United States Senate
WASHINGTON, D.C.

May 22, 1928.

Hon. Delph E. Carpenter,
Greeley, Colorado.

My dear Mr. Carpenter:

For your use I attach printed copies of your proposed amendments to Section 4 of S. 728, the Boulder Canyon Bill.

I shall attempt to have such language inserted by the Senate in the event the measure comes to a vote during the remaining days of the present session, and am also trying to obtain similar action on the part of the House.

Yours sincerely,

[Signature]

Encls.
November 26, 1928.

Hon. Delph E. Carpenter,
Greeley, Colorado.

Dear Mr. Carpenter:

From our conversation the other night I got the understanding that you were going to try your hand at drafting amendments to the Swing-Johnson bill, and that you were inviting suggestions from me. Until yesterday I was so occupied with other matters that I was unable to devote any time to this subject. I have now been trying to think constructively about it, and I submit the following suggestions which I shall be very glad to have you put into the form of proposed amendments, to be further discussed when I return to Denver.

1. The bill should be amended so as to limit California absolutely and irrevocably to 4,600,000 acre feet of water. The Kendrick amendment, which purports to accomplish this object, seems to be ambiguous and indecisive. Proponents of the bill have argued that by its terms California was underwriting the upper basin's allotment of water, but to my mind this was questionable. I think this provision should be stated, not by inference, but in clear, unmistakable terms. If we are to accept this provision in lieu of seven state ratification, California should be willing to give us a substitute of real value and not of doubtful value.
Hon. Delph E. Carpenter

Nov. 26, 1928.

2. There should be a section in the Swing-Johnson bill giving formal notice to Mexico, (or instructing the Department of State to do so) that in no event shall Mexico ever claim or be entitled to claim any water made available through storage works built within and at the cost of the United States, no matter whether built by the National Government or by one or more of the states or by private enterprise.

This provision is exceedingly important, and we should not let ourselves be put off by somebody's legal opinion that Mexico could not claim storage water anyway. The Governor of California assented to our Mexican memorial at the Denver Conference, and I do not anticipate any objection to this proposition from California.

3. It is my understanding that the bill in its present form retains that portion of Section 8 which provides, in effect, that the water for the Boulder Dam project shall be appropriated under the laws of the ratifying state of Nevada. I think the bill should provide that if and when the Colorado River compact has been ratified by the seven states and approved by Congress, then a like appropriation shall also be made under the laws of Arizona. This is important as acknowledging that water within a state is the property of the state and can only be secured by complying with the laws of the state. California, for her own protection as well as ours, ought to go thus far to meet the complaint of those of us who have urged that the Swing-Johnson bill is the longest step that has ever been taken in the direction of Federal control of our western waters and that it is a revolutionary measure in that respect.
Hon. Delph E. Carpenter

Nov. 26, 1928.

4. Let the bill declare that the Boulder Canyon project is the first step of a comprehensive plan to be undertaken by the Federal Government for the development of the Colorado River system. The purpose of this is to offset the objection that the Boulder Canyon project is a piece of favoritism for California and that the Government ought to be impartial. It does not seem quite fair to enact the Swing-Johnson bill which proposes to use the most available power site on the river, the waters of the river, the present market for power, lands of the United States and the credit of the United States all for the benefit of the lower basin, thereby making it possible for all the lower basin states to begin at once to put their share of the Colorado River water to beneficial use and to make their complete and ultimate development within a period of probably not more than fifteen years, whilst the upper states get nothing but the six-state compact with its imperfect protection.

5. As evidence of good faith in the foregoing declaration, let the bill provide that all excess revenue over and above what is required to repay the Government's investment with interest shall go into a special fund or a revolving fund for the further development of the Colorado River system in the other states. It could then be said that the Swing-Johnson bill is not solely a California measure.

