

## PARKER AND GRAND COULEE DAMS AUTHORIZED

[Extract from] An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes. (Act of August 30, 1935, 49 Stat. 1028, 1039)

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**Sec. 2. [Authorization of Parker and Grand Coulee dams—All contracts and agreements heretofore made ratified—Authorization of Head Gate Rock dam, Arizona.]—**For the purpose of controlling floods, improving navigation, regulating the flow of the streams of the United States, providing for storage and for the delivery of the stored water thereof, for the reclamation of public lands and Indian reservations, and other beneficial uses, and for the generation of electric energy as a means of financially aiding and assisting such undertakings, the projects known as "Parker Dam" on the Colorado River and "Grand Coulee Dam" on the Columbia River, are hereby authorized and adopted, and all contracts and agreements which have been executed in connection therewith are hereby validated and ratified, and the President, acting through such agents as he may designate, is hereby authorized to construct, operate, and maintain dams, structures, canals, and incidental works necessary to such projects, and in connection therewith to make and enter into any and all necessary contracts including contracts amendatory of or supplemental to those hereby validated and ratified. The construction by the Secretary of the Interior of a dam in and across the Colorado River at or near Head Gate Rock, Arizona, and structures, canals, and incidental works necessary in connection therewith is hereby authorized, and none of the waters, conserved, used, or appropriated under the works hereby authorized shall be charged against the waters allocated to the upper basin by the Colorado River compact, nor shall any priority be established against such upper basin by reason of such conservation, use, or appropriation; nor shall said dam, structures, canals, and works, or any of them, be used as the basis of making any such charge, or establishing any such priority or right, and all contracts between the United States and the users of said water from or by means of said instrumentalities shall provide against the making of any such charge or claim or the establishment of any priority right or claim to any part or share of the water of the Colorado River allocated to the Upper Basin by the Colorado River compact, and all use of said instrumentalities shall be in compliance with the conditions and provisions of said Colorado River compact and the Boulder Canyon Project Act. (49 Stat. 1039; 33 U.S.C. § 540)

### EXPLANATORY NOTES

**Parker Dam: Background.** On January 14, 1935, the United States filed a bill in equity in the Supreme Court to enjoin the State of Arizona from interfering with the construction of Parker Dam, which it had done by threatening the use of military force to halt construction. The dam was begun the

previous September, over Arizona's objections, by Harold L. Ickes, Secretary of the Interior and Federal Emergency Administrator of Public Works, pursuant to a contract between the United States and the Metropolitan Water District of Southern California. Dismissing the Government's

bill, the Court found that the Government had not complied with section 9 of the Act of March 3, 1899, forbidding the construction of any dam in any navigable river of the United States until the consent of Congress had been obtained, and until the plans had been approved by the Chief of Engineers and the Secretary of War. The Court held that section 9 of the 1899 Act applied to acts of Government officers as well as to private persons. *United States v. Arizona*, 295 U.S. 174 (1935). Extracts from the 1899 Act, including section 9, appear herein in chronological order.

**Parker Dam: Metropolitan Water District Contract.** Relying upon the existing reclamation law, the Secretary of the Interior entered into a cooperative contract with the Metropolitan Water District of Southern California on February 10, 1933, whereby the United States agreed to build and operate the Parker Dam with funds provided by the district. The United States was to retain title and retain control over all water passing the dam. The district was accorded the right to divert water from the reservoir created by the dam and one-half the power privileges. The United States retained one-half the power privilege and the right to divert water from the reservoir for the Colorado River Indian Reservation and for projects built under the reclamation law. The Government also secured the right to utilize excess capacity in the district's transmission system from Hoover Dam to Parker Dam.

**Cross References, Parker Dam Power Project.** The Act of May 2, 1939, 53 Stat. 626, includes an appropriation for continuing construction of the Parker Dam power plant. The Act of October 28, 1942, provided for the acquisition of Indian lands required in connection with the construction, operation and maintenance of electric transmission lines and other works of the Parker Dam project.

