sale of power generated at plants constructed in the basin by the Bureau of Reclamation, for the purpose, among others, of meeting part of the reimbursable costs of the project allocated to irrigation. This is based upon the premise that the Department of the Army is required to turn over to the Department of the Interior for disposition all the power generated at the Army plants and at the Fort Peck plant, and not needed in the operation of those installations; and that the Department of the Interior, in the marketing of such surplus power, is governed by the provisions of the reclamation laws relating to this subject (43 U. S. C., 1946 ed., sec. 485h(c)).

The disposition of power generated at the Fort Peck project is governed by the provisions of the special legislation relating to that project, and revenues derived from the sale of such power are not available to meet reimbursable irrigation costs.

Section 5 of the Flood Control Act of 1944 governs the disposition of surplus power generated at hydroelectric plants constructed by the Corps of Engineers, Department of the Army, in the Missouri River Basin under section 9 of that act.

Revenues derived from the sale of power under section 5 of the Flood Control Act of 1944 cannot be used to meet any part of the reimbursable costs of a project which are allocated to irrigation.

The legal question raised by the assumption mentioned in the preceding paragraph is not one of first impression in the Department. It was considered in a memorandum dated September 30, 1946, from Assistant Chief Counsel Schwab of the Bureau of Reclamation to the director of the branch of project planning of the Bureau. Mr. Schwab expressed the opinion that revenues derived from the sale of power generated at the Fort Randall dam (one of the Army plants) could not be applied to the repayment of costs of the Missouri River Basin project allocated to irrigation. The memorandum made it clear that Mr. Schwab's conclusion applied to the revenues derived from the sale of power generated at any dam constructed by the Corps of Engineers in the Missouri River Basin under section 9 of the Flood Control Act of 1944, and to the Fort Peck power revenues as well. The chief counsel of the Bureau of Reclamation has stated that he concurred in Mr. Schwab's opinion when it was prepared, and that he has not altered his view. On the other hand, the regional counsel for region 6 of the Bureau of Reclamation has expressed a contrary view in a memorandum dated September 2, 1949.

Sections 5 and 9 of the Flood Control Act of 1944 (58 Stat. 887, 890, 891) are relevant to the question under consideration here. These sections provide as follows:

"SEC. 5. Electric power and energy generated at reservoir projects under the control of the War Department [now the Department of the Army] and in the opinion of the Secretary of War [now the Secretary of the Army] not required in the operation of such projects shall be delivered to the Secretary of the Interior, who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective upon confirmation and approval by the Federal Power Commission. Rate schedules shall be drawing having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and cooperatives. The Secretary of the Interior is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at said projects available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal Government,

public bodies, cooperatives, and privately owned companies. All moneys received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts. [16 U. S. C., 1946 ed., sec. 825s.]

“SEC. 9. (a) The general comprehensive plans set forth in House Document 475 and Senate Document 191, Seventy-eight Congress, second session, as revised and coordinated by Senate Document 247, Seventy-eighth Congress, second session, are hereby approved and the initial stages recommended are hereby authorized and shall be prosecuted by the War Department and the Department of the Interior as speedily as may be consistent with budgetary requirements.

“(b) The general comprehensive plan for flood control and other purposes in the Missouri River Basin approved by the act of June 28, 1938, as modified by subsequent acts, is hereby expanded to include the works referred to in paragraph (a) to be undertaken by the War Department; and said expanded plan shall be prosecuted under the direction of the Secretary of War and supervision of the Chief of Engineers.

“(c) Subject to the basin-wide findings and recommendations regarding the benefits, the allocations of costs and the repayments by water users, made in said House and Senate documents, the reclamation and power developments to be undertaken by the Secretary of the Interior under said plans shall be governed by the Federal reclamation laws (act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto), except that irrigation of Indian trust and tribal lands, and repayment therefor, shall be in accordance with the laws relating to Indian lands.

“(d) In addition to previous authorization there is hereby authorized to be appropriated the sum of \$200,000,000 for the partial accomplishment of the works to be undertaken under said expanded plans by the Corps of Engineers.

“(e) The sum of \$200,000,000 is hereby authorized to be appropriated for the partial accomplishment of the works to be undertaken under said plans by the Secretary of the Interior.”

Senate Document 191, which is referred to in subsection (a) of section 9, may be described generally as the detailed plan of the Bureau of Reclamation for the Missouri River Basin, and House Document 475 may be described as the plan of the Corps of Engineers for the basin. Senate Document 247 contains joint reports from the 2 agencies looking to the elimination of conflicts between the engineering features of the 2 plans.

A

I shall first consider the question whether revenues derived from the sale of power generated at the Army plants may be used to meet part of the reimbursable costs of the Missouri River Basin project allocated to irrigation. The matter of the power from the Fork Peck plant will be reserved for special consideration.

If the authority of the Secretary of the Interior to dispose of power generated at the Army plants is derived from section 5, then, for reasons which I shall give later, power revenues from these plants cannot, in my opinion, be used to meet any part of the reimbursable irrigation costs of the Missouri River Basin projects. If, on the other hand, the source of the Secretary's authority for the marketing of power generated at these plants is found in subsection (c) of section 9, a portion of the power revenues may, under the reclamation laws, be used for an irrigation subsidy (see 43 U. S. C., 1946 ed., sec. 485h (c)).

The language of section 5, if considered alone, seems to provide a ready solution for the problem mentioned in the preceding paragraph. The phraseology used by Congress to indicate the scope of the section is plain and unambiguous. The section clearly purports to cover the marketing of the surplus power generated at all reservoir projects under the control of the Department of the Army. No exceptions are provided for, either expressly or by implication. The Army plants in the Missouri River Basin will, of course, be parts of “reservoir projects under the control of the War [Army] Department” and, hence, clearly seem to be within the plain coverage of section 5.

However, a special statutory provision prevails over a provision dealing in general terms with the same subject as that covered by the special provision. *Kepner v. United States*, 195 U. S. 100, 125 (1904); *Missouri v. Ross*, 299 U. S. 72, 76 (1936). The question arises whether subsection (c) of section 9, in providing that the “power developments to be undertaken by the Secretary of the

Interior under plans shall be governed by the Federal reclamation laws," is a special provision covering the disposition of the surplus power generated at all plants constructed in the Missouri River Basin under section 9, including those constructed by the Army, thus removing the surplus power generated at the Army plants in the basin from the scope of the general language contained in section 5, or whether the only power covered by subsection (c) of section 9 is that generated at reservoir projects of the Bureau of Reclamation in the basin.

It will be noted in this connection that section 9 (a) approved "the general comprehensive plans" of the Corps of Engineers and the Bureau of Reclamation "set forth in House Document 475 and Senate Document 191, * * * as revised and coordinated by Senate Document 247 * * *." The plan of the Bureau of Reclamation set out in Senate Document 191 clearly contemplated that the bureau would be the marketing agent for the surplus power generated at all the plants included in the plan, whether the plants and reservoirs might be constructed by the bureau or by the Corps of Engineers.

On the other hand, the plan of the Corps of Engineers contained in House Document 475 proposed (p. 4) that "Plans for the production, transmission, and sale of hydroelectric power should be worked out with the cooperation of the Federal Power Commission." Senate Document 247, the document revising and coordinating the previous plans of the two agencies, was silent on the matter of which proposal respecting the sale of surplus power from the Army plants in the basin should be adopted. In the light of this background, section 9 (c) does not itself provide a clear answer to the question whether Congress, in declaring that "power developments to be undertaken by the Secretary of the Interior under said plans shall be governed by the Federal reclamation laws," was legislating only with respect to the generation, transmission, and sale of surplus power from the plants of the Bureau of Reclamation in the Missouri River Basin, or intended also to encompass the marketing of surplus power from the Army plants in the basin.

Since the plain and inclusive language used by Congress in section 5 clearly covers in general terms the sale of surplus power from all Army reservoir projects, including the Army plants in the Missouri River Basin, whereas the ambiguous reference in section 9 (c) to "power developments to be undertaken by the Secretary of the Interior under said plans" does not expressly refer in clear language to the marketing of surplus power from the Army plants in the basin, I do not believe that section 9 (c) should be regarded as a special provision applying to the disposition of surplus power generated at Army plants constructed in the Missouri River Basin under the Flood Control Act of 1944 and necessarily excepting such power from the general provisions of law (i. e., sec. 5) applicable to the marketing of surplus power generated at Army reservoir projects elsewhere.

Accordingly, when House Document 475, Senate Document 191, Senate Document 247, and the first three subsections of section 9 are considered together, it appears that subsection (a) of section 9 was intended only to allocate the construction of the several parts of the Missouri River Basin project between the Bureau of Reclamation and the Corps of Engineers; that subsection (b) was intended to apply to the parts of the project which were to be constructed by the Corps of Engineers; and that subsection (c) was confined to the parts of the project which were to be constructed by the Secretary of the Interior. Under this view, subsection (c) has no applicability to the marketing of surplus power from the Army plants in the basin, and that subject is covered elsewhere in the act (i. e., in sec. 5).

The meager portion of the legislative history of the Flood Control Act of 1944 that is pertinent to the issue under consideration here supports the view that section 5 is applicable to the marketing of surplus power from all Army reservoir projects constructed under that act, irrespective of where they may be situated and including, of course, the Army plants in the Missouri River Basin.

The bill which became the Flood Control Act of 1944 was H. R. 4485, 78th Congress. Both sections 5 and 9 were added to the bill by amendments made in the Senate. Section 5 was the result of a committee amendment; section 9 resulted from an amendment made on the floor of the Senate. Neither the committee report nor the debate in the Senate throws any light on the problem with which we are concerned. However, when the conference report on the bill was before the House, the following significant colloquy took place between Congressman Whittington, who was in charge of the bill, and Congressman Rankin regarding the Senate amendment that is now section 5 (90 Cong. Rec. 9282, 9283):

"Mr. RANKIN. Now, right on that point I want to ask the gentleman another question. I thoroughly agree with that principle because it is fundamentally

sound. That provision applies to all projects provided for in the bill where power is to be generated, does it?

"Mr. WHITTINGTON. Wherever generated by the War Department.

"Mr. RANKIN. All projects provided for in this bill?

"Mr. WHITTINGTON. That is, that are constructed by the War Department. There may be in some of the reclamation projects power developed that will be disposed of in accordance with existing reclamation law.

"Mr. RANKIN. Now, right there is one trouble we are up against. The cooperative power associations are having to pay higher rates for power generated at dams built by the Bureau of Reclamation than they are paying at other dams constructed by the Federal Government. I wondered why an exception was made as to them.

"Mr. WHITTINGTON. We have made no exception. This bill deals with projects that are constructed by the Corps of Engineers. We have limited our amendment, and I think properly, to those projects.

"Mr. RANKIN. This applies to all proposed projects on the Missouri River, as I understand?