I appreciate the obvious fact that the preceding suggestion is wholly at variance with my past position, for I have contended for state ownership of the water and power resources, and for turning all the profits of the project over to the states when the Government has been fully paid out. I so stated
Hon. Delph E. Carpenter  
Nov. 26, 1928.

before the Senate Committee, and Senator Kendrick said, "That is my attitude exactly." Commissioner Mead, of the Bureau of Reclamation, in private conversation, has expressed sympathy with this view. The bill, however, contains no such provision and I am laboring under the impression that its proponents will not consent to such a change. I am therefore making a suggestion that I think is in harmony with the ideas of those who have charge of the bill. I fear, however, that this proposed change will drive Arizona farther away than ever, whereas a provision to turn the project back to the states might be an inducement to her to come into the compact.

The proposal for a comprehensive scheme of development opens up other questions. Who is to decide where the next project shall be built? The best way to avoid friction would be by authorizing the formation of an association or corporation of the seven states and the United States for the co-operative development of the entire River, under which the rights and duties of each state and of the United States will be fully recognized. I do not know whether such authorization could appropriately be put into the Swing-Johnson bill or not. It would amount to an authorization to negotiate another interstate compact, which would be a laborious and tedious undertaking.

In this connection, for the protection of the states, there should be a limitation upon the authority of the Secretary of the Interior over the sale of power. A secretary obsessed with the one idea of fighting the "power trusts" might thereby be blinded to the legitimate claims of the states.
Hon. Delph E. Carpenter

Nov. 26, 1928.

If authority is granted to organize an interstate association the authorization should extend to a determination of the right policy for the development and administrative control of the waters of the river in order to secure the highest possible beneficial use thereof within the United States, and this should be the joint work of the officials of the states and of the United States.

I am going to Washington tomorrow, and while there I shall endeavor to see Senator Johnson and others. I plan to go home via Denver, where I hope to see you, Governor Adams, Governor Emerson and Mr. Wilson.

Very sincerely yours,

[Signature]
Governor of Utah
COPY OF
WESTERN UNION TELEGRAM

Greeley, Colo., Nov. 30, 1928

FRANCIS C. WILSON
UNIVERSITY CLUB
WASHINGTON D.C.

POWER EMBARGO AMENDMENT SHOULD BE ADDED TO FORM B FOR
SAME REASON ADDED TO FORM A STOP GOVERNOR ADAMS DOUBTS
ADVISABILITY SUGGESTING FORM B STOP SHAL WE ADD EMBARGO
CLAUSE OR LEAVE AMENDMENT AS DRAWN STOP EMMERSON AND I BOTH URGE
CENTERING ON FORM A WITH NO CHANGE WORD DIVERSION TO CONSUMPTIVE
USE

Delph E. Carpenter.

(Charge to Acct)
COPY OF
WESTERN UNION TELEGRAM

Greeley, Colo., Nov. 30, 1928.

GOVERNOR GEORGE H DARN
THE WILDER HOTEL
WASHINGTON D.C.

ANSWERING SUGGESTIONS YOUR LETTER IN ORDER NUMBERED FIRST
FORM A AMENDMENT OF WHICH BANNISTER AND WILSON HAVE COPIES
LIMITS CALIFORNIA SECOND AMENDED BILL LIMITS USE OF WATER
EXCLUSIVELY WITHIN UNITED STATES THIRD SECTION EIGHT AS AMENDED
COVERS YOUR SUGGESTIONS FOURTH SECTION FOURTEEN COVERS SO FAS AS
FEASIBLE AT THIS TIME FIFTH TO DATE TO INCORPORATE SUGGESTIONS IN
BILL STOP OWING TO CONDITIONS BELIEVE ADVISABLE TO CENTER ON FORM
A AMENDMENT LIMITING CALIFORNIA DIVERGENCES PERSUADING SENATORS
KENDRICK SMOOT KING AND FITZMAN TO INSIST INCORPORATION OF AMENDMENT
AS WRITTEN

Delph B. Carpenter
COPY OF
WESTERN UNION TELEGRAM


L WARD BANNISTER
THE WILLIARD HOTEL
WASHINGTON D.C.

CALL ATTENTION WILSON THAT POWER EMBARGO AMENDMENT ADDED BY US TO FORM A SHOULD ALSO BE ADDED TO FORM B STOP GOVERNOR ADAMS HAS NOT SIGNED LETTERS AS YET STOP SUGGEST EARLY ARRANGEMENT WITH SENATOR PHIPPS OR KENDRICKS TO INTRODUCE FORM A AMENDMENT

Delph E. Carpenter.

