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OPINION	:	No. 80-211
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of	:	<u>June 26, 1980</u>
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SUBJECT: AUTHORITY OF STATE TREASURER RE OUT OF STATE PURCHASE—The State of California may lawfully purchase an interest in a power plant in Nevada, and the State Treasurer has the authority to sell bonds of the state to finance such purchase.

The Honorable Jesse M. Unruh, State Treasurer, has requested an opinion on the following question:

Does the State Treasurer have the authority to sell bonds of the State of California when a portion of the proceeds of the sale will be utilized to purchase an interest in a power plant in Nevada (the Reid-Gardner Acquisition) which will provide energy for the State Water Project?

CONCLUSION

The State of California may lawfully purchase an interest in a power plant in Nevada, and the State Treasurer has the authority to sell bonds of the state to finance such purchase.

ANALYSIS

This request for our opinion involves the question of the authority of the Department of Water Resources to acquire an interest in the Reid-Gardner Generating No. 4 Plant in Nevada (the Reid-Gardner Acquisition), and the accompanying authority of the State Treasurer to sell revenue bonds to finance the acquisition. The proposed project will be undertaken jointly with the Nevada Power Company, a privately-owned power company.¹ The general background of the Reid-Gardner Acquisition has been set forth by the Department of Water Resources (hereinafter, DWR) as follows:

“Background”

“The Department of Water Resources (Department) is the State Agency with primary responsibility for the conservation, management and development of the State’s water resources. One of its major functions is the operation of the State Water Project (SWP), which is a large multipurpose water project. The primary purpose of the SWP is to conserve waters from the northern portion of the State and to supply those waters to areas of need in the San Francisco Bay area and Central and Southern California. The SWP, which extends from Plumas County in the north to Riverside County in the south, today includes five power plants, 16 pumping plants, 22 dams and reservoirs and the 444-mile long main line of the California Aqueduct.

“In 1979, the Department estimates it will have supplied 2.5 million acre-feet of water through the SWP to its water contractors.² The power required to pump the water will approximate 3.9 billion kilowatt hours. In 1983, the Department expects to supply 3.4 million acre-feet of water, with power requirements estimated at approximately 7.4 billion kilowatt hours. The year 1983 is significant for the Department’s power program because it is the year the contract with California’s major utilities, pursuant to which the bulk of the power necessary to operate the SWP is supplied, will terminate. Contracts for the purchase of Canadian Entitlement power from the Pacific Northwest will also expire in that year. At full project operation, well after the year 2000, it is estimated that 4.23 million acre-feet will be delivered annually, with annual power requirements estimated at 13.3 billion

¹ Accordingly, the Joint Exercise of Powers Act, Gov. Code § 6500 *et seq.*, would not provide the authority for such joint action, since it is applicable to only public agencies in this state and adjoining states.

² Memorandum from P. A. Towner, Chief Counsel, DWR, to Ronald B. Robie, Director, DWR, dated December 21, 1979.

kilowatt hours.

“The Department thus requires enormous amounts of power to operate the SWP. The Department, at present, must obtain power resources both to replace power supplies which will be extinguished in 1983 and to meet the increasing demand for power resulting from increased water deliveries. To do this, the Department has instituted a long-range energy program to consider all possible sources so that the Department may obtain reliable and economic power for the future operation of the SWP. Pursuant to this program, the Department in 1978 identified the proposed Reid Gardner Generating Station No. 4 (Reid Gardner No. 4) as being worthy of consideration.

“Reid-Gardner No. 4 is a 250–megawatt coal-fired generating facility, which is to be added at Nevada Power Company’s existing Reid Gardner Generating Station, a three unit, 330–megawatt station located approximately 45 miles northeast of Las Vegas, Nevada.

“Under the Participation Agreement, signed on July 11, 1979, the Department and the Nevada Power Company will each provide funds for construction and operation of Reid-Gardner No. 4 and each will be entitled to a portion of the capacity and energy provided by the facility. The Department’s share of construction costs is 67.8 percent and Nevada Power Company’s share is 32.2 percent. In addition, the agreement provides for an exchange of peaking capacity from the Department for energy from the Nevada Power Company. Such peaking capacity will be made available in most instances by interrupting the delivery of energy to the Department from Reid-Gardner No. 4.