"Mr. WHITTINGTON. Yes; to be constructed by the Chief of Engineers.

"Mr. RANKIN. And also on the Connecticut River?

"Mr. WHITTINGTON. Yes; to be constructed by the Chief of Engineers.

"Mr. RANKIN. In other words, at all projects provided for in this bill, which generate electricity, the electricity is to be turned over to the Department of the Interior to be distributed to public bodies, which, of course, includes municipal bodies which own their own facilities—I presume that is right, is it not?

"Mr. WHITTINGTON. Yes; to facilities owned by the Federal Government, public bodies, cooperatives, and privately owned companies.

"Mr. RANKIN. In other words, all public bodies, whether owned by the Federal Government, cooperative power associations, or municipally owned systems, are to be able to purchase this power at such a rate as will amortize only that part of the development charged to power. That is correct, is it not?

"Mr. WHITTINGTON. That is true with respect to all projects constructed by the Chief of Engineers.

"Mr. RANKIN. In other words we do not propose to unload onto the power consumers the costs of flood control, navigation, and reclamation?

"Mr. WHITTINGTON. Not at all. I may say further in answer to the gentleman's question, there is preference to the public bodies and cooperatives in this bill and in this agreement, just as there is in the existing law passed by this body on the disposal of power at Bonneville."

Thus, the point now before us was squarely raised in the Congress, and the manager in charge of the bill on the floor of the House stated unequivocally that section 5 would govern the disposition of surplus power generated at all Army plants provided for in the bill, including those on the Missouri River. I do not believe that this Department should take a contrary position in administering the provisions of section 5.

B

As I stated earlier in this memorandum, revenues derived from the sale of power under section 5 cannot, in my opinion, be used to meet any part of the reimbursable costs of a project which are allocated to irrigation.

Section 5 directs the Secretary of the Interior to "transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles," and, in drawing rate schedules, to have "regard to the recovery * * * of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years." As I read these mandates, the Secretary is required to fix the rates at the minimum figures which will return the costs incident to the operation of the power facilities and permit amortization of the capital investment in such facilities within a reasonable period. This statutory requirement leaves no room for the adoption of an additional standard in the formulation of rates—such as the use of power revenues to meet part of the reimbursable costs of a project which are allocated to irrigation.

Furthermore, section 5 expressly requires that revenues derived from the sale of power under this section shall be deposited in the Treasury as miscellaneous receipts. This is clearly inconsistent with any proposal looking toward

the adoption, by administrative action, of a plan for the use of power revenues under section 5 as an irrigation subsidy.

C

The construction and operation of the dam, power plant, and appurtenant works at Fort Peck, and the distribution of the surplus power generated at this plant, are covered by special statutory provisions clearly and expressly applying to this project alone (16 U. S. C., 1946 ed., ch. 12C). Hence, both section 5 and section 9 (c) of the Flood Control Act of 1944 are inapplicable to the marketing of the surplus power from Fort Peck. See *Kepner v. United States, supra; Missouri v. Ross, supra*.

The special legislation relating to Fort Peck provides that the surplus power generated at this project shall be delivered by the Corps of Engineers to the Bureau of Reclamation for disposition (16 U. S. C., 1946 ed., sec. 833). However, the Bureau is not subject to the reclamation laws in the marketing of Fort Peck power and the use of the proceeds from this activity. On the contrary, the Fort Peck legislation specifically covers these subjects, and the provisions relating to power rates and the disposition of power revenues (16 U. S. C., 1946 ed., secs. 833d, 833e, 833i) are similar to those of section 5 of the Flood Control Act of 1944.

Accordingly, for the reasons stated in part B of this memorandum, it is my view that revenues derived from the sale of power generated at Fort Peck are not available to meet any part of the reimbursable irrigation costs of the Missouri River Basin project.

D

I am constrained, therefore, to concur in the conclusions reached by Assistant Chief Counsel Schwab in his memorandum dated September 30, 1946, and to regard the proposed schedules of interim rates as unsound from the legal standpoint insofar as they rest upon the assumed availability of power revenues from the Army plants and the Fort Peck plant to meet part of the reimbursable costs of the Missouri River Basin project allocated to irrigation.

MASTIN G. WHITE, *Solicitor*.

BILLINGS, MONT., *September 2, 1949.*

[Air mail, blue envelope]

To: Chief Counsel.

From: Regional Counsel.

Subject: Establishment of power rates—Missouri River Basin project.

1. Please refer to your air mail, blue envelope letter of August 29, 1949.
2. Enclosed is the original of my memorandum of September 2, 1949, for submission to the solicitor. A copy is also enclosed for you.

W. J. BURKE.

BILLINGS, MONT., *September 2, 1949.*

MEMORANDUM RE ESTABLISHMENT OF POWER RATES—MISSOURI RIVER BASIN PROJECT

1. There has been prepared by the Bureau of Reclamation for submission to the Secretary of the Interior a "Report on Proposed Interim Rate Schedules for Missouri River Basin Project." The Commissioner of Reclamation recommends that the Secretary "approve the rate schedules contained in the * * * report for use by the Bureau of Reclamation in the marketing of Missouri River Basin project power in the market area generally described as North and South Dakota, central and eastern Nebraska, western Iowa, and western Minnesota."

2. The report is based on the theory that section 5 of the Flood Control Act of 1944 (58 Stat. 887) has no application to the electricity developed at the reservoir units of the Missouri River Basin project under the control of the Department of the Army. As a corollary, the report is a recognition, administratively, of the principle that the revenues earned by all of the electric plants of the Missouri River Basin project shall be used to amortize the reimbursable cost of the project, particularly the parts of the estimated cost of the units of the project under the control of the Department of the Interior that are beyond

the repayment ability of their beneficiaries, and, in addition, to amortize the part of the estimated project cost properly allocable to electric power. The chief counsel, Bureau of Reclamation, says the theory of the report and its corollary are unsound as to the legal aspect. The regional counsel, Region VI, Bureau of Reclamation, says they are not. Of the issues, and as to public policy, the soundness of the administrative interpretation of the Flood Control Act of 1944 is the narrower; the support for the corollary is the broader.

3. The question for debate pertains to public policy—a political question.

(a) A congressional enactment to govern the development and uses of natural resources is the written expression of the will of the people as to a desirable public policy (Millett, *The Process and Organization of Government Planning* (1947) at p. 11).

(1) The Flood Control Act of 1944 is a declaration of public policy respecting the Nation's rivers, it being so declared in section 1 and, as will be shown later, by the approval of the Congress of its own plan for the Missouri River Basin.

b. In administering section 9 of the Flood Control Act of 1944 to carry out its public policy, the Secretary of the Interior acts as a "political or confidential agent" of the President and his act is "only politically examinable." *Marbury v. Madison*, 1 Cranch 137. (The Secretary of the Army is also an administrator but his acts are not presently relevant.)

(1) Political examination is had, in the first instance, by proper congressional committees, then by the Congress, and, ultimately, by the American electors.

4. The possibility of the question for debate developing as a justiciable question is remote. *Massachusetts v. Mellon*, 262 U. S. 447.

5. Assuming, for the purpose of argument, that the question for debate is justiciable, then the Secretary of the Interior must be prepared in a judicial proceeding to offer more in defense of his administrative interpretation of the Flood Control Act of 1944 than the interpretation of his legal staff; the opinion, at most, being evidentiary.

a. The opinion of an attorney for an administrator as to an administrative interpretation is not, in a judicial proceeding, an official interpretation of the administrator, *Bowles v. Dairymen's League Co-op. Ass'n.* 61 F. Supp. 358 (D. C., S. D. N. Y.); and, while it is persuasive, it is not binding on the administrator, *Bowles v. Fruit Growers Co-op.*, 61 F. Supp. 745 (D. C., E. D. Wis.)

b. The meaning of a legislative act may not be sought "in the purely legal interpretation by the administrator's legal staff" because, among other reasons, of "the powerful position he properly stands in, of administrator for the Congress of one of its laws" [Emphasis supplied.] *Fleming v. Belo Corp.*, 121 F. 2d 207 (C. C. A. 5th).

6. The strongest support, in a judicial proceeding, of the Secretary of the Interior's administrative interpretation of the Flood Control Act of 1944 is evidence showing that he acted "with the advice of a staff specializing in its interpretation and application." [Emphasis supplied.] *Overnight Motor Transportation Co. v. Missel*, 316 U. S. 572, 580, 86 L. ed. 1682 note 17; *Nobel v. United States*, 319 U. S. 88; *Colgate Co. v. United States*, 320 U. S. 422; *National Labor Relations Board v. Hearst Publications*, 322 U. S. 111.

a. The staff report here involved is such evidence.

(1) As to the legal aspect, there is contrariety of opinion between the chief counsel's immediate staff and the regional counsel, Region VI.

(a) Thus, the chief counsel is in the position of having a legal opinion, from his staff, but with no expert witnesses on the Commissioner's staff to supply the factual support.

(b) That such factual support, an important factor of the advice of a staff specializing in "interpretation and application," is not available is strongly evidenced by the fact that the nonlawyer members of the Commissioner's staff did not accept in the preparation of the staff report the legal opinion of the chief counsel's staff, first given orally August 28, 1946, and confirmed in writing September 30, 1946.

7. As to the legal aspect of the staff report there is this question: Is the Missouri River Basin project one project or a series of separate projects?

a. The chief counsel's immediate staff assumes the Missouri River Basin project is a series of separate projects.

8. The series-of-separate-projects concept is a fallacy.

a. It is not supported by the legislative history of the Flood Control Act of 1944.

b. It is not supported by the Flood Control Act of 1944.

c. It is contrary to the administrative construction and practice of the Interior Department.

d. It is not supported by the Congress in enacting the Interior Department appropriation acts.

9. The series-of-separate-projects concept is not supported by the legislative history of the Flood Control Act of 1944.

a. The Department of the Army (War Department), pursuant to section 1 of the Rivers and Harbors Act of 1927 (44 Stat. 1010), and section 10 of the Flood Control Act of 1928 (45 Stat. 534, 538), submitted to the Congress the series of reports, popularly known as the 308—Reports, setting forth a general comprehensive program for flood control and other purposes in many of the Nation's river basins. Of the series, H. Doc. 238, 73d Congress, 2d session, related to the Missouri River Basin. This program was approved by the Congress in the Flood Control Act of 1938 (52 Stat. 1215, 1218). On May 13, 1943, the Committee on Flood Control, House of Representatives, adopted a resolution.

"That the Board of Engineers for Rivers and Harbors, created under section 3 of the River and Harbor Act approved June 13, 1902, be and is hereby requested to review the reports on the Missouri River contained in House Document No. 238, Seventy-third Congress, second session, and House Document 821, Seventy-sixth Congress, third session, with a view to determining whether any modification should be made therein at this time with respect to flood control along the main stem of the Missouri River from Sioux City, Iowa, to its mouth."