(Charge to Acc't)
WILL WAIT FOR BANNISTER WITH AMENDMENTS MENTIONED YOUR LETTER
STOP IF YOU HAVE DRAFTED AMENDMENTS COVERING OTHER POINTS
CONTAINED IN MY LETTER PLEASE WIRE THEM NIGHTLETTER UNLESS
YOU CAN GET THEM TO ME BY MAIL BY SATURDAY ENGINEERING
COMMITTEE AND PRESIDENT'S MESSAGE BOTH UNFAVORABLE TO CERTAIN
FEATURES PRESENT BILL BUT SMOOT SAYS ALL PROPOSED AMENDMENTS
SHOULD BE READY ON OPENING DAY=

GEO H DERN.

THE QUICKEST, SUREST AND SAFEST WAY TO SEND MONEY IS BY TELEGRAPH OR CABLE
December 1, 1928.

My dear Senator Phipps:

Re: Swing-Johnson Bill

Last Monday, Governor Emerson, Governor Adams, and I met at Denver at the Governor's office, upon the request of Governor Emerson, to consider recommendations, if any, to be made respecting amendments to be urged for incorporation in the Swing-Johnson Bill in order to protect the upper Colorado River states. Governor Dean of Utah had passed through Denver the previous week and had consulted with the Attorney General and myself respecting his views which were similar to those heretofore expressed by Governor Adams. He then went to New Orleans to attend the Governor's conference. Governor Dillon of New Mexico, was also invited by Governor Emerson but did not meet with us on Monday. However, during the Monday session, we received a telegram from Francis C. Wilson, Commissioner for New Mexico, stating that he would be present on Tuesday.

Governors Adams and Emerson were both of the opinion that the amendments recommended by them last May and offered by you on May 3, 1928, and ordered to be printed, were satisfactory and necessary to the protection of the upper states. After considering the fact that the present embargo against the granting of permits by the Federal Power Commission expires March 5, 1929, it was considered advisable to either ask for a renewal of the embargo by congressional resolution or to incorporate a further clause in the amendments already recommended by them and introduced by you.

Mr. Wilson met with us on Tuesday, the 20th and remained until the 22nd. After much discussion, he agreed to the policy of joining in the recommendation of the amendments already offered by you on recommendation of Governors Adams and Emerson, with the addition of a clause suspending the issuance of licenses on the Colorado River by the Federal Power Commission until such time as the Swing-Johnson Bill should become effective. This, we all considered to be necessary in view of the first two lines of Section 4 (a) as proposed in your amendment. He also requested that the words "and/or" in line two, page three of the amendments as printed be changed to the words "plus not", and to this request we all consented. It was agreed to prepare a re-draft of the amendments heretofore offered by you, making a slight change agreed upon and adding a new clause to fix an embargo against the issuance of licenses by the Federal
Power Commission and to give such amendments our united support. These amendments as redrafted, are designated as Form A, a copy of which I enclose for your information.

Mr. Wilson and Mr. Bannister of Denver, while acting as intermediaries between Arizona and California representatives at Washington last spring, drafted an amendment to the bill which was to be introduced in the event Arizona and California composed their differences in conformity with the provisions of the amendment. This proceeded upon the basis of a seven state ratification of the Colorado River Compact and Mr. Wilson was very desirous of having our approval of some such amendment, as a substitute for Form A, in the event Arizona and California compose their differences before congressional action on the bill. He made this request with the full understanding that we should all insist upon the incorporation of Form A in the pending legislation, but being understood that his amendment (Form B) is only to be considered as an emergency suggestion in case Arizona and California agree between themselves. We consented to the recommendation of some such amendment in the event such conditions arise and I attach a copy hereto, designated as Form B.

On Wednesday, Mr. L. Ward Bannister of Denver, joined our conference upon our invitation and he joined with us in agreeing upon a policy of united persistent support of Form A amendment; Form B to be considered only in emergency as already stated and both Mr. Wilson and Mr. Bannister volunteered to go to Washington to assist in the adoption of Form A amendment, which they have done.

