MEMORANDUM

(COMPACT SUGGESTED BY CARPENTER)

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The opening paragraph merely names the Commissioners and states the subject matter of the compact.

ARTICLE I.

Divides the Colorado River drainage and all lands irrigated by waters diverted from the stream, into the Upper Division and the Lower Division respectively, with Lee’s Ferry, Arizona, as the point of demarcation between the two Divisions.

ARTICLE II.

The flow of the Colorado River as heretofore ascertained at Yuma, Arizona, is divided between the two Divisions designated in Article I. The amount of the inflow between Lee’s Ferry and Yuma is considered and by deducting this amount from one-half the Yuma flow, the amount to be delivered by the States of the Upper Division to the States of the Lower Division at Lee’s Ferry, is ascertained. In the second paragraph of the Article the four principal States of origin of the Upper Division guarantee to never
reduce the average annual flow at Lee's Ferry over any period of ten consecutive years below the minimum above determined, and also agree to cause to flow at Lee's Ferry an amount of water, in addition to the above specified minimum, sufficient to supply one-half of any future burden imposed upon the river in the United States by treaty for the benefit of the Republic of Mexico.

This Article fixes the minimum or outside limit to which the Upper States may go in the use and consumption of the waters of the river. No matter how the use or diversion is made and no matter what takes place within the Upper Division the Upper States must never, by all combined uses and diversions, reduce the flow below the specified minimum. This automatically takes care of questions of