This request was complied with and the resulting report became H. Doc. 475, 78th Congress, 2d session. The Department of the Interior, by the Bureau of Reclamation, pursuant to section 9 of the act of August 4, 1939 (53 Stat. 1193), developed a comprehensive plan for the full conservation, control, and use of the water resources of the Missouri River Basin. This plan became S. Doc 191, 78th Congress, 2d session. The initial action of the 78th Congress, 2d session, on the Missouri River Basin development was taken on H. R. 4485. In May and June 1944, extensive hearings before the Committee on Flood Control, House of Representatives, and the subcommittee, Committee on Commerce, United States Senate, were held. Although neither committee had jurisdiction over S. Doc. 191, it was presented to each for consideration in connection with H. R. 4485, and Department of Interior officials appeared before each committee to explain S. Doc. 191 in its relation to H. Doc. 475. A related bill was H. R. 3961 adopting and authorizing works of improvement:

"Missouri River between Sioux City, Iowa, and the mouth: House Document No. 214, Seventy-sixth Congress: *Provided*, That such improvement when accomplished shall not create any demand on the water resources of the Missouri Basin over that now authorized by existing law."

By this bill, it was sought to secure a 9-foot navigation channel between Sioux City and the mouth of the Missouri. H. R. 4485 and H. R. 2961, in relation to S. Doc. 191, presented a conflict in the use of the Missouri River waters, particularly between irrigation and navigation. A sharp controversy developed.

b. From the hearings before a subcommittee of the Committee on Commerce, United States Senate, 78th Congress, 2d session, on H. R. 4485, and the hearings before the same committee of that Congress on H. R. 3961, the following comparison is made of the H. Doc. 475 plan, popularly known as the Pick plan, and the S. Doc. 191 plan, popularly known as the Sloan plan:

(1) Each plan was a general comprehensive plan; neither was offered as the ultimate plan.

(2) The Sloan plan was not necessarily more comprehensive but its greater detail created, in some instances, conflicts with the Pick plan.

(a) It was more detailed as to the Upper Missouri Basin but it did not conflict with the Pick plan.

(b) It was more detailed as to the Yellowstone River Basin and conflicted as to some of the reservoir units with the Pick plan.

(c) It was in sharp conflict with the Pick plan as to the Missouri River, Fort Peck to Sioux City.

(d) It was more detailed as to minor western tributaries but it did not conflict with the Pick plan.

(e) It was more detailed as to the Niobrara, Platte, and Kansas Rivers and it did conflict with the Pick plan as to several reservoir units.

(f) It was identical as to the lower Missouri Basin with the Pick plan.

c. The Pick plan, but not the Sloan plan, was before the Congress for authorization in H. R. 4485, 78th Congress, 2d session.

(1) The Sloan plan was presented in May and June 1944 to the subcommittee of the Committee on Commerce, United States Senate, as a comprehensive plan in contrast to the Pick plan.

(a) In the presentation of the Sloan plan the importance of water for irrigation in the Western States, particularly the Missouri Basin, was emphasized.

(i) The Pick plan, it was alleged, did not give the use of water for irrigation its proper value.

(ii) The Pick plan, it was alleged, did not accord proper recognition to the laws of the Western States governing water rights.

(2) The Corps of Engineers met the opposition to the Pick plan by cooperating and collaborating in the preparation of amendments to H. R. 4485 designed to (a) allay the fears of the irrigation proponents and (b) win authorization of the Pick plan.

d. The Sloan plan was before the Congress for authorization in S. 1915, 78th Congress, 2d session.

(1) The plan was examined by a Subcommittee on Irrigation and Reclamation, United States Senate, on September 26 and October 2, 1944.

e. Before either the Pick plan or the Sloan plan was authorized by the Congress the plans were revised and coordinated on October 17, 1944, by representatives of the Corps of Engineers and the Bureau of Reclamation.

(1) The revising and coordinating report was submitted on October 25, 1944, by the Commissioner of Reclamation and the Chief of Engineers to the Secretaries of Interior and of War.

(2) The report was presented to the Congress by Senator O'Mahoney on November 21, 1944, and it became S. Doc. 247, 78th Congress, 2d session.

(Attached as Exhibit A is a table showing (a) the comparison of the two plans and (b) the revised and coordinated plan.)

f. While the revised and coordinated plan was submitted to the Secretaries of Interior and of War, it does not appear that either Secretary gave his formal approval: (See p. 22, pt. 3, hearings, subcommittee, Committee on Appropriations, House of Representatives, 79th Congress, 1st sess., Interior bill, 1946.)

g. Approval of the plan of the Congress for the Missouri River Basin development was not given in the language of either H. R. 4485 or in the language of S. 1915, but in the language of section 9 of the Flood Control Act of 1944 (58 Stat. 887); and the conclusion is compelled that the Missouri River Basin project is not a series of flood control projects under the control of the Army and a series of reclamation projects under the control of the Department of the Interior with power developments incidental to each of the projects, but that the Missouri River Basin project is one project developed by the Congress with the assistance of the experts of the Pick and Sloan plans and the assistance of the experts who revised and coordinated those plans into the general comprehensive plan approved in section 9 (a) of the Flood Control Act of December 22, 1944. In short the Missouri River Basin project is a plan of the Congress and not separate plans of the Departments of Interior and of the Army (Cong. Rec., vol. 90, No. 164, pp. 8607-8724, Nov. 28, 1944, and vol. 90, No. 574, pp. 9414-9415, Dec. 12, 1944).

(Attached as Exhibit B is the Missouri Basin provision in H. R. 4485 to authorize the Pick plan and S. 1915 to authorize the Sloan plan.) (The fact that the Congress designated the Departments of the Interior and of the Army (War) as joint administrative agencies is nothing new. The Panama Canal was a joint public endeavor of two independent agencies, the Engineering Corps of the Army and the Army Medical Corps—perhaps the Public Health Service. Colonel Gorgas, the doctor, was as important to the objective obtained as Colonel Goethals, the engineer.)

10. The series-of-projects concept is not supported by the Flood Control Act of 1944.

a. The Sloan plan was a one-project plan. This is clearly evidenced by Sloan's testimony on S. 1915:

"The plan must be considered as one project for the whole basin. Any time you break it down into individual projects and try to consider the economic values of a particular project you run into trouble in allocating the benefits of those various large multiple-purpose features of the plan." (At p. 40, hearings, subcommittee, Committee on Irrigation and Reclamation, U. S. Senate, 78th Cong., 2d sess.)

Also by the Board of Review's report to the Commissioner of Reclamation at pp. 10-16 of S. Doc. 191 (attached as Exhibit C).

b. The Pick plan was a one-project plan. This is clearly evidenced by H. Doc. 475, particularly paragraphs 45, 46, and 47 at pages 28 and 29 of H. Doc. 475 (attached as Exhibit D).

c. The revision and coordination of the two plans by section 9 (a) of the act simply resulted in a new version of the one-project plan envisioned by both Pick and Sloan.

d. The one-project plan having been approved by the Congress, it was, of course, desirable to fit into that plan the comprehensive plan for flood control and other purposes in the Missouri River Basin approved by the act of June 28, 1938 (52 Stat. 1215, 1218), and this was accomplished by section 9 (b) of the act.

e. Section 9 (c) of the act does not negate the one-project plan. The solution of the problem of distributing the electric power to be developed by the project firmly supports this conclusion. Among the findings of the Board of Review was:

"The low-cost power to be developed should be given the widest possible distribution for the benefit of the whole region. This could be accomplished best by clothing the Bureau of Reclamation with the responsibility for its distribution and sale. Preference in sales should be given to public bodies and cooperatives" (S. Doc. 191, p. 12).

Among the recommendations of the Board was:

"That the Bureau of Reclamation under the direction of the Secretary of the Interior make all arrangements for the sale and distribution of electric energy generated at all hydroelectric developments hereafter constructed by any Federal agency within the basin as defined in the report, and be authorized to construct, operate, maintain, and improve such electric transmission lines and substations as it finds necessary or desirable in connection therewith" (S. Doc. 191, p. 16).

At no time during the presentation to the Committee on Flood Control of the House of Representatives and to the Subcommittee of the Committee on Commerce of the United States Senate of the Pick and Sloan plans was there any opposition to the finding and recommendation of the Board of Review respecting the sale and distribution by the Department of the Interior of the electric energy generated at all hydroelectric developments of the project. On the contrary, the Corps of Engineers, to meet the opposition of the irrigation interests to the Pick plan and to win approval of that plan, cooperated and collaborated in the preparation of amendments to H. R. 4485, one of which became section 5 of the Flood Control Act of 1944. Hence, it is clear that the "power developments to be undertaken by the Secretary of the Interior," referred to in section 9 (c) of the act, mean the arrangements for the sale and distribution of electric energy generated at all hydroelectric developments of the project, such developments to be governed, insofar as administratively practicable, by the Federal reclamation laws. And it is further clear from the legislative history of the act that section 5, insofar as it relates to the Missouri River Basin project, simply shows the acquiescence of the proponents of the Pick plan in the feature of the Sloan plan that the electric energy generated at all hydroelectric developments of the project should be accomplished by the Department of the Interior, to the end that low-cost power could be provided for the widest possible distribution for the benefit of the whole region; and to the further end that substantial contributions from power revenues could be had to assist in the repayment of other project features, as well as provide low-cost power for irrigation pumping purposes. On the legislative history of H. R. 4485, the Secretary of the Interior has the same authority under the language of section 9 (c) of the act as he has under section 5 of the act, assuming that section 5 was not enacted. The enactment of section 5 simply clothes the Secretary of the Interior with the same authority for the distribution and sale of electric energy developed at dams under the control of the Army as he has in the Missouri River Basin project under section 9 (c) without the aid of section 5. In short, section 5, working companionately with section 9 (c), permits the Secretary of the Interior to distribute the project electricity into areas that might be considered outside the geographical limits of the project, and to bring into the project area electricity generated at dams under the control of the Army without the project. (The use of the words "plan" and "plans" in section 9 of the Flood Control Act of 1944 is not considered significant as a refutation of the one-project concept because the legislative history of the act so clearly shows such concept as the legislative intent. 50 Am. Jur., Statutes, sec. 256).

11. The series-of-projects concept is not supported by the administrative construction and practice of the Interior Department.

a. In presenting the program for the Missouri River Basin to the subcommittee of the Committee on Appropriations, House of Representatives, 81st Congress, 1st session, on the Interior Department appropriation bill for 1950, Assistant Secretary of the Interior Warne made it clear that the program was based on the 1-project concept. Other like statements have been made by Mr. Warne. (Attached as Exhibit E are Assistant Secretary Warne's statements.)

b. It has been the administrative practice of the Department of the Interior since the enactment of the Flood Control Act of 1944 to present to the budget and to the appropriation committees of the Congress justifications on the 1 project concept. This practice is a matter of public record; the people know it.