At the conclusion of the meeting we prepared a draft of letters to be signed by the Governors of the Upper Basin States and directed to our Senators and Congressmen, urging the united support of Form A amendments. These letters are now going the rounds for signatures by the Governors and will probably reach you in due course.

Might I suggest that unless there is some serious objection to the changes made in the amendments already offered, it would be well to cause Form A to be offered at the opening of the session of Congress?

I am sending a copy of this letter and copies of Forms A and B to Senator Waterman.

Very truly yours,

Delph E. Carpenter,
Commissioner for Colorado.

To Senator Lawrence C. Phipps,
Senate Office Building,
Washington, D. C.
December 1, 1928.

My dear Senator Phipps:  

Re: Swing-Johnson Bill

Last Monday, Governor Emerson, Governor Adams and I met at Denver at the Governor's office, upon the request of Governor Emerson, to consider recommendations, if any, to be made respecting amendments to be urged for incorporation in the Swing-Johnson Bill in order to protect the upper Colorado River states. Governor Dean of Utah had passed through Denver the previous week and had consulted with the Attorney General and myself respecting his views which were similar to those heretofore expressed by Governor Adams. He then went to New Orleans to attend the Governor's conference. Governor Dillon of New Mexico, was also invited by Governor Emerson but did not meet with us on Monday. However, during the Monday session, we received a telegram from Francis C. Wilson, Commissioner for New Mexico, stating that he would be present on Tuesday.

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Power Commission and to give such amendments our united support. These amendments as redrafted, are designated as Form A, a copy of which I enclose for your information.

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On Wednesday, Mr. E. Ward Bannister of Denver, joined our conference upon our invitation and he joined with us in agreeing upon a policy of united persistent support of Form A amendment; Form B to be considered only in emergency as already stated and both Mr. Wilson and Mr. Bannister volunteered to go to Washington to assist in causing the adoption of Form A amendment, which they have done.

At the conclusion of the meeting we prepared a draft of letters to be signed by the Governors of the Upper Basin States and directed to our Senators and Congressmen, urging the united support of Form A amendments. These letters are now going the rounds for signatures by the Governors and will probably reach you in due course.

Might I suggest, that unless there is some serious objection to the changes made in the amendments already offered, it would be well to cause Form A to be offered at the opening of the session of Congress?

I am sending a copy of this letter and copies of Forms A and B to Senator Waterman.

Very truly yours,

Delph E. Carpenter,
Commissioner for Colorado.

To Senator Lawrence C. Phipps,
Senate Office Building,
Washington, D. C.
December 1, 1928.

My dear Senator Waterman:

I enclose herewith a copy of my letter to Senator Phipps regarding the conference at Denver, the first part of this week, at which were taken the proceedings outlines in my letter. I also enclose copies of Form A and B.

You will note that Mr. Bannister has gone to Washington with the express understanding that he will work persistently for the adoption of Form A amendment. This attitude is in direct contrast to his former position and is very gratifying to all parties.

In the event Senator Phipps or yourself do not care to introduce Form A, I would suggest that Senator Kendrick would be the proper Senator to introduce Form A as it clarifies the work commenced by him in the committee.

I will write you more at length the first of next week.

Very truly yours,

Delph E. Carpenter,
Commissioner for Colorado.

Senator Charles W. Waterman,
Senate Office Building,
Washington, D. C.
December 1, 1928.

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Very truly yours,

Delph E. Carpenter,
Commissioner for Colorado.