**Cross Reference, Parker-Davis Project.** The Act of May 28, 1954, 68 Stat. 143, authorized the Parker Dam power project and the Davis Dam project to be consolidated and administered as a single project to be known as the Parker-Davis project, Arizona-California-Nevada. The Act appears herein in chronological order.

**Reference in the Text.** The Colorado River Compact, referred to in the text, appears herein in chronological order following the Act of December 21, 1928, the Boulder Canyon Project Act.

**Grand Coulee Dam: Background.** Funds were initially made available for the construction of Grand Coulee Dam by the Public Works Administration on July 27, 1933, by an allotment of \$63 million under sec-

tion 202 of the National Industrial Recovery Act of June 16, 1933. In August 1934, the first of two major contracts for the construction of Grand Coulee Dam and Power Plant was awarded to a combination of contracting firms. Originally, the building of Grand Coulee Dam was planned in two stages. A low dam was to be built first, but with a foundation designed so that a high dam could later be superimposed on this low dam, and a pumping plant and other components of the irrigation system added at that time. By the Act above, authorizing construction of Parker and Grand Coulee Dams, the Congress ratified the contracts already entered into for construction of Grand Coulee Dam and authorized construction of the high dam and the irrigation project.

**Cross Reference, Columbia Basin Project.** The Grand Coulee Dam project on the Columbia River was renamed as the Columbia Basin Project and reauthorized by the Act of March 10, 1943, 57 Stat. 14. The Act appears herein in chronological order.

**Columbia Basin Compact, Consent to Negotiate.** The Act of March 4, 1925, 43 Stat. 1268, granted the consent of Congress to the States of Washington, Idaho, Oregon and Montana to negotiate and enter into a compact not later than January 1, 1927, providing for an equitable apportionment of the water of the Columbia River and its tributaries. This Act was extended by subsequent acts through January 1, 1935 (Acts of April 13, 1926, 44 Stat. 247; March 3, 1927, 44 Stat. 1403; and June 29, 1932, 47 Stat. 381). The compact not having been entered into, the Congress again granted its consent to the same states and Wyoming to negotiate a compact by the Act of July 16, 1952, 66 Stat. 737. This act was amended by the Act of July 14, 1954, 68 Stat. 468, by adding the States of Nevada and Utah to those already authorized to negotiate and enter into a compact. The 1952 Act, as amended, appears herein in chronological order.

**Bonneville Power Administration.** Executive Order No. 8526, dated August 26, 1940, designated the Bonneville Power Administrator under the supervision of the Secretary as agent for the sale and distribution of electrical power and energy generated at the Grand Coulee Dam project and not required for the operation of that project, including its irrigation features. 5 Fed. Reg. 3390 (1940).

**Legislative History.** H.R. 6732, Public Law 409 in the 74th Congress. H.R. Rept. No. 424. S. Rept. No. 893. H.R. Rept. No. 1738 (on H. Res. 322). H.R. Rept. No. 1816 (conference report).

NOTES OF OPINIONS

Grand Coulee Dam 1  
Parker Dam 2

1. Grand Coulee Dam

The Secretary of the Interior has authority under subsections 2(b), 2(f), 5(a), 5(b) and 9(b) of the Bonneville Project Act; section 5 of the Flood Control Act of 1944; section 9(c) and 14 of the Reclamation Project Act of 1939; and section 2 of the Act of August 30, 1935, 49 Stat. 1039, reauthorizing the Grand Coulee Dam project, to construct transmission lines between the Pacific Northwest and the Pacific Southwest. Solicitor Barry Opinion, 70 I.D. 237 (1963).

2. Parker Dam

If an upstream project, such as the proposed Central Arizona project and Bridge Canyon project in the Lower Colorado River Basin, interfere with the statutory responsibility of the Secretary to recover the costs of Hoover Dam by June 1, 1987, or to recover the costs of Davis and Parker Dams within a reasonable period of time, then the cost of such interference should be included as one of the "costs" of the new upstream development under section 9(a) of the Reclamation Project Act of 1939. Memorandum of Chief Counsel Fix, October 9, 1947.