“One of the initial steps in considering participation in Reid Gardner No. 4 was the preparation by the Department in December, 1978, of a Draft Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, *et seq.*). The Department published notice of the availability of the Draft EIR in California and Las Vegas, Nevada, newspapers. In addition, it provided the Draft EIR to interested persons and public and private entities in California and Nevada. No comments or recommendations were received. The EIR was put into final form in February, 1979. Based on the Final EIR, mitigation measures were incorporated into the design of the facility to lessen environmental impacts and to ensure that all applicable Federal and State of Nevada environmental regulations and standards are met. The Department,

on February 23, 1979, filed its Notice of Determination to proceed with the project in accordance with CEQA.

“The Department also prepared a feasibility study concerning the Department’s participation in Reid-Gardner No. 4, which was completed June 30, 1979. This study indicated that Reid-Gardner No. 4 would provide required energy to the Department on a reliable basis and at a cost considerably lower than any other alternative available to the Department.

“In addition, the Department reported to the Legislature its intention to participate in Reid Gardner No. 4. On June 20, 1979, the Department transmitted its Bulletin 201–78, entitled California Water, to Senator Ruben S. Ayala, Chairman of the Senate Committee on Agriculture and Water Resources, and Assemblyman Lawrence Kapiloff, Chairman of the Assembly Committee on Water, Parks, and Wildlife. In the chapter of the Bulletin entitled, “The Search For New Ways to Power the State Water Project,” at page 48, the Department reported:

‘DWR is also considering participation in out-of-state coal-fired projects. For instance, we have established principles with the Nevada Power Company for a unique sharing arrangement to develop a 250–megawatt coal-fired unit at the existing Reid Gardner plant about 45 miles northeast of Las Vegas, Nevada. Both DWR and the company will benefit from the plan. The energy needed by DWR would be supplied for at least 15 years, beginning in 1983, with decreasing amounts thereafter. The peaking capacity needed by the Nevada Power Company would be provided in the mid-1980s, thus relieving the company of the need to install gas turbine peaking units that burn high-cost fuels. The Nevada Power Company would have available the energy it would need in the late 1990s when DWR’s participation will have declined.’

“The generating facility is scheduled to commence operation in April, 1983, the first month in which the Department’s firm energy supplies under current contracts will no longer be available. It is estimated the facility will provide the Department with approximately 1.4 billion kilowatt hours annually during the first 15 years of the project, with possible decreases of 70 million kilowatt hours each year thereafter for the following 15 years.

“Based upon the information contained in the Final EIR and the Feasibility Study, the Department determined that participation in Reid Gardner No. 4 was required and necessary for the proper operation of the

SWP, and necessary, convenient and expedient for accomplishing the purposes and objects of the Central Valley Project Act (CVP Act) (Water Code Section 11100, *et seq.*) Therefore, on July 11, 1979, it executed the Participation Agreement with the Nevada Power Company to proceed with Reid Gardner No. 4.” (Emphasis added. Footnotes omitted.)

A. The Pertinent Statutory Law

“The ‘State Water Project’ is the name commonly used to describe the facilities acquired or constructed pursuant to the CVP [Central Valley Project Act, Water Code, § 11100 *et seq.*] and the State Water Resources Development Bond Act (Water Code Section 12930, *et seq.*) [also known as The Burns-Porter Act].”³ The authority for the Reid-Gardner Acquisition, if such authority exists, and its financing is to be found in these particular acts.

Section 11125 provides that the “public interest, welfare, convenience, and necessity require the construction” of the CVP “with incidental generation, transmission, and distribution of electric power.” Section 11126 states that the CVP is in all respects for the welfare and benefit of the people of the State” and accordingly, it “*shall therefore be liberally construed to effectuate the purposes and objects thereof.*” (Emphasis added.)

Specifically with respect to the acquisition of power sources for the CVP, section 11575 provides that DWR “may acquire for and in the name of the State, by gift, exchange, purchase, or eminent domain proceedings any and all . . . electric power, power resources and facilities . . . *as the department determines to be required and necessary* for the proper construction, maintenance, and operation of the” CVP. (Emphasis added.)⁴

³ *Id.*, at p. 6, fn. 7. See also 61 Ops. Cal. Atty. Gen. 373, 375, fn. 5. All section references will be to the Water Code unless otherwise noted.

⁴ Section 11575 provides in full:

“For the purpose of constructing, maintaining, and operating the project and for the purpose of providing and substituting new facilities, for facilities to be taken or destroyed, the department may acquire for and in the name of the State, by gift, exchange, purchase, or eminent domain proceedings any and all water, water rights, right of way, easements, land, electric power, power resources and facilities, and property or appurtenances thereto of every kind and description and any appurtenances to any such property as the department determines to be required and necessary for the proper construction, maintenance, and operation of the project and for effectuating the, purposes and objects to be accomplished by the construction, maintenance, and operation of the project, and for providing and substituting new facilities for facilities taken or destroyed.”