Senator Charles W. Waterman,
Senate Office Building,
Washington, D. C.
MEETING OF SENATORS REPRESENTATIVES AND COMMISSIONERS OF UPPER BASIN STATES CALLED BY SENATOR SMOOT AT HIS OFFICE TOMORROW MORNING TEN OCLOCK PURPOSE TO ATTACK COMPACT UPON THEORY THAT REPORT OF BOARD OF ENGINEERS SHOWS ONE MILLION ACRE FEET PER ANNUM LESS AT LESS FERRY THAN THE BASIS NAMELY FIFTEEN MILLION ACRE FEET OF COMPACT DEFINING OUR OBLIGATION TO DELIVER WATER AT THAT POINT AND THUS TO PERFORM OUR GUARANTY WE WOULD BE REQUIRED TO REDUCE OUR SEVEN MILLION FIVE HUNDRED ACRE FEET BY ONE MILLION ACRE FEET ANNUALLY WHICH WOULD MEAN THAT WHILE WE WOULD HAVE TO GIVE THEM THEIR ALLOCATION UNIMPAIRED WE WOULD HAVE OURS DEPLETED BY ONE MILLION ACRE FEET ANNUALLY STOP WE WOULD APPRECIATE YOUR CALLING IN MEEKER AND GIVE US YOUR JOINT VIEWS BEFORE TEN OCLOCK TOMORROW MORNING BY LONG DISTANCE OR WIRE OCCASION CRITICAL TO SUPPORT OF UPPER STATES TO COMPACT=

FRANCIS C WILSON L WARD BANNISTER.
Received at

V 116 43=WASHINGTON DC 4 1205A
DELPH E CARPENTER=
GREELEY COLO=

INCLUDE IN YOUR ANSWER HOW YOU ARRIVED AT FLOW AT LEE FERRY
HOW MUCH IT WAS AND HOW MANY YEARS WERE COVERED AND FROM
WHAT RECORDS DATA ASSEMBLED TO REACH BASE FIGURE AT THAT
POINT UPON WHICH ALLOCATION TO UPPER BASIN WAS DETERMINED=

WILSON AND BANNISTER.
Greeley, Colo., Dec. 4, 1928.

FRANCIS C WILSON OR
Z. WARD BANNISTER
CARE SENATOR REID SMOOT
SENATE OFFICE BUILDING
WASHINGTON D.C.

TELEGRAM RECEIVED LATE LAST NIGHT WEEKER AWAY PRESENT
CONSUMPTION ABOVE LEE FERRY ADDED TO RECORDED FLOW GIVES
NATURAL FLOW LEE FERRY STOP COMPACT BASED ON RECORDS LOWEST
RECORDED TEN YEAR CYCLE YUMA AND ELSEWHERE AND RECORDS SINCE
OBTAINED LEE FERRY PROVE CORRECTNESS ESTIMATE STOP ENGINEERS
PROBABLY PROCEEDING BASIS ACTUAL FLOW WITHOUT CONSIDERING PRESENT
CONSUMPTION ABOVE LEE FERRY

Delph R. Carpenter

(Charge to Acc't).

WARD BANNISTER
NEW WILLIARD HOTEL
WASHINGTON D. C.

TELEGRAPHED YOU CARE OF SENATOR SHOOT STOP REMEMBER BENEFICIAL CONSUMPTIVE USE MEANS DIFFERENCE BETWEEN DIVERSIONS AND RETURNS STOP UNDER COMPACT IF NATURAL FLOW THE FERRY WERE FIFTEEN MILLION AND HALF DIVERTED WATER RETURNS WE COULD DIVERT AND USE WHOLE RIVER AND STILL DELIVER COMPACT AMOUNT THE FERRY EXCEPT FOR TUNNEL DIVERSIONS

Delph E. Carpenter

(Charge to Acc't)
V3 62 NL=WASHINGTON DC DEC 4

DELPH CARPENTER=
GREELEY COLO

DERN AND WALLACE WERE ALL RIGHT STOP UTAH SENATORS MADE
SAVAGE ATTACK AT OUR CONFERENCE ON COMPACT GUARANTY TO LOWER
BASIN BUT FAILED UtTERLY IN USE OF BOURODS REPORT STOP
WILSON AND I NOW WORKING WITH DERN AND WALLACE AND EVEN KING
STOP DERN WILL SEE YOU ADAMS AND EMERSON AND THINK WILL HELP
GET ADAMS STOP ARE WORKING FOR FORM B=
WARD BARMISTER.

THE QUICKEST, SUREST AND SAFEST WAY TO SEND MONEY IS BY TELEGRAPH OR CABLE
Received at

V75 24=BD CHICAGO ILL 5 428P

DELPH E CARPENTER=
GREELEY COLO=

LEAVING HERE TOMORROW ARRIVING DENVER SEVEN SATURDAY MORNING
HOPE TO DISCUSS PROPOSED AMENDMENTS ALSO ENGINEERING BOARDS
REPORT ON WATER SUPPLY STOP REPLY PALMER HOUSE=
GEO H DERN.

