

Mr. HALEY. Well, that is fine. So actually, what you are going to have to do, and you might as well face up to it, you have to go somewhere else to steal enough water to meet the commitments down there. There is only one place you can get it, as I see it. And that is the Columbia River. Let's not kid ourselves that when you start this project you are going to have to eventually go over someplace and steal the water from someplace else—maybe not at the moment.

Mr. Secretary, I just want to ask one more question, and I realize this is probably a little frivolous. But on the Indian reservations, the various Indian reservations, they have a right for diversion of 905,496 acre-feet of water. That is spread over California, Arizona, Nevada—those are the only States affected.

Mr. Secretary, do you consider these rights superior to any other rights, with the exception possibly of the rights of the Government of Mexico.

Secretary UDALL. They are superior to every right that is dated after their right. They are among the oldest, of course, on the river. I am not so sure that the Indian rights as such—that is a legal question—would not take precedence over the Mexican treaty commitment, unless the Congress itself may have directed otherwise.

Let me nail this down. I will ask Mr. Weinberg; did not the Supreme Court say, as the basis of its decision on this point, that there was a presumption when Congress created each one of these Indian reservations that the Congress then and there gave them the right to enough water as of that date, to cover every irrigable acre on the reservation?

Mr. WEINBERG. Yes; that is the basis of the right. That is why their priority dates back to the establishment of the reservation and that priority exists even though they are not using the water at the present time.

Mr. HALEY. There would be no obligation on the part of these Indian tribes entitled to these rights, there would be no obligation on their part to return anything to the river, is that right? I mean if they want to use the water. In here somewhere—I don't see it right now—it is stated that so many acre-feet presumably would be returned to the river. But they don't have to do that.

Secretary UDALL. I want to assure the Congressmen that these Indian tribes that have this water right—the Colorado River Indians near Parker are a good example—have some of the most valuable farming land in the United States. We have had a very aggressive program over the last 3 years in putting thousands and thousands of new acres into production. We are moving right ahead on this. But any wisely managed irrigation practice means that there are return flows. You have to drain water off or your land gets waterlogged. Therefore, I think that in any formal assumptions concerning agricultural operations there has to be a return flow.

Mr. HALEY. I am well aware of the fact, Mr. Secretary, that water rights in the Western States, in my knowledge of that, water rights are more valuable, sometimes, than land, because if you happened to have some land and did not have water rights, you probably could not do anything with it. So it is the view of the Department, Mr. Secretary, and if you want to have your legal counsel submit a brief or statement for the record so there will be no doubt that these rights of the Indians on that river are superior to any rights or if they are not, say who has the prior right.