Additionally, section 11454(b) authorizes DWR to “[e]nter into contracts and agreements and do any and all things *which in its judgment are necessary, convenient, or expedient* for the accomplishment of the purposes and objects” of the CVP. (Emphasis added.) Finally, in a similar vein, section 11160 authorizes DWR, and all state officials, to “do such acts and make such agreements *not inconsistent with law as may be necessary or desirable* in connection with the duties and powers conferred upon them by law regarding the construction, maintenance and operation of the” CVP, and the funding and financing of the CVP. (Emphasis added.)

With respect to the issuance of bonds, the Central Valley Project Act provides for the issuance of revenue bonds (§ 11700 *et seq.*). Additionally, the Burns-Porter Act (§ 12930 *et seq.*) provides for the issuance of \$1,750,000,000 in general obligation bonds for the development of the State Water Resources Development System (§§ 12935–12936). Facilities financed thereunder are to be “acquired, constructed, operated, and maintained pursuant to the provisions of the code governing the Central Valley Project.” (§ 12931.)⁵

Finally, section 11127 provides that DWR “shall be regarded as performing a governmental function in carrying out” the CVP Act.

It is thus seen that DWR is given extremely broad authority and discretion to determine that power facilities should be acquired for the objects and purposes of the CVP. (Cf. *Metropolitan Water Dist. v. Marquardt* (1963) 59 Cal. 2d 159: “Power development is an essential part of the project, both to make it economically feasible and to provide the energy required for pumping in connection with the transportation of water.” (*Id.*, at p. 173.) “Here the conduct of an important public enterprise requires that broad power and discretion be granted to the administrative agency in charge of the project.” (*Id.*, at p. 177.) As noted in the background material set forth above, DWR determined that the Reid-Gardner Acquisition was “required and necessary for the proper operation of the” CVP and was “necessary, convenient and expedient for accomplishing the objects and purposes of the” CVP, thus apparently literally making the findings required of it by sections 11454(b) and 11160, *supra*, with respect to its acts and agreements. Accordingly, if the Reid-Gardner Acquisition were within the boundaries of the State of California, there would be no doubt but that it fell within the authority delegated by the Legislature to DWR. Does the fact that it is in Nevada modify that conclusion? In assessing that question we believe that the case law, and any other available indicators of legislative intent must be examined.

⁵ The Burns-Porter Act does not nullify the authority to issue revenue bonds pursuant to the Central Valley Property Act. See *Warne v. Harkners* (1963) 60 Cal. 2d 579, 585.

B. The Case Law

Since neither the CVP Act, nor any other statutory provision of which we are aware would specifically and explicitly authorize DWR to jointly acquire a power plant outside of California with a privately-owned public utility, research into case law is appropriate.

Our research into the California cases fails to disclose any cases wherein the power of this state to acquire property in another state has been discussed or placed in issue. Accordingly, research into the case law of other states and federal jurisdictions is appropriate.

Cases which have been brought to our attention or which our own research has disclosed from other jurisdictions with respect to one state (or a subdivision thereof) owning property in another state may be categorized as follows:

1. Cases where the authority of the first state to own property in the second state was either clear or assumed, and another point was in issue, such as the question of the immunity of the first state from taxation or from suit in the second state.⁶ These cases also generally establish the principle that when one state acquires property in another state, it does so in a proprietary capacity, and hence is treated much the same as a private corporation. In short, by going into another state, the first state leaves its sovereignty behind it.

2. Cases involving local entities of the first state which had express authority to act outside of their territorial limits, and the courts construed such authority to permit the local agency to cross state boundaries for purposes of their particular projects. These cases usually involved a situation where the local entity was close to the other state, and it was reasonable to imply a legislative intent to permit the entity to cross into the next state for reasons of necessity or expediency.⁷ In one case however, the court held that the City of