12. The series-of-projects concept is not supported by the Congress in enacting the Interior Department appropriation acts.

a. The appropriation acts carry the item "Missouri River Basin" and the appropriation is always a lump sum, rather than an itemized appropriation for any particular "project" in the Missouri River Basin. Act of July 3, 1945 (59 Stat. 318); act of July 1, 1946 (60 Stat. 348); act of July 25, 1947 (61 Stat. 460); act of July 31, 1947 (61 Stat. 695); act of June 29, 1948 (62 Stat. 1112).

13. To construe section 5 of the Flood Control Act of 1944 as applicable to section 9 of the act, in effect, repeals section 9 by implication, or at least makes its administration by the Secretary of the Interior ineffective as to a large area of the Missouri River Basin.

a. Assuming that section 5 of the act is applicable to section 9, then by induction this principle is established: All sections of the act are applicable to section 9. Now, with this principle as a middle term, two syllogisms can be deduced:

The act contains section 6. All sections of the act are applicable to section 9. Therefore, section 6 is applicable to section 9.

The act contains section 8. All sections of the act are applicable to section 9. Therefore, section 8 is applicable to section 9.

(Of course, section 1 of the act is applicable to section 9 as it is to all other projects approved in the act, of which there are many, and as it is, because of incorporation by reference, to the projects authorized in the act of July 24, 1946 (Public Law 526, 79th Cong., 2d sess.).)

What are the consequences? The gigantic reservoir units on the main stem of the Missouri are under the control of the Army. Hence, the Secretary of the Army is "to make contracts with States, municipalities, private concerns, or individuals, at such prices and on such terms as he may deem reasonable, for domestic and industrial uses for surplus water that may be available at any reservoir under the control of the War Department." (sec. 6). The Secretary of the Army "determines, upon recommendation by the Secretary of the Interior that any dam and reservoir project operated under the direction of the Secretary of War [Army] may be utilized for irrigation purposes." And, then, after the Secretary of the Interior has made feasibility report to the Congress under the Federal reclamation laws, and after "specific authorization of the Congress by an authorization act," he can construct, operate, and maintain the necessary irrigation works to use the Army storage (sec. 8). These consequences, in effect, repeal section 9 of the act by implication, or at least make its administration by the Secretary of the Interior ineffective, in northeastern Montana and North and South Dakota. Thus, the Sloan plan is destroyed and the Pick plan is vitiated. The revision and coordination accomplished by the Congress in the Flood Control Act of 1944 becomes a legislative ghost.

14. On May 18, 1938, Congress enacted the Fort Peck Project Act (52 Stat. 403). This act was for the transmission and sale of electric energy generated at the Fort Peck project. It clothed the Bureau of Reclamation of the Department of the Interior with the authority to transmit and sell the electric energy. Section 2 of the act provides:

"* * * The form of administration herein established for the Fort Peck project is intended to be provisional pending the establishment of a permanent administration for Fort Peck and other projects in the Missouri River Basin."

The Fort Peck project is in the Missouri River Basin. Section 9 of the Flood Control Act of 1944, as contemplated by section 2 of the Fort Peck Act, establishes a permanent administration for the development of the Missouri River Basin. Therefore, the Fort Peck project is now a part of the Missouri River Basin project.

The consequences are: Both the Fort Peck storage and the Fort Peck power are assets of the Missouri River Basin project. That such was intended in the one-project concept is clear from the testimony of Sloan at page 36 of the hearings

before a subcommittee of the Committee on Irrigation and Reclamation, United States Senate, 78th Congress, 2d session, on S. 1915:

"Coming down to North Dakota, we have had problems there similar to those in the upper region, in that we have had to make a selection of the area to be irrigated, limited by the amount of water which we thought could safely be taken without too much interference with the use of water in other States lower down. We provide in North Dakota for the irrigation of some 1,600,000 acres, most of which is in a territory in which irrigation has not been practiced heretofore, but because of the precarious agriculture in the region, due to average scanty rainfall it is obvious that irrigation will be necessary and should be carried on. This 1,600,000 acres will be irrigated by the use of the Fort Peck reservoir which was primarily constructed for navigation but the benefits from which can be used to much greater advantage for irrigation inasmuch as we substitute other reservoirs down the stream to take care of the navigation requirements supplied by Fort Peck. By using Fort Peck Reservoir we irrigate some 330,000 acres in Montana below that reservoir and 1,000,000 acres in North Dakota, the remaining acreage in North Dakota to be irrigated on the tributaries, such as the Heart, the Knife, and the Cannonball, and by pumping directly from the Missouri on the lowlands along the river.

"We do not use all of the capacity of Fort Peck for this development. Of the total of 18,000,000 acre-feet capacity, 10,000,000 acre-feet will remain to supplement the navigation requirements in the lower region. The balance would be used for the development of power and diversion to the large Missouri-Souris project. The canal takes out below Fort Peck and diverts to a reservoir in Montana out of which we pump to lift the water over the divide into the Dakota lands. The return flow from all of those lands is gathered in the Souris River and diverted to the Sheyenne and James Rivers in North Dakota for several purposes, one of them to restore the level of Devils Lake, which is a large recreational and fishing lake which has been in existence in North Dakota prior to the last 20 years and has been gradually depleted, decreasing in size until it has virtually disappeared."

15. If section 5 of the Flood Control Act of 1944 is applicable to section 9 of that act, then it becomes a lawyer's scalpel to sever from the development of the Missouri River Basin eastern Montana and North and South Dakota. The Missouri River compromise of October 25, 1944, is a historical failure.

16. I respectfully submit that the theory of the "Report on Proposed Interim Rate Schedules for Missouri River Basin Project," that section 5 of the Flood Control Act of 1944 is not applicable, and its corollary, as stated at page 1, are sound as to the legal aspect.

17. Approval of the interim rate schedules as recommended by the Commissioner of the Bureau of Reclamation is advised.

W. J. BURKE,
Regional Counsel, Bureau of Reclamation, Region VI.

EXHIBIT A

Missouri River Basin

Subdivisions	H. Doc. 475 plan	S. Doc. 191 plan
H. Doc. 475 plan and S. Doc. 191 plan compared		
Upper Missouri River Basin.	Units not designated, but those desirable and necessary provided for.	Brenner Reservoir, 15,000 acre-feet. Clark Canyon Reservoir, 150,000 acre-feet. Landon Reservoir, 15,000 acre-feet. Kelly Reservoir, 5,000 acre-feet. Apex Reservoir, 3,000 acre-feet. Terry Reservoir, 10,000 acre-feet. Whitetail Reservoir, 6,000 acre-feet. Taylor Reservoir, 20,000 acre-feet. Bridger Reservoir, 16,000 acre-feet. Canyon Ferry Reservoir, 2,000,000 acre-feet. Wells Reservoir, 2,600 acre-feet. Nilan Reservoir, 10,000 acre-feet. Newland Reservoir, 10,000 acre-feet. Tiber Reservoir, 915,000 acre-feet. Wilson Reservoir, 160,000 acre-feet. Stanford Reservoir, 3,000 acre-feet. Hobson Reservoir, 10,650 acre-feet. Ross Fork Reservoir, 6,700 acre-feet. Snowy Reservoir, 3,000 acre-feet. (For flood control, silt control, power, irrigation of 460,900 acres new lands, 208,700 acres supplemental water.)
H. Doc. 475 plan and S. Doc. 191 plan revised and coordinated by S. Doc. 247, 78th Cong., 2d sess.		
Upper Missouri River Basin.	-----	Adopted because of more detailed study and of no conflict in plans.
H. Doc. 475 plan and S. Doc. 191 plan compared		
Yellowstone River Basin.---	Boysen Reservoir, 3,500,000 acre-feet. Lower Canyon Reservoir, 2,250,000 acre-feet. (Each for flood control, irrigation, navigation, power, and other purposes.)	Boysen Reservoir, 730,000 acre-feet. Mission Reservoir, 890,000 acre-feet. Kane Reservoir, 750,000 acre-feet. Yellowtail Reservoir, 470,000 acre-feet. Du Noir Reservoir, 220,000 acre-feet. Raft Lake Reservoir, 41,000 acre-feet. Soral Creek Reservoir, 25,000 acre-feet. Onion Flat Reservoir, 9,000 acre-feet. Badwater Reservoir, 7,500 acre-feet. Oregon Basin Reservoir, 150,000 acre-feet. Anchor Reservoir, 15,000 acre-feet. Lake Solitude Reservoir, 7,000 acre-feet. Red Gulch Reservoir, 13,000 acre-feet. Little Horn Reservoir, 50,000 acre-feet. Antelope Reservoir, 9,000 acre-feet. Sweetgrass Reservoir, 12,000 acre-feet. Hunter Mountain Reservoir, 150,000 acre-feet. Thief Creek Reservoir, 130,000 acre-feet. Sunlight Reservoir, 40,000 acre-feet. South Fork Reservoir, 25,000 acre-feet. Willow Park Reservoir, 9,700 acre-feet. Triangle Park Reservoir, 4,000 acre-feet. Bull Creek Reservoir, 14,000 acre-feet. Lake DeSmet Reservoir, 44,000 acre-feet. Smith Reservoir, 30,000 acre-feet. Middle Fork Reservoir, 50,000 acre-feet. Moorhead Reservoir, 390,000 acre-feet. (For flood control, silt control, power, irrigation of 509,560 acres new lands, 204,500 acres supplemental water.)
H. Doc. 475 plan and S. Doc. 191 plan revised and coordinated by S. Doc. 247, 78th Cong., 2d sess.		
Yellowstone River Basin.---	Rejected.-----	Adopted.

