

Chapter V

COMPLIANCE WITH CONDITIONS PRECEDENT TO EFFECTIVENESS OF THE BOULDER CANYON PROJECT ACT

A. Ratification of the Compact by Six States (Appendix 501)

As previously noted, as of the date of approval of the Boulder Canyon Project Act, December 21, 1928, only four of the seven States had approved the agreement as a six-State document: Colorado,¹ Nevada,² New Mexico,³ and Wyoming.⁴

California had approved it as a seven-State compact unconditionally,⁵ and as a six-State compact subject to the condition that Congress should authorize construction of a dam providing a reservoir capacity of at least 20,000,000 acre-feet.⁶

Although the Project Act met this condition of the California ratification, by authorizing a dam to store not less than 20,000,000 acre-feet⁷ and presumably further ratification by California would not have been required, the California Legislature at the 1929 session adopted three acts bearing on ratification: (1) the act of January 10, 1929,⁸ ratifying the agreement as a seven-State document; (2) the act of March 4, 1929,⁹ approving it as a six-State agreement, and deleting the provisions of the so-called Finney Resolution, which made the action of the California Legislature conditional upon authorization by Congress of a 20,000,000 acre-foot reservoir; and (3) the "limitation act" of March 4, 1929,¹⁰ discussed in chapter V (B), *infra*.

Utah, by the act of March 6, 1929,¹¹ thereafter approved the agreement as a six-State document.

¹ Appendix 222.

² Appendix 223.

³ Appendix 224.

⁴ Appendix 226.

⁵ Appendix 215.

⁶ Appendix 221.

⁷ Section 1 of the project act (45 Stat. 1057).

⁸ Appendix 227.

⁹ Appendix 228.

¹⁰ Appendix 502.

¹¹ Utah (appendix 229): The Attorney General, in an opinion dated June 22, 1929 (36 Ops. Atty. Gen. 72), held that the ratification by Utah (act of March 6, 1929, Laws 1929, ch. 31), which had been challenged as being conditional, satisfied the requirements of sec. 4 (a) of the Boulder Canyon Project Act.

It was ruled informally by the Solicitor of the Department of the Interior that it was unnecessary for the Legislatures of Colorado, Nevada, New Mexico, and Wyoming to reenact ratification of the compact as a six-State agreement following the passage of the Project Act, and that their ratifications prior thereto complied with the conditions of the act.

B. Enactment of the California Limitation Act (Appendix 502)

The Legislature of California, in compliance with section 4 (a) of the Project Act, enacted the act of March 4, 1929,¹² stating:

In the event the Colorado river compact * * * is not approved within six months from the date of the passage of * * * the "Boulder canyon project act" * * * by the legislatures of each of the seven states signatory thereto, * * * then when six of said states, including California, shall have ratified and approved said compact * * * and the President by public proclamation shall have so declared * * * the state of California as of the date of such proclamation agrees * * *.

to the limitation proposed by section 4 (a) of the project act.

C. Proclamation of Effectiveness of the Compact as a Six-State Compact, 1929 (Appendix 503)

Proclamation.—On June 25, 1929, President Hoover promulgated Public Proclamation No. 1882,¹³ reciting:

(a) That the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming have not ratified the Colorado River Compact mentioned in Section 13 (a) of said act of December 21, 1928, within six months from the date of the passage and approval of said act.

(b) That the States of California, Colorado, Nevada, New Mexico, Utah and Wyoming have ratified said compact and have consented to waive the provisions of the first paragraph of Article XI of said compact, which makes the same binding and obligatory only when approved by each of the seven States signatory thereto, and that each of the States last named has approved said compact without condition, except that of six-State approval as prescribed in Section 13 (a) of said act of December 21, 1928.

(c) That the State of California has in all things met the requirements set out in the first paragraph of Section 4 (a) of said act of December 21, 1928, necessary to render said act effective on six-State approval of said compact.

(d) All prescribed conditions having been fulfilled, the said Boulder Canyon Project Act approved December 21, 1928, is hereby declared to be effective this date.

¹² Appendix 502: California Stats. 1929, p. 38.

¹³ 46 Stat. 3000.

D. Ratification by Arizona as a Seven-State Compact, 1944 (Appendix 230)

Arizona, by the act of February 24, 1944,¹⁴ undertook to ratify the Colorado River compact as a seven-State compact, notwithstanding the declarations in the Presidential proclamation of June 25, 1929. There has been no determination as to the effect of Arizona's ratification upon the legislation collectively comprising the six-State compact.¹⁵

E. Conditions Precedent Remaining To Be Met

President Hoover's proclamation of June 25, 1929, formalized compliance with the conditions precedent to effectiveness of the act. There remained, however, the conditions precedent to the making of appropriations under the authorization of the project act: these were the requirement of revenue contracts to liquidate the cost of Hoover Dam and power plant, discussed, *infra*, in chapters VI, VII, and VIII; and the requirement of repayment contracts with respect to the All-American Canal. These are discussed in chapters X and XI.

¹⁴ Arizona Laws 1944, p. 427.

¹⁵ Appendix 501.