⁶ *People v. Streeper* (Ill. 1957) 145 N.E.2d 625 (interstate bridge; question of immunity from suit); *State v. City of Hudson* (Minn. 1950) 42 N.W.2d 546 (interstate bridge; question of liability for property tax); *Florida State Hospital. Etc., v. Durham Iron Co.* (Ga. 1942) 21 S.E.2d 216 (state hospital farm and question as to ability to attach such property); *State v. Bentley* (Minn. 1944) 12 N.W.2d 347 (inverse condemnation through flood control, question of immunity from suit); *Mettet v. City of Yankton* (S.D. 1946) 25 N.W.2d 460 (interstate bridge, question of debt limitation re revenue bonds); *Georgia v. Chattanooga* (1923) 264 U.S. 472 (interstate railway, issue as to ability to condemn property in second state); *Klein v. City of Louisville* (Ky. App. 1928) 6 S.W.2d 1104 (interstate bridge, federal legislation permitting condemnation in second state); *State v. Holcomb* (Kan. 1911) 116 Par. 251 (waterworks plant, question of immunity from taxation); *McMurry v. Kansas City* (Mo. 1920) 223 S.W. 615 (interstate joint sewage project).

⁷ *McLaughlin v. City of Chattanooga* (Tenn. 1944) 177 S.W.2d 823 (municipal airport partially

Dearborn, Michigan had the authority to own and operate a senior citizen's home in Florida, relying upon the following language of *McLaughlin v. City of Chattanooga*, *supra*, fn. 7 to the effect that:

“The phrase “within and without the geographical limits of such municipalities” *is as broad as the universe*, since every point is either within or without the limits of a municipality. In its broad sense it includes territory which is within the confines of a municipality and all of that which is not so situated, including that of another municipality.” (Emphasis added.)⁸ (*Id.*, at p. 824.)

Compare, e.g., *Bernard v. City of Bluefield*, *supra*, fn. 7, 186 S.E., at p. 299:

“We think it is inescapable, in view of the large number of border towns in the state of West Virginia whose sewage disposal problem of sheer necessity may, and of practical convenience certainly would, involve the territory of other states, to conclude that by the terms of this act, the Legislature intended, in so far as it could, to confer upon such municipalities as might find its exercise convenient, the right to make necessary and appropriate arrangements for the disposal of their sewage even where that course involved the use of territory in an adjoining state”

3. Cases involving local entitles where the court appears to have *implied* that the entitles had the authority to operate outside their territorial limits, and then extended this power across state lines. These cases also involved “border towns” or small states in the East where it would be not too unusual to operate across state lines. One of such cases is factually similar to the Reid-Gardner Acquisition. That case, *Birge v. Town of Easton* (Md. App. 1975) 337 A.2d 435, involved the power of a town in Maryland to acquire an interest in a nuclear power plant proposed to be built by a private utility company in Delaware for purposes of the town's electrical utility. The court, basing its decision on the general rule that a municipality may exercise powers which are expressly granted, necessarily or fairly implied or incident to the express powers, or those essential to the accomplishment of the corporation's purposes (similar to the California cases to be discussed, *infra.*), stated:

“ . . . We think it necessarily or fairly implied in or incident to the

in Georgia); *Bernard v. City of Bluefield* (W. Va. App. 1936) 186 S.E. 298 (sewage plant and outfall); *Langdon v. City of Walla Walla* (Wash. 1920) 193 Pac. 1 (waterworks, property and facilities partially in Oregon); *Hacussler v. City of St. Louis* (Mo. 1907) 103 S.W. 1034 (interstate bridge, federal authorization also present).

⁸ See *Sabaugh v. City of Dearborn* (Mich. App. 1969) 167 N.W.2d 826, 828.

express power granted by the Legislature to the Town to operate an electric utility in a proprietary capacity that it may acquire extra territorial property—including property lying in another state or property held in common with another privately owned electric utility—so long as it is reasonably essential to accomplish its mandated purposes” (*Id.*, at p. 440.)

Another case, however, although emphasizing and following the general rule that a municipal corporation could go outside its borders for a necessary water supply for its water system as “necessary or convenient” additionally relied upon “border town” reasoning to justify laying pipe in another state in order to reach its water source. (See *Superior Water, Light & Power Co. v. City of Superior* (Wis. 1921) 183 N.W. 254, 256–257.)⁹

It is thus seen that there is nothing unusual for a state,¹⁰ or at least a local entity of a state to hold property in another state to aid it in carrying out its various functions. In fact, as early as 1889 a federal court held that the State of Indiana could hold title to timberland in Georgia which had been deeded to it, at least with the tacit permission of the State of Georgia. (*Dodge v. Briggs* (C.C.S.D. Ga. 1884) 27 Fed. 160.) Case law brought to our attention and our own research has disclosed only two cases wherein a court denied one state, or an entity thereof, the power to acquire land in an adjoining state. In each of those cases, however, the lack of power to operate outside its own borders was clear. Thus in *County Court of Wayne County v. Louisa & Fort Gay Bridge Co.* (S.D. W.Va. 1942) 46 F. Supp. 1, the court held that West Virginia could not condemn a toll bridge which was located partly in Kentucky in the absence of an agreement with the State of Kentucky or the owner of the bridge. The court’s holding was predicated upon the fact that the exercise of eminent domain is an attribute of sovereignty which does not extend across state lines. In the other case, *Becker v. City of La Crosse* (Wis. 1898) 75 N.W. 84, the particular entity, the City of La Crosse, attempted to perform a function in the state of Minnesota as to which