Missouri River Basin—Continued

Subdivisions	H. Doc. 475 plan	S. Doc. 191 plan
H. Doc. 475 plan and S. Doc. 191 plan compared		
<p>Missouri River—Fort Peck to Sioux City.</p>	<p>Fort Peck Reservoir (constructed) to be operated as a multiple-purpose reservoir primarily for irrigation when substitute storage is built on the Missouri River. Oahe Reservoir, 6,000,000 acre-feet. Fort Randall Reservoir, 6,000,000 acre-feet. Garrison Reservoir, 17,000,000 acre-feet. Oak Creek Reservoir, 6,000,000 acre-feet. Gavins Point Reservoir, 200,000 acre-feet. (For flood control, navigation, irrigation, power, domestic and sanitary purposes, wild life, and recreation.)</p>	<p>Fort Peck Reservoir (constructed) to be used primarily for irrigation, also for navigation, flood control, silt control, and power. Oahe Reservoir, 19,700,000 acre-feet. Fort Randall Reservoir, 5,100,000 acre-feet. Big Bend Reservoir, 250,000 acre-feet. Medicine Lake Reservoir, 5,200,000 acre-feet. Crosby Reservoir, 230,900 acre-feet. Sheyenne Reservoir, nonactive capacity. Jamestown Reservoir, 800,000 acre-feet. (For flood control, navigation, irrigation, power, silt control, recreation, municipal.)</p>
H. Doc. 475 plan and S. Doc. 191 plan revised and coordinated by S. Doc. 347, 78th Cong., 2d sess.		
<p>Missouri River—Fort Peck to Sioux City.</p>	<p>Oahe Reservoir—Rejected. Fort Randall Reservoir—Rejected. Garrison Reservoir—Adopted. Oak Creek Reservoir—Rejected. Gavins Point Reservoir—Adopted.</p>	<p>Oahe Reservoir—Adopted. Fort Randall Reservoir—Adopted. Big Bend Reservoir—Adopted. Medicine Lake Reservoir—Adopted. Crosby Reservoir—Adopted. Sheyenne Reservoir—Adopted. Jamestown Reservoir—Adopted.</p>
H. Doc. 475 plan and S. Doc. 191 plan compared		
<p>Minor western tributaries...</p>	<p>Units not designated, but those desirable and necessary provided for.</p>	<p>Alzada Reservoir, 70,000 acre-feet. Broncho Reservoir, 50,000 acre-feet. Heart Butte Reservoir, 110,000 acre-feet. Dickinson Reservoir, 7,000 acre-feet. Cannonball Reservoir, 40,000 acre-feet. Thunder Hawk Reservoir, 30,000 acre-feet. Shadehill Reservoir, 134,000 acre-feet. Blue Horse Reservoir, 50,000 acre-feet. Bixby Reservoir, 90,000 acre-feet. Green Grass Reservoir, 90,000 acre-feet. Edgemont Reservoir, 45,000 acre-feet. Angostura Reservoir, 160,000 acre-feet. Keyhole Reservoir, 276,000 acre-feet. Northfork Reservoir, 15,000 acre-feet. Rockyford Reservoir, 70,000 acre-feet. (For flood control, silt control, power, irrigation 212,980 acres new lands, 11,300 acres supplemental water supply, and municipal.)</p>
H. Doc. 475 plan and S. Doc. 191 plan revised and coordinated by S. Doc. 247, 78th Cong., 2d sess.		
<p>Minor western tributaries...</p>	<p>-----</p>	<p>Adopted because of more detailed study and of no conflict in plans.</p>

Missouri River Basin—Continued

Subdivisions	H. Doc. 475 plan	S. Doc. 191 plan
	H. Doc. 475 plan and S. Doc. 191 plan compared	
Niobrara, Platte, and Kansas Rivers.	Kanopolis Reservoir. Tuttle Creek Reservoir. Harlan County Reservoir. Cherry Creek Reservoir. (All of above authorized 1938 and 1941 flood control acts). Medicine Creek Reservoir. Hale Creek Reservoir. Red Willow Reservoir. Enders Reservoir. Beecher Island Reservoir. (Total capacity 5,650,400 acre-feet for flood control, irrigation, and other purposes.) (Irrigable lands not specified, but for determination by later investigation.)	Kanopolis Reservoir, 432,000 acre-feet. Pioneer Reservoir, 34,000 acre-feet. Harlan County Reservoir, 1,199,000 acre-feet. Bonny Reservoir, 118,000 acre-feet. Wray Reservoir, 7,000 acre-feet. Culbertson Reservoir, 170,000 acre-feet. Medicine Creek Reservoir, 32,000 acre-feet. Harvey Reservoir, 36,000 acre feet. Norton Reservoir, 16,000 acre-feet. Kirwin Reservoir, 174,000 acre-feet. Webster Reservoir, 165,000 acre-feet. Glen Elder Reservoir, 304,000 acre-feet. Wilson Reservoir, 262,000 acre-feet. Cedar Bluff Reservoir, 272,500 acre-feet. Narrows Reservoir, 660,000 acre-feet. Glendo Reservoir, 150,000 acre-feet. Plum Creek Reservoir, 384,000 acre-feet. Boelus Reservoir, 790,000 acre-feet. Davis Reservoir, 380,500 acre-feet. Dismal Reservoir, 30,000 acre-feet. Erickson Reservoir, 20,000 acre-feet. Loretta Reservoir, 15,000 acre-feet. (For flood control, silt control, irrigation 1,284,060 acres new lands, 21,804 acres supplemental water.)
	H. Doc. 475 plan and S. Doc. 191 plan revised and coordinated by S. Doc. 247, 78th Cong, 2d sess.:	
Niobrara, Platte, and Kansas Rivers.	Hale Reservoir—Rejected. Beecher Island Reservoir—Rejected. Enders Reservoir—Adopted. Except as noted, approved.	Bonny Reservoir—Adopted. Pioneer Reservoir—Adopted. Harvey Reservoir—Rejected. Except as noted, approved.
	H. Doc. 475 plan and S. Doc. 191 plan compared	
Lower Missouri.....	The plans are identical, including 6 reservoirs and a series of levees and appurtenant works: Osceola Reservoir Chillicothe Reservoir Arlington Reservoir South Grand Reservoir Pomme De'Terre Reservoir Richland Reservoir (All above reservoirs authorized by the 1938 Flood Control Act.)	
	H. Doc. 475 plan and S. Doc. 191 plan revised and coordinated by S. Doc. 247, 78th Cong., 2d sess.	
Lower Missouri Basin.....	Adopted because plans identical.	

EXHIBIT B

H. R. 4485: 78TH CONGRESS, 2D SESSION, MISSOURI RIVER BASIN

"The general comprehensive plan for flood control and other purposes in the Missouri River Basin approved by the act of June 28, 1938, as modified by subsequent acts, is hereby expanded to include the plan of improvement for flood control, irrigation, power development, navigation, and other purposes, substantially in accordance with the recommendations of the Chief of Engineers in House Document No. 475, Seventy-eighth Congress, second session; and as expanded is approved; and, in addition to previous authorizations, there is hereby authorized to be appropriated the sum of \$200,000,000 for the partial accomplishment of the comprehensive plan as modified and expanded: *Provided*, That nothing in this act shall be construed as creating below Sioux City any demand

upon the water resources of the Missouri River Basin above Sioux City in excess of that now authorized by existing law; and *provided further*, That portions of the storage authorized for the main stem of the river shall be placed on tributaries if the Secretary of War and the Chief of Engineers find such action advisable for silt control and in order to make more water readily available for agricultural and industrial use without impairment of flood control below Sioux City and without increasing the authorized limit of cost."

[S. 1915, 78th Cong., 2d sess.]

A BILL To authorize the undertaking of the initial stage of the comprehensive plan for the conservation, control, and use of the water resources of the Missouri River Basin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That the works representing the initial stage of construction for conservation, control, and use of the water resources of the Missouri River Basin, all as described in Senate Document 191, Seventy-eighth Congress, second session, a report prepared pursuant to the Federal reclamation law (act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto), are hereby adopted and authorized and shall be prosecuted by the Secretary of the Interior as speedily as may be consistent with budgetary requirements, subject to such modifications as, in the discretion of the Secretary of the Interior, may be advisable for the most practicable effectuation of the plan for development of the Missouri River Basin.

SEC. 2 There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such funds as may be necessary to carry out the purpose of this act.

EXHIBIT C

[Excerpt from S. Doc. 191, 78th Cong., 2d sess.]

BOARD OF REVIEW'S REPORT TO THE COMMISSIONER

UNITED STATES DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Denver, Colo., April 14, 1944.

From: Board of Review.

To: Commissioner.

Subject: Report on Conservation, Control, and Use of Water Resources of the Missouri River Basin.

1. Pursuant to instructions in your letter of February 2, 1944, the undersigned convened as a special board of review in Denver, Colo., April 10 to 13, 1944, to consider the report of April 1944 on the conservation, control, and use of water resources of the Missouri River Basin, prepared by the Bureau of Reclamation staff of Region 6, assisted by consultants, and representatives of other Government agencies. The results of our review of the report are respectfully submitted herein.

2. The water of the Missouri River system is a primary national resource which, up to the present time, had been inadequately controlled and developed. The two major problems of the basin are the control of devastating floods along the lower river and the stabilization of agriculture in the Dakotas and in eastern Montana.

3. The river and its basin long have been studied by Federal, State, and other agencies, but until recently the studies have not been coordinated or sufficiently broad to comprehend and outline a unified plan for the conservation and beneficial uses of water so as to realize the greatest procurable economic returns and human benefits for the entire region. In our opinion, the report presents a plan which, if carried out, would adequately meet these objectives. It is a comprehensive plan for the highest beneficial use of the waters of the basin. It provides for flood control, navigation, irrigation, power development, domestic and industrial water supplies, silt control, recreational use of waters, conservation of fish and wildlife, and pollution abatement, and will assist in the restoration and maintenance of ground-water levels and inland lakes.

4. The report is the result of long and intensive engineering, scientific, and economic study. The plan is technically and economically sound. It is not proposed or expected that the program as a whole should be undertaken immediately or at one time, but it should progress by starting with the parts that are urgently

needed and continue as rapidly as funds become available and economic conditions demand. The greatest benefits will be attained through coordination of the advice and work of all interested Federal, State, and local agencies.

5. To the extent that the several functions of water control and utilization are conflicting, preference should be given to those which make the greatest contribution to the well-being of the people and to the areas of greatest need. To the extent that the uses of water are competitive, the use of water for domestic, agricultural, and industrial purposes should have preference. The plan would meet these objectives.

6. In determining the justification for this development and the subdivisional features thereof, the report recognizes and the Board confirms the principle that a project or a broad development is justified if the total value of all the benefits to be derived from it exceeds the total cost, whether or not all costs can be recovered from the direct beneficiaries. The report summarizes the benefits of the basin-wide project, and finds that they exceed the estimated costs in the ratio of 2.57 to 1. The Board concurs in this finding.

7. The agency with primary interest in the dominant function of any feature proposed in the plan should construct and operate that feature, giving full recognition, in the design, construction, and operation, to the needs of other agencies with minor interests. All reservoirs where flood control and navigation are dominant should be operated by the Corps of Engineers, and where the flood control and navigation functions are minor, the reservoirs should be operated in accordance with regulations of the Corps so far as flood control and navigation are concerned. All irrigation features should be operated by the Bureau of Reclamation or its agents. All reservoirs in which irrigation, restoration of surface and ground waters, or power, is dominant, should be operated by the Bureau of Reclamation. Where these functions are minor, the reservoirs should be operated under regulations of the Bureau of Reclamation so far as such functions are concerned. In like manner, agencies with jurisdiction over other functions should be recognized. The Bureau of Reclamation should construct and operate all power-transmission facilities, and should have the responsibility for the disposal of all power generated.

