

# LETTERS

## ARIZONA SPEAKS UP

SIRS:

While no one questions the sincerity of the viewpoint expressed by Dean Franklin Thomas in his article in the October E & S ("The Battle of the Colorado"), advocating the California side of the Colorado River controversy, there is another side—that of Arizona.

The great State of California—the only state which contributes *nothing* to the flow of the Colorado River and which has in the Basin the smallest land area (1.7%)—now gets 51.8% of the total water available to the Lower Basin, and still aspires to more. Not only more water at the expense of Arizona either. If the position advocated by its spokesmen is adopted, California will be the only state within the Colorado River Basin which can make use of Colorado River water to any appreciable extent.

California is and will continue to be the colossus of the West, the greatest beneficiary of the continuing migration of the people to Western areas. We in the hinterland recognize our subordinate position, and offer no objection to this development, but do seek the right to live.

What are the issues involved in the river controversy between Arizona and California? They are: (1)

the interpretation of beneficial consumptive use of water; (2) the question of whether or not the one-million acre-feet allocated to the Lower Basin—under Paragraph III, Article (b), of the Colorado River Compact—is apportioned or surplus water; and (3) the right of California to take a full share of water from the river, with all stream and dam losses chargeable to Arizona in event of shortage.

Taking each in order, it is the contention of the State of Arizona that consumptive use should be measured in terms of depletion of the main stream. That is to say, when the virgin flow of a river is estimated, each state should be charged with the amount that flow is reduced in proportion to the contribution a tributary makes to the main stream.

### Consumptive Use

To the exact contrary, the State of California (and we think this term should be *Southern California*) adopts the position that each drop of rainfall, each acre-foot of water pumped, each acre-foot which may be re-used, represents consumptive use. In practical application, while the Gila River, on a virgin basis, would contribute to the Colorado 1,270,000 acre-feet, the State of Arizona should be charged with an amount variously estimated by so-called California experts from 1,650,000 to more than 3,000,000 acre-feet annually.

The Southern California spokesmen have adopted a position of par-

ticular benefit to them because their state contributes neither a direct contribution nor reflow to the river, whereas Arizona uses and re-uses water and contributes a substantial direct flow as well as reflow.

(2) Dean Thomas mentions certain provisions of the Boulder Canyon Project Act and the suggested compact therein between the three important states in the Lower Basin. But he does not mention the provision whereby the Gila River, then estimated at one-million acre-feet, was made available exclusively to the State of Arizona.

When the Colorado River Compact was agreed upon at Santa Fe in 1922, Arizona made known its objection to the agreement in the form then under consideration. The representative of the State of Arizona finally placed his signature on the Compact only because of two things: (a) the agreement of California and Nevada representatives that they would enter into a subordinate tri-state compact ceding to Arizona the full flow of the Gila River—then as now in almost complete use; and (b) inclusion in the Compact proper of the so-called 3b water, by which the Lower Basin was entitled to increase its use by one-million acre-feet annually.

That this is true is proven by the expression of every Arizona representative there in attendance, all of whom have made affidavits to that effect. Unfortunately, this has been disregarded—but never specifically denied—by representatives of the two other affected states. While it must

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be granted that the failure of Nevada and California to recognize their solemn agreement leaves Arizona in the position of having to depend upon the Compact as written, this does not increase the rights of California to river water on the one hand or reduce the rights of the State of Arizona on the other, for reasons which will hereinafter be explained.

(3) California spokesmen have adopted the unbelievable position that their contracts with the Federal government, being first in time, should be fulfilled in their entirety—and, if on some future occasion a shortage should exist, that shortage must be absorbed exclusively and entirely by the State of California.

This unreasonable conception of sovereignty is so far-fetched as to be unworthy of argument, for each state that was represented at Santa Fe was on a parity and continues to be at this hour.

The Colorado River Compact provides for a division of excess or surplus water in October 1963. Despite this, the State of California assumes the position that because it succeeded in securing a contract for 962,000 acre-feet of water over and above its self-imposed Limitation Act

of 4,400,000 acre-feet annually, this contract must be fulfilled and the State of Arizona made secondary both in importance and in participation of river water.

The desire of the State of California to grow and prosper is both commendable and one to which we offer no objection. But to suggest the possibility of shortage at a time when the Metropolitan District is using approximately 16 percent of its primary water right, and a million acre-feet of California water is annually flowing into the Gulf of California while the Imperial Valley is wasting in excess of a million acre-feet into the Salton Sea, is hardly to be accepted as evidence of need.

Certainly there are Southern California cities which need water, but water is available. Why doesn't Southern California take it? We ask only that California observe the limitation which was self-imposed; and what it does with its water is its own problem. We strenuously object, however, to being accused of piracy at a time when California has more water than she can properly employ and can, by reallocation, serve a metropolitan area in excess of 12 million people.

California spokesmen long have

contended for adjudication of this controversy in the Supreme Court (despite the fact that Arizona on several occasions went to the Court, over the violent objections of the same people). Now that authority to sue has been written into the authorization act in behalf of the Central Arizona Project, the question of water-rights has been forgotten while a flood of propaganda has been released over the nation, pointing exclusively to the so-called lack of feasibility of our Project.

We must have our share of water to continue to live and prosper. We have no desire to secure this at the expense of the legal rights of any other state. But, after repeatedly attempting to negotiate, arbitrate and litigate without success, and facing, as we now face, the continued opposition of Southern California spokesmen, we are constrained to believe that these men want not merely Arizona's share of the river, but the entire river for their exclusive use and enjoyment. And, if they succeed in this unfortunate effort, California will find it has blighted the growth of the West to its own future disadvantage.

Wallis T. Fleming '45  
Cashion, Arizona

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