⁹ For additional cases where the power to go beyond both local entity boundaries and state boundaries was implied, see *Wilson v. Board of County Com’rs of Allegany County* (Md. App. 1974) 327 A.2d 488 (issuance of county revenue bonds for private company’s air pollution control facilities in adjoining state): The applicable provision of [the Act] contain no such geographic limitation on the location of a project and we feel that to judicially draft one would be contrary to the intent of the legislature”) (*Id.*, at p. 502); *Freeman v. Trimble* (NJ). 1910) 129 N.W. 81 (*international* joins drainage project: “[W]e do not see that the question of power should be limited in case of necessity, in cases going outside the limits of the United States, any more than in extending the power by going beyond the boundaries of cities, counties or townships for outlets.” (*Id.*, at p. 88.)

¹⁰ For a case wherein the state itself owned the property in another state, see *Paulus v. State of South Dakota* (N.D. 1929) 227 N.W. 52, wherein the State of South Dakota owned and operated a coal mine in North Dakota, and the question of immunity from suit arose in the latter state.

it clearly had no authority. The Wisconsin law permitted the city to build an interstate bridge. The city did so, but additionally built 2½ miles of highway into Minnesota, which its own law in no manner authorized.¹¹

In short, as a general proposition, courts have permitted states, and local agencies of states to cross state boundaries where necessary or convenient to accomplish their governmental purposes. As noted, however, no California case has ruled on the question of ownership of property in another state by California or its local entities in furtherance of their governmental powers and functions.

However, California does have a number of cases involving the power of local agencies to extend themselves beyond their territorial limits under appropriate circumstances. In that the cases from other jurisdictions discussed above relied heavily upon similar cases to extend an entity's jurisdiction into another state, these California cases are worthy of mention herein.

The most recent detailed explanation of the principles underlying these cases by the California Supreme Court disclosed by our research is found in *Harden v. Superior Court* (1955) 44 Cal. 2d 630. In that case, the Court held that the City of Hayward did not have the power to condemn property for off-street parking lying outside its city limits, drawing upon the leading cases in California in this regard, as well as out of state cases. The Court's discussion is instructive:

“ . . . [I]n *Mulville v. City of San Diego*, 183 Cal. 734, 737 (192 P. 702), the question of the power of a city to exercise eminent domain outside its boundaries was indirectly involved. It was there said: “In general, a municipality is competent to act beyond its boundaries only in those cases in which it is so empowered by legislative authority and it is necessary, in passing upon the validity of acts of a municipality performed beyond its boundaries, to look to the general laws and municipal charter for the requisite authority. In certain instances, owing to the urgency of extreme expediency or necessity, express authority is dispensed with and the power of the municipality to perform certain acts beyond its boundary is implied as incidental to the existence of other powers expressly granted. Thus, it has been held that, where a municipality has power to construct sewers, it may, as an implied incident to such power, extend the same beyond its boundaries when necessary or manifestly desirable. (*McBean v. City of Fresno*, 112 Cal. 159 [44 P. 358, 53 Am.St.Rep. 191, 31 L.R.A. 794]; *City of Coldwater v.*

¹¹ “This case is distinguished in *Langdon v. City of Walla Walla*, *supra*, fn. 7, 193 Pac. at p. 4 and *Haeussler v. City of Sr. Louis*, *supra*, fn. 7, 103 SW. at p. 1042.