IRRIGATION

8. Land-use adjustments needed to stabilize the agriculture of the basin and mitigate the effects of future droughts can best be promoted by progressive development of the irrigation potentialities of the area. In addition, hundreds of thousands of new residents of the area can be provided opportunities to establish homes and to earn for themselves an adequate level of living. Many projects will be of prime importance in any program for the rehabilitation or settlement of returning servicemen and dislocated war workers. Irrigation-water users should pay for the service rendered them an amount commensurate with the benefits they receive, and their payments should be based on ability to pay out of earnings of the irrigated land. Many of the project areas will be served with water by pumping. The power used in pumping will be provided from the seasonal output of installations proposed in the report. The power should be paid for as an integral part of operation and maintenance charges, and the resulting operation and maintenance charges should be equalized throughout the area by integrating them with repayment charges and the total to the ability of the land served to produce returns for the farmer.

POWER

9. The average unit costs of power and energy for the power developments described in the report will be such as to accomplish the repayment of the construction costs of power development within a reasonable period of years and, in addition, will permit substantial contributions from power revenues to assist in the repayment of other project features as well as providing low-cost power for irrigation-pumping purposes.

10. The market studies indicate the ability of the basin and contiguous areas to absorb in a relatively few years the power to be developed. The large number of comparatively high-cost fuel-burning generating plants now operating in the area offer exceptional possibilities for sale of a large quantity of hydroelectric power as fast as it can be developed. This situation exists because of the immediate opportunity to eliminate high fuel and other generating costs by energy replacement in some cases, and by complete retirement of obsolete plants in others. Growth of lead will soon absorb the balance of the output.

11. The low-cost power to be developed should be given the widest possible distribution for the benefit of the whole region. This could be accomplished best by clothing the Bureau of Reclamation with the responsibility for its distribution and sale. Preference in sales should be given to public bodies and cooperatives.

FLOOD CONTROL

12. The main-stream reservoirs in South Dakota, together with the reservoirs on the tributaries in eastern Kansas and in Missouri and the levee system, will provide the protection needed by the fertile bottom lands and the important cities along the Missouri River below Yankton. They will also aid in the control of Mississippi River floods below St. Louis. The reclamation plan supplements such flood control by the addition of a number of multiple-purpose reservoirs on tributaries of the Smoky Hill River and on the headwaters of the Republican River.

13. On the headwaters of the Missouri River, and its western tributaries in the Dakotas, and on the headwaters of the Platte River, the reclamation plan provides necessary flood control in the areas most seriously menaced, in the main, through the operation of multiple-purpose reservoirs.

NAVIGATION

14. Navigation possibilities are limited to the Missouri River up to Sioux City. While the traffic on this stream has never been impressive even below Kansas City, the Missouri River carries potentialities as an important waterway in the future as Kansas City, Omaha, Sioux City, and their tributary areas continue to grow. The utilization of the stream as a waterway should be planned and such planning should be adapted to the flows to be expected with justified upstream development. The storage facilities contained in the reclamation plan provide the necessary stream regulation to insure a sustained and well-regulated flow through the years, regardless of the vagaries of precipitation.

SILT CONTROL

15. The control of silt is important in many localities. The most urgent silt problems are in the Big Horn River Basin, but the problem is also serious in the Yellowstone River and its other tributaries as well as in the western tributaries of the Missouri River in the Dakotas. The storage control provided throughout the Missouri River system above Yankton will desilt the streams and eliminate most of the silt problems in connection with operations of irrigation and municipal water systems. The retention of the silt by those means will reduce the cost of maintaining the channels in the navigation section of the Missouri River and the Mississippi River below St. Louis.

DOMESTIC, MUNICIPAL, AND INDUSTRIAL WATER SUPPLIES

16. In many parts of the basin, surface waters are relied upon for domestic and municipal water supplies. In the future there will also be greater requirement for industrial water supplies. Regulation of flows of many tributaries as proposed, and the diversion of water from the Missouri River into eastern North Dakota and the Red River Valley, and into the James River Valley in South Dakota, will benefit many cities, towns, and populous areas by increasing low-water flows and restoring ground-water levels.

17. Some communities that depend on wells are faced with the necessity of searching for new water sources because of lowering ground-water levels. The falling water tables have also dried up or reduced to stagnant pools many old lakes in the northern plains. The plan calls for the restoration of some of these lakes, and will also have a beneficial influence on water tables through percolation of water from canals, irrigated farms, and small stream channels.

FISH AND WILDLIFE

18. The Missouri River Basin has areas of outstanding importance in the conservation of fish and wildlife. Notable among them are mountain fishing streams, and the waterfowl refuges and breeding grounds in the northern plains. The development of the water resources of the basin will adversely affect some of the existing facilities, but it will also create exceptional opportunities for

expanding the fish and wildlife programs. No unnecessary injury should be inflicted, and construction plans should include such safeguards as fish screens at canal and other intakes, hold-over conservation pools in reservoirs (for maintenance of proper water elevations and stream flows during spawning and nesting seasons whenever practicable), and other good conservation practices. Facilities destroyed or damaged should be replaced by others of equal utility as a part of the new construction in the conservation programs, wherever possible.

RECREATION

19. The basin includes parts of three great national parks, Yellowstone, Glacier, and Rock Mountain along the Continental Divide, numerous national forests, and many smaller recreational facilities ranging from fishing grounds in the mountains to historical sites on the plains; but there are large areas where recreational facilities are inadequate. The restoration of Devils Lake and the construction of the numerous proposed reservoirs will provide recreational opportunities of major importance within these areas. These opportunities should be capitalized through stocking the lakes and reservoirs with fish, and providing facilities that will be needed to care for the public, such as campgrounds, boat landings, and shelters.

POLLUTION ABATEMENT

20. Along the Red River of the North, and in various other places within the basin, including some areas bordering the Missouri River itself, waters are polluted by discharge of untreated sewage into streams. In periods of low flow, pollution has become serious, threatening the safety of water supplies and creating nuisances. Diversion of water into the Sheyenne River and thence into the Red River of the North will abate some of these conditions. So far as possible, sufficient low-water flows should be maintained throughout the basin to prevent dangerous pollution; but this should not be considered as a substitute for the treatment of sewage where necessary to maintain proper sanitary conditions and the use of stream flows for dilution of sewage should be held to a minimum.

HYDROLOGY

21. Reliable stream-flow records covering sufficient time to reflect variations in flow are in a prerequisite to sound project planning to assure proper control and full utilization of the waters, and to avoid waste of construction funds on the one hand, and the hazards of water shortages, flood damages, and power shortages, on the other. No run-off records are available for many of the smaller streams, and on the larger streams the available records are often inadequate because of insufficient stations, particularly at critical locations. The present inadequate program of stream gaging being conducted by State and Federal agencies should be greatly expanded at once, to the end that the tentative project plans may be confirmed or modified on the basis of more complete stream-flow records, before it becomes necessary to start construction. This situation is particularly applicable to the numerous small projects on the minor tributaries. The appropriations for the United States Geological Survey for stream-gaging work should be substantially increased, and the lack of available State appropriations for matching Federal funds should not be permitted to delay a program at least sufficient to provide the needed records at many key stations.

DESIGNS AND ESTIMATES

22. The project plan includes hundreds of major engineering works, such as dams and power plants, and thousands of important structures. The plans on which the estimates are based were necessarily of a preliminary nature. At many of the dam sites, exploratory work has been carried far enough to obtain dependable basic data. At other sites, further exploratory work must be undertaken before details of the structures can be determined and better estimates made. All the works proposed in the report are of the same general type which the Bureau of Reclamation has been constructing in the West since 1902, and no novel or unprecedented problem are involved. All cost estimates are tentative, and are subject to revisions in the light of further information which must be developed by exploratory work and detailed design studies before construction is undertaken. A lump-sum allowance has been included for contingencies for

unforeseen conditions, but no allowance has been included for major economic changes. All estimates are based on costs as of January 1, 1940, and an appropriated factor will therefore have to be applied to conform such estimates to prices existing at the time the construction of any feature of the development is initiated.

INITIAL CONSTRUCTION PROGRAM

23. The following list of projects is submitted as the initial stage of an orderly program to effectuate a plan of development presented in the report. The list is confined to projects or project features which should in the opinion of the Board, be constructed by the Bureau of Reclamation:

Colorado: Transmountain diversion projects were not considered a part of this basin.

Kansas-Nebraska:

Bostwick.
Cedar Bluff.
Frenchman-Cambridge.
Kirwin.
North Republican (Wray) (Colorado-Nebraska).
Pumping.

Montana:

Canyon Ferry Reservoir.
Glasgow Bench pumping.
Hardin (including Yellowtail Dam).
Marias.
Missouri-Souris (Montana division).
South Bench.
Yellowstone River pumping units.

North Dakota:

Heart River.
Knife River.
Missouri-Souris (North Dakota division).
Missouri River pumping units (5).

South Dakota:

Angostura.
Grand River (Shadebill-Bluehorse).
Oahe (James River).
Rapid Valley (including Brennan Reservoir).

Wyoming:

Big Horn pumping units.
Big Horn project (Boysen Dam).
Glendo Reservoir.
Kortes.
Owl Creek.
Painbrock.
Riverton.
Shoshone project extensions.

Power-transmission lines.

RECOMMENDATIONS

It is recommended:

(a) That the general plan for the development of the basin as contained in the report be approved subject to such modifications and changes as may be indicated, from time to time, as the plan is effectuated.

(b) That all works that may be authorized under the approved plan be constructed, operated, and maintained by the Bureau of Reclamation under the direction of the Secretary of the Interior wherever the dominant function of such works is other than navigation and flood control.

(c) That the Bureau of Reclamation under the direction of the Secretary of the Interior make all arrangements for the sale and distribution of electric energy generated at all hydroelectric developments hereafter constructed by any Federal agency within the basin as defined in the report, and be authorized to construct, operate, maintain, and improve such electric transmission lines and substations as it finds necessary or desirable in connection therewith.

(d) That the initial construction program as hereinabove presented be adopted and that an appropriation of \$200,000,000 be authorized for the prosecution of

construction work on the first stage of the program and for the continuation of investigations on the general plan of development.

E. B. DEBLER,
Chairman, Director of Branch of Project Planning.
 S. O. HARPER,
Chief Engineer, Director of Branch of Design and Construction.
 H. F. MCPHAIL,
Director of Branch of Power Utilization.
 W. F. KUBACK,
Director of Branch of Fiscal and Administrative Management.
 D. S. STUVER,
Assistant Director of Branch of Operation and Maintenance.