GOVERNOR GEORGE H DERN
CARE OF THE PALMER HOUSE
CHICAGO ILLINOIS

WILL MEET YOU DENVER GOVERNORS OFFICE SATURDAY
MORNING TEN THIRTY

Delph E. Carpenter.

(Charge to Add't)
Received at

V104 56 NL=TW WASHINGTON DC 5

DELPH CARPENTER=
GREELEY COLO=

LATEST IS SENATOR KING LIKELY TO JOIN SUPPORTERS OF BILL IN WHICH WALLACE AND PROBABLY DERN INSTRUMENTAL STOP WILSON AND I BEEN DRAFTING FOR HIM STOP TWO MEN IN GEOLOGICAL SURVEY HERE SAID TODAY COMPACT DIVIDES MORE WATER THAN IN RIVER STOP SEE BOARDS REPORT I HAD MAILED YOU AND GIVE ME YOUR CONCLUSIONS WITH REASONS=

WARD BANNISTER.
PHIPPS WILL INTRODUCE FORM A ALSO B STOP HUYDEN HAS
INTRODUCED B ALREADY THINK LATTER WILL PASS STOP KNOWING
YOUR CONFIDENCE IN SUFFICIENCY OF WATER TO MEET ALLOCATIONS
TO BOTH BASINS WITHOUT ENCROACHING ON OUR OWN UPPER BASIN
ALLOCATION PLEASE WIRE WILSON CARE SENATOR SAMUEL BRATTON
YOUR CONFIDENCE IN SUCH SUFFICIENCY SO TELEGRAM MAY BE
USED FLOOR OF SENATE IF SUFFICIENCY ATTACKED STOP 1
ALREADY HAVE SIMILAR TELEGRAM FROM EMERSON=

WARD BANNISTER.
Dec. 11, 1928

Francis C. Wilson
Care of Senator Bratton
Senate Office Bldg.
Washington, D.C.

Regarding Colorado River water supply have read Siebert report and find nothing to indicate thriftiness or division of water made by Colorado River Compact. Siebert report states their estimate ultra-conservative while figures before compact commission may have been slightly liberal. Will quote amount of water at Lee Ferry and quote in my report supplemental report to Colorado Legislature March Twenty nineteen twenty-three. A copy of which I have mailed Senator Waterman for inclusion in record.

Ralph E. Carpenter
Commissioner for Colorado.
December 11, 1928.

Hon. Delph E. Carpenter,
Greeley, Colorado.

My dear Carpenter:

I have your letter of the 7th instant, with enclosure.

I may take occasion shortly to comment somewhat upon the pending Boulder Dam bill and if I do I will put in the record the report and supplemental report which you enclosed.

If I should conclude not to make comment upon the bill, I will nevertheless put the report and supplemental report in the record.

I can hardly prophesy what the outcome of the Boulder Dam situation may be. I feel that if California would cut her water supply down to 4,280,000 feet the solution of the whole situation would be easy, but California stands demanding 4,600,000 acre feet and a good many other things at public expense, and the bill may be forced through.

I cannot but urge again that the Act of our Legislature in 1925, Session Laws for that year page 525, should be promptly repealed. That is the only substantial means, I think, by which the effectiveness of the proposed legislation, if passed, can be blocked. This repeal ought to be diligently followed up, in my judgment.

With kind personal regards, I am

Yours very truly,
Mr. Delph E. Carpenter,  
Greeley, Colorado.

My dear Mr. Carpenter:

Your favor of December 1st was received yesterday and has had my careful attention. As requested, I have introduced your Form A amendment to S. 728, the Boulder Canyon Bill, after conferring with Messrs. Wilson and Bannister on the subject. One slight change only has been made at the request of California negotiators and I am assured that it will be satisfactory to you, as well as the Governors of the upper states. Printed copies of the amendment will be sent to you tomorrow.

Yours sincerely,

[Signature]

FF.