

Forgotten Law of the River

Ed Millard, Montezuma County, Southwest Roundtable

Parts of the Law of the River seem to have been forgotten by Upper Basin decision makers. Remembering them may prove essential to protecting our Colorado River water rights. Section 603 of the Colorado River Basin Project Act of 1968, a Federal law, entitles the Lower Basin to surplus water only so long as it doesn't interfere with Upper Basin consumptive use or prevent development of our unused entitlement. This interference is occurring today. Section 301 requires Arizona's CAP be shut off first in the event of shortage in the Lower Basin. Article IV of the 1922 Compact prioritizes Agriculture and Domestic use of Compact water over Hydroelectric, apparently precluding interference with Ag to protect Glen Canyon's turbines. Article IV also doesn't mention using Compact water to recharge aquifers, a practice currently stressing reservoirs. Finally, the root cause of today's crisis, the Lower Basin's structural deficit, originated in the 1928 Boulder Canyon Project Act and a 1964 Supreme Court decision. This is poorly understood by many today but was well documented in 1965 by Royce Tipton for the UCRC. The origin of today's crisis is not new.

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Oral presentation with this YouTube video excerpt:

<https://www.youtube.com/watch?v=jdM01DtMX4Y&t=3630s>

Parts of the Law of the River seem to have been largely forgotten by Upper Basin decision makers though they may be essential to protecting our rights Colorado River water. Section 603 of the 1968 Colorado River Basin Projects Act (CRPBA), a Federal law, entitles the Lower Basin to surplus water but only as long as that use doesn't interfere with Upper Basin consumptive use or prevent development of our unused entitlement which is exactly what is occurring today. Article IV of the 1922 compact clearly prioritizes Ag and Domestic use of compact water over hydroelectric so interfering with Ag to protect power generation is dubious. It also doesn't authorize using compact water to recharge aquifers, a practice which is pushing reservoirs to crisis. Section 301 of the CRBPA requires Arizona's CAP be the first water to be shut off in the event of shortage in the Lower Basin. The origin of the Lower Basin structural deficit in the 1928 Boulder Canyon Act and 1964's Arizona v California, which is at the root of

today's crisis, is poorly understood by many though it was well documented by Royce Tipton for the UCRC in 1965.