EXHIBIT D

HOUSE DOCUMENT NO. 475, 78TH CONGRESS, 2D SESSION

45. The comprehensive plan proposed herein would provide not only complete protection for this area against all past floods on the Missouri River, but would effect important reductions in flood stages on the lower Mississippi River. In addition to providing flood-control benefits on the Missouri and Mississippi Rivers, the comprehensive plan would also provide for the most efficient utilization of the waters of the Missouri River Basin for all purposes, including irrigation, navigation, power, domestic and sanitary purposes, wildlife, and recreation.

46. Furthermore, the plan would provide many intangible benefits including:

- (1) The saving of lives.
- (2) The alleviation of human suffering.
- (3) A general stabilization of the economic life of the valley and of interstate commerce.

(4) The encouragement of industrial and civic developments.

47. The plan is unquestionably justified.

EXHIBIT E

EXCERPTS FROM INTERIOR DEPARTMENT APPROPRIATION BILL FOR 1950

Hearings Before the Subcommittee of the Committee on Appropriations—House of Representatives, Eighty-first Congress—First Session—on the Interior Department Appropriation Bill for 1950

PART 2

Program from the Missouri River Basin

Mr. KIRWAN. Mr. Warne, will you please explain this request?

Mr. WARNE. Under the program that was adopted by the Congress in the Flood Control Act of 1944, all of the waters of the Missouri River and its tributaries, from the farthest reaches in northwestern Montana down to the juncture with the Mississippi, will be conserved and put to beneficial use through a series of reservoirs, power plants, transmission lines, irrigation facilities, canals, and navigable channels.

In order to assure those multiple purposes, and also to provide as needed flood control, silt retention, pollution abatement, municipal water supplies, recreation, and favorable habitat for fish and wildlife, the Federal, State, and local agencies that are concerned operate in a carefully coordinated system. In accordance with the basic statutory provision provided by the 1944 act, the Corps of Engineers is building the main stem and certain tributary dams below Fort Peck in Montana, and will operate them for flood control and navigation.

The Bureau of Reclamation is building the reservoirs on the upper reaches of the river and most of those on tributary streams, as well as the irrigation projects, and the electric-power transmission lines. The Bureau of Reclamation through a single transmission backbone system will transmit and sell, with preference to cooperatives and public agencies and on a uniform rate schedule, all of

the power generated in the entire project, including energy generated at Army dams as well as those constructed by the Bureau of Reclamation.

The comprehensive plan for the Missouri River Basin was adopted by the Congress, and it sets forth the objectives of the program, the works to be constructed, and the manner of financing and accounting for the expenditures and repayment. The program is formulated with a view to construction by the Bureau of Reclamation and the Corps of Engineers of all of the units described in Senate Document No. 191, as supplemented by the further engineering findings in Senate Document No. 247. Necessarily, the program contemplates that, where appropriate, alternative reservoirs and other facilities may be substituted for units described in the plan, and additional features and developments may also be undertaken in furtherance of the objectives as set forth in Senate Document No. 191. Those physical aspects, although to a large extent accurately forecast in 1944, were subject, of course, to improvement by development of additional engineering and other physical data.

The principles of the Missouri Basin program as set forth in the basic documents do not change with the accumulation of additional engineering information. The works are constructed to bring about the full productive use of all of the natural resources in a manner that will best meet the needs of the region and that will make the maximum contribution to the people living there, as well as to improve navigation and to provide flood protection. Among the brightest promises of the project are that it will minimize the impact of drought disasters in the livestock and dry-farming economy of the Great Plains and will promote sound urban and industrial development, as well as light the farmhouses in the States where rural electrification had lagged farthest behind.

The Bureau of Reclamation plans to build as rapidly as is feasible and as rapidly as funds are made available the major facilities under its jurisdiction for control and conservation of the waters of the Missouri Basin and its tributaries. Irrigation works and generating and transmission facilities are to be geared to the construction of the control and conservation works on which they are dependent. In establishing the priority for the construction of the irrigation and power facilities, a prime factor is the extent and manner in which such facilities will contribute to the overall land use and economy of the northern Great Plains. Other factors include securing suitable geographical distribution, the desire of local people for construction, and, in the case of irrigation works, readiness to assume an appropriate share of the reimbursable construction costs. And, of course, consideration must be given year by year to national conditions that affect Federal budgetary policy, for in the Missouri Basin project we have undertaken a job so vast that it will be constantly a factor in national financial management.

The Congress approved the comprehensive Missouri Basin plan in 1944 on the basis of the showing then made of the national and local benefits. The cost of construction to fulfill the primary control and conservation functions of the program—that is, to the main regulatory reservoirs and associated facilities of the Missouri River and its tributaries—is not a burden on the water and power users. The Congress has, however, required of the Secretary of the Interior that, in connection with the construction of irrigation, municipal water and power facilities, he provide for a return to the Treasury of an appropriate share of their construction costs. That fair share of the costs of construction, which does not include the portions properly assignable to nonreimbursable functions such as flood control and navigation, is determined on a basin-wide basis which seeks to equalize the payments throughout the basin, taking into consideration the benefits received. With respect to any given unit, the amount to be returned to the Treasury by irrigation and power is determined in relation to the direct benefits that are to be obtained from all units theretofore or thereafter constructed. Revenues from and returns for power produced at Missouri River dams constructed by the Corps of Engineers are included in these basin-wide determinations. In other words, the plan is one that is integrated in every respect.

Without the pooling of the cost of individual dams, powerplants, and canals and for divisions on a basin-wide basis among the benefits—flood control, navigation, irrigation, power, municipal water supply, and so forth—for accounting and repayment purposes where the law required repayment, only a part of the Missouri Basin program could have been undertaken. No adequate program for irrigation in the high Plains States that are so frequently drought-stricken

could have been devised with piecemeal plans and programs. Inaction and no progress in 50 years proved that. In contrast, more than 120 dams and associated works are projected for construction under the adopted plan, and more than 26 units are already under way. Those include 20 divisions of the Interior plan and 6 of the Army. Almost 5,000,000 acres will receive irrigation water. A backbone transmission grid will reach from western Montana, where it will interconnect with the lines from power plants in the Columbia River Basin, through the Dakotas to southern terminals in Colorado, Nebraska, Kansas, and Iowa. That backbone grid will integrate the output of the main-stem dams at Garrison, Gavins Point, Fort Randall, with the generators at Canyon Ferry, Boysen, Kortes, and elsewhere throughout the basin, and it will interconnect with the Colorado-Big Thompson, Kendrick, and Fort Peck systems. The power-generation capacity that thus will be linked into a single grid will ultimately be in excess of 2,500,000 kilowatts. This will become a mighty factor in the strengthening of the economy of the basin States. Computation cannot be completed until final costs are known, but Missouri Basin power prices are expected to put this energy in a relatively low-cost bracket.

[Excerpt from hearings before a subcommittee of the Committee on Appropriations, U. S. Senate, 79th Cong., 1st sess., on H. R. 3024]

(P. 939)

Mr. WARNE * * * Senate Document 191, 78th Congress, 2d session, the comprehensive reclamation report, and Senate Document 247, 78th Congress, 2d session, the reconciliation report that brought the reclamation report and the Corps of Engineers' Pick plan together, are of course, the basic documents of authorization, which was accomplished in section 9 of the Flood Control Act.

Section 9 authorized the Department of the Interior to construct the initial stage of the Missouri River plan as set out in the basic documents. This initial stage is estimated to cost \$451,000,000. Section 9 authorized the appropriation for the use of the Bureau of Reclamation of \$200,000,000 for partial construction of the initial stage and for continuing the studies and preliminary work in connection with the whole plan, which it also approved.

Section 9 also authorized the appropriation of \$200,000,000 for similar purposes to the Corps of Engineers, but we are not concerned especially with that here, except to say that we have been establishing the liaison that will be required to achieve full coordination of our work.

Very briefly, the Missouri River plan calls for construction of some 30 units in the initial stage, and sets our total of 90 reservoirs that eventually will be needed to control and utilize the water and related resources of the basin.

The plan is not an irrigation plan, a power plan, or a flood-control, or navigation plan. It is comprehensive and truly multiple-purpose in its scope. It includes irrigation; hydroelectric power; flood control; navigation; domestic, municipal, and industrial water supply; conservation of fish and wildlife; recreational use of the waters; abatement of pollution; and minor purposes.

[Excerpt from hearings before a subcommittee of the Committee on Appropriations, U. S. Senate, 79th Cong. 2d sess., on H. R. 6335]

STATEMENT OF WILLIAM E. WARNE—RESUMED (PP. 883 AND 885)

Senator HAYDEN. Who is going to speak for the Missouri River Basin, for the Reclamation Service? The final item to be considered under Bureau of Reclamation is the Missouri River Basin.

Mr. WARNE. Mr. Chairman, I am prepared to do that.

Increase requested and proposed use of funds.

This request is to increase the \$10,312,685 now provided by H. R. 6335 to the original amount recommended by the Budget Bureau of \$23,783,600. The funds requested cover 29 subprojects or units scattered over 7 large States comprising the Missouri Valley, and for continuation of investigations under the general plan of development. These 29 units were all authorized by the Flood Control Act of 1944 as an initial step in the Missouri Basin project.

Repayment of costs of the Missouri Basin project are largely predicated on power revenues. These can only be secured if facilities are provided to permit the power to be sold. Otherwise, financial feasibility is adversely affected and benefits to the people in the area are not provided.

[Excerpt from hearings before the subcommittee of the Committee on Appropriations, House of Representatives, 79th Cong., 2d sess., on the Interior Department appropriation bill for 1947, pt. 2]

(P. 470)

Mr. JENSEN. That is exactly why I am taking this time to question you gentlemen, to have a picture of the whole program and what it will do in black or white in these hearings so that they will understand when they read the hearings exactly what they may expect, and when they may expect relief from these terrible floods.

I might also add that I think our colleague here proves that we do not have to have one or two men dictating the policies of that whole great Missouri Valley development, that you gentlemen and the Army engineers, with the full collaboration of the Geological Survey, can handle this thing in a proper manner and in the American way instead of having an empire within an empire with one or two men bossing the show.

Will the Bureau of Reclamation market all of the power from all of the dams, whether the Army engineers build them or whether the Bureau builds them?

Mr. WARNE. That is the plan.

Mr. JENSEN. That is the plan. Just as it is in the southwestern area?

Mr. WARNE. Yes, sir; the Missouri Basin powerplants, whether built by the corps or the Bureau of Reclamation, will be tied in to a single operating plan, and the power will be handled as a single operation by the Bureau of Reclamation.

(P. 444)

Mr. WARNE. * * * Construction will get under way early this spring. Work will get under way at three of our dam sites, and on the transmission line that will bring in power for construction purposes to the Garrison Dam site, which dam will be constructed by the Corps of Engineers.

These funds provide for the extension of the program of engineering and economic or project development work, as well, to the whole of the approved general comprehensive plan of the Missouri Basin project.