Tucker, 36 Mich. 474 [23 Am.Rep. 601]; *Cochran v. Village of Park Ridge*, 138 Ill. 295 [27 N.E. 939]; 4 McQuillin on Municipal Corporations, sec. 1434.) McQuillin, in his work on Municipal Corporations, states the rule as follows: “The general rule is that without legislative grant the authority of the municipal corporation is confined to its own area, hence its acts and ordinances have no force beyond its corporate limits. Thus, in the absence of such grant the municipality cannot open a street, repair a highway, grade an avenue, or aid in the construction of a plank road or bridge beyond its boundaries. Sometimes authority to act outside of the municipal boundaries may be implied on the ground of necessity, as for example, to obtain outlets for sewers and drains. Likewise a municipality possessing power to supply its inhabitants with water, may acquire for that purpose, a water supply without its territory. (4 McQuillin on Municipal Corporations, § 1824.) The court continued: Therefore, in the case of a municipality, power to act outside of the boundaries of the municipality is dependent entirely upon legislative grant; it does not exist unless expressly granted, necessarily or fairly implied in or incident to the powers expressly granted, or essential to the declared objects and purposes of the corporation. (*Hyatt v. Williams*, 148 Cal. 585, 587 [84 P. 41]; *South Pasadena v. Pasadena Land etc., Co.*, 152 Cal. 579, 590 [93 P. 490].) By analogy the same rule applies in determining whether or not bonds of a municipal improvement district may be issued, the proceeds of which are to be used in the construction of public works outside of the boundaries of tile district.” (*Id.*, at pp. 638.639.)¹²

¹² See also *Southern, Cal. Gas Co. v. City of L.A.*, (1958) 50 Cal. 2d 713 (city sewer line partly in county—power implied); *Ebrite v. Crawford* (1932) 215 Cal. 724 (city airport regulations applicable outside territorial limits—power implied); *In re Blois* (1918) 179 Cal. 291 (city’s authority to inspect laundries outside city limits—power implied) *Hewitt v. San Jacinto Etc., Irr. Distr.* (1899) 124 Cal. 186 (delivery of water to customers outside city limits—power implied at that time); *City of Ceres v. City of Modesto* (1969) 274 Cal. App. 2d 545 light, water, power, etc., outside territory—express power, sewage disposal facilities outside territory—power implied); *City of North Sacramento v. Citizens Utilities Co.* (1961) 192 Cal. App. 2d 482 (extraterritorial right of eminent domain implied main from express power to operate water system within or without boundaries); *City of Hawthorne v. Peebles* (1959) 166 Cal. App. 2d 758 (extraterritorial right of eminent domain implied from express power to acquire land for park purposes adjacent to city); *Sacramento Etc. Dist. v. Pac. G & E. Co.* (1946) 72 Cal. App. 2d 638 (extraterritorial right of eminent domain—express power); *City of Mill Valley v. Saxton* (1940) 41 Cal. App. 2d 290 (city bus line outside territory—express power); *Durant v. City of Beverly Hills* (1940) 39 Cal. App. 2d 133 (power to supply water extraterritorily arose from express power to supply inhabitant of city); *Torson v. Fleming* (1928) 91 Cal. App. 168 (statute construed to permit extraterritorial extension of sewer line); *Federal Construction Co. v. Ensign* (1922) 59 Cal. App. 200 (extraterritorial sewer outlet—power implied).

Thus under appropriate circumstance such as “extreme expediency or necessity,” where “necessarily or fairly implied in or incident to the powers expressly granted,” or where “essential to the declared objects and purposes of the corporation,” a court in California will imply the power of a municipal corporation to act extraterritorily. It would seem that a court should grant DWR the same deference where it determines that a work such as the Reid-Gardner Acquisition is “necessary, convenient and expedient for accomplishing the objects and purposes of the” CVP and is “required and necessary for the proper operation of the” CVP—the analogous tests under the Central Valley Project Act to those set forth by the Court for municipal corporations.

Accordingly, in view of (1) the overwhelming authority in other jurisdictions implying authority of a state, or at least its entitles, to act interstate where necessary or convenient for its purposes, (2) the California case law with respect to the power of municipal corporations to act extraterritorily setting forth the same rules upon which the out-of-state cases relied upon in many instances, and (3) the extremely broad power and discretion vested in DWR to enter into agreements and acquire property works and facilities for the objects and purposes of the CVP, it is our conclusion that California courts would probably construe the Central Valley Project Act to permit the Reid-Gardner Acquisition.¹³

¹³ We note that the instant request for our opinion also included a second question, that is, [i]f the law is not explicit in this request [the authority to sell bonds to finance the Reid-Gardner Acquisition], should the matter be presented to the Legislature or the courts for resolution of the question.” We have not addressed that question since it does not present a question of law. We view our function herein to state our best legal opinion on the state of the law with respect to the authority for the Reid-Gardner Acquisition. Accordingly, this opinion should not be regarded as advice as to the necessity, if any, to pursue other clarifying action prior to the sale of the subject bonds.