The Congress, as I have stated earlier, has approved the comprehensive plan for the development of the Missouri Basin.

The Corps of Engineers is to do the flood-control work and the navigation work, and the Bureau of Reclamation and is to do the irrigation and the related resources development work and the power distribution.

UNITED STATES DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington 25, D. C., September 30, 1946.

To: Director, Branch of Project Planning.

From: Assistant Chief Counsel Schwab.

Subject: Use of revenues received from the distribution and disposal of power from dams constructed by the Corps of Engineers.

1. Reference is made to your memorandum of August 30, on the above subject in which you refer to a conversation with Assistant Chief Counsel Will in Mr. Vernon's office on August 28 and in which you ask these questions:

(1) Can any of the receipts from the disposal of electric energy to be generated at Fort Randall dam be applied by the Department of the Interior or the Bureau of Reclamation to the repayment of irrigation costs? If so, what proportion, and by what methods?

(2) Can any of the receipts from the disposal of electric energy to be generated at Fort Randall Dam be credited in any other manner, so far as the United States Government is concerned, to the repayment of irrigation costs? If so, what proportion, and by what methods?

2. Confirming Mr. Will's oral opinion in answer to these questions and confirming also my own oral opinion given to Assistant Commissioner Markwell during the course of hearings on the departmental appropriation bill for fiscal year 1947, the answer to each of your questions is in the negative in the absence of legislation being secured which will permit of such a practice.

3. While your questions are directed to the situation in connection with Fort Randall dam and powerplant, the situation at that dam and power plant is

not unique. The same question arises in the case if power to be generated at all dams constructed by the Corps of Engineers in carrying out the Missouri Basin plan encompassed by House Document 475 and Senate Document 191, 78th Congress, 2d session, as revised and coordinated by Senate Document 247, 78th Congress, 2d session. I shall, therefore, discuss the situation generally under the entire Missouri Basin plan.

4. The Missouri Basin development is, as you know, authorized by section 9 of the act of December 22, 1944 (58 Stat. 887), popularly referred to as the Flood Control Act of 1944. Insofar as here material that authorization reads as follows:

Sec. 9. (a) The general comprehensive plans set forth in House Document 475 and Senate Document 191, 78th Congress, 2d session, as revised and coordinated by Senate Document 247, 78th Congress, 2d session, are hereby approved and the initial stages recommended are hereby authorized and shall be prosecuted by the War Department and the Department of the Interior as speedily as may be consistent with budgetary requirements.

(b) The general comprehensive plan for flood control and other purposes in the Missouri River Basin approved by the act of June 28, 1938, as modified by subsequent acts, is hereby expanded to include the works referred to in paragraph (a) to be undertaken by the War Department; and said expanded plan shall be prosecuted under the direction of the Secretary of War and supervision of the Chief of Engineers.

(c) Subject to the basinwide findings and recommendations regarding the benefits, the allocations of costs and the repayments by water users, made in said House and Senate documents, the reclamation and power developments to be undertaken by the Secretary of the Interior under said plans shall be governed by the Federal reclamation laws (act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto), except that irrigation of Indian trust and tribal lands, and repayment therefor, shall be in accordance with the laws relating to Indian lands.

5. The coordinating document, Senate Document 247, does not authorize application of electric power revenues from powerplants constructed by the Army in effectuation of Missouri Basin development to be applied against repayment of irrigation costs either by the Department of the Interior, or the Bureau of Reclamation, or by the United States Government if those entities can be separated, which for this purpose is an impossibility. While subparagraph (c) of section 9 above quoted might seem to offer some hope of an affirmative answer to your questions, upon careful analysis that hope is seen to be chimerical. You will note that subparagraph (c), while authorizing basinwide findings and recommendations in regard to the allocations of cost and repayments by water users, applies that authorization to "reclamation and power developments to be undertaken by the Secretary of the Interior under said plans," which are to be governed by the Federal reclamation laws. The phrase "power developments" as used in subparagraph (c) refers to the generation of power by the Secretary of the Interior through his agent, the Bureau of Reclamation, and the marketing of that energy by the Secretary of the Interior through his agent. It does not refer to power to be developed under the Army's plan encompassed in House Document 475 because that plan did not provide for generation at and marketing of power by the Secretary of the Interior from dams constructed by the Corps of Engineers. Thus the provisions for basinwide allocations of costs and repayments in relation to power developments refer exclusively to power developments undertaken by the Secretary of the Interior at dams which he is authorized to construct under the reconciled plan.

As indicated above, House Document 475 and the coordinating document, Senate Document 247, do not provide for marketing of energy generated at Army dams by the Secretary of the Interior. We must look elsewhere in the act of December 22, 1944, for that authority. That authority is found in section 5 of the act, which is as follows:

"Sec. 5. Electric power and energy generated at reservoir projects under the control of the War Department and in the opinion of the Secretary of War not required in the operation of such projects shall be delivered to the Secretary of the Interior, who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principle, the rate schedule to become effective upon confirmation and approval by the Federal Power Commission. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric

facilities of the projects) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and cooperatives. The Secretary of the Interior is authorized from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at said projects available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal Government, public bodies, cooperatives, and privately owned companies. All moneys received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts."

You will note that section 5 provides that energy generated at reservoir projects under the control of the War Department shall be delivered to the Secretary of the Interior who shall market the same in accordance with the provisions of section 5. As you know, the Secretary of the Interior by Order No. 2177, dated March 27, 1946, has designated the Bureau of Reclamation as his marketing agent under section 5 for energy produced at Army dams in the Missouri Basin. This action in and of itself amounts to a construction of the act of December 22, 1944, by the Secretary of the Interior to the effect that section 9 (c) of that act is not applicable to energy generated at Army dams. Aside from the Secretary's designation of the Bureau as his marketing agent being a construction of the act of December 22, 1944, the language of section 5 itself makes clear that revenues derived from sale of energy generated at Army dams cannot be applied against irrigation construction costs. That section provides that rate schedules for such energy, which to become effective require the confirmation and approval of the Federal Power Commission, shall be drawn "having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the costs of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years." When this requirement is read in the light of a prior admonition of that section to the effect that the Secretary of the Interior shall market such energy, in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, it is clear that in the ratemaking process for this energy, possible application of power revenues toward repayment of irrigation costs is not to be considered in determining the rates. Finally, that section requires that all moneys received from sales of such energy by the Secretary of the Interior shall be deposited in the Treasury of the United States as miscellaneous receipts. Revenues derived from energy sales under section 9 (c) of the Flood Control Act of 1944 are governed by the reclamation laws which provide that they shall be deposited in the reclamation fund until the net power revenues are equal to the costs allocated to power to be repaid by power revenues. There are two distinct methods of handling power revenues one of which, applicable to the generation and marketing of energy from dams to be constructed by the Secretary of the Interior, permits application of power revenues against irrigation costs, and the other, applicable to power generated at dams to be constructed by the Army, which does not permit of such application.

It might appropriately be added at this point that the provisions of section 5 are not unique. They are adopted from similar provisions in the Bonneville Project Act of August 20, 1937 (50 Stat. 731) and the Fort Peck Project Act of May 18, 1938 (52 Stat. 403). The situation under the Bonneville Act affords an interesting parallel. Under the Bonneville Project Act the Bonneville Power Administration markets energy generated at Bonneville Dam. Under an Executive order of the President, the Bonneville Power Administration also markets energy from Grand Coulee Dam of the Columbia Basin project of the Bureau. Bonneville's marketing of energy from the Bonneville Dam is governed by the Bonneville Power Act. Bonneville's marketing of Columbia Basin energy is governed by the reclamation laws. This is exactly the same situation which will arise under the Missouri Basin development. The Bureau will, under the reclamation laws, be marketing energy from dams constructed by it in the Missouri Basin. The Bureau will also be marketing energy from dams constructed by the Army in the Missouri Basin by designation of the Secretary of the Interior as his marketing agent, the designation of the Bureau being akin to the designation of Bonneville by the President's Executive order. Power revenues of the Bonneville Power Administration attributable to Coulee Dam.

energy are applied against irrigation costs; power revenues of the Bonneville Power Administration attributable to Bonneville Dam are not so applied, and under the law which is in all essential respects similar to section 5 of the act of December 22, 1944, cannot be so applied.

The Bureau's operations under the Fort Peck Project Act also furnish an interesting parallel to this situation. The Bureau is by the Fort Peck Project Act designated as the marketing agent for energy generated at Fort Peck Dam—an Army development. The Bureau is not authorized by law to apply, and does not pursue the practice of applying, Fort Peck power revenues against repayment of any irrigation costs.

In summary then, the answer to question 1 is "No"; the answer to question 2 is "No." These answers can be changed only by the securing of appropriate legislation.

I. A. SCHWAB.

Senator ANDERSON. I just want to make this statement.

It is the intention of the chairmen of the full committees on Public Works and Interior that the record made of these hearings during the past few days will be submitted to the Bureau of Reclamation and the Corps of Engineers for additional explanations, answers, and suggestions.

When we have had a chance to get back these additional explanations and answers and additional comments, there will be a resumption of this hearing. We want to study carefully what we have to do on the costs of operation which farmers are unable to pay.

I am very anxious to have the subject which was initiated by Senator Case examined carefully, because if the Comptroller General has some questions on this, then surely our committees will be justified in paying some attention to it.

The meeting will now stand in recess until the information is available from the committee.

(By direction of the chairman, the following is included in the record:)

Senator O'MAHONEY. Mr. Chairman, in view of comments as to how well informed Congress has been with respect to authorizations of the Missouri River Basin project, since its inception in 1944, I request that the staff prepare comprehensive analyses of presentations to the Congress with respect to this program. The analyses should include references to hearings, authorizations, prohibitions, appropriations, and other language in appropriation acts dealing with the various proposals. Appropriate references should be made to hearings and committee reports to illustrate the extent to which Congress has been kept currently informed as to increasing costs and other pertinent phases of the operations of the program by the Bureau of Reclamation, as well as to the control Congress has exercised over the program.

I request that the analyses, when completed, be printed in the record.

(The information referred to follows:)

ANALYSES OF (1) CONGRESSIONAL LEGISLATIVE AUTHORIZATIONS, AND (2) APPROPRIATION PROCESSES 1944-57 RELATING TO MISSOURI RIVER BASIN PROJECT

In accordance with Senator O'Mahoney's request on May 3, 1957, the following documented analyses of congressional actions relating to the Missouri River Basin project are presented from official records. The first section includes a list of congressional acts comprising authorizations for the development of the Missouri River Basin project. The second section is a synopsis of the record made during the appropriation processes of fiscal year 1946 through 1957, which reflects congressional interest in and the control exercised by the Congress over the reclamation program.

The latter section includes references to justifications showing changes in total estimated costs and in the program, as well as actions by the congressional committees over a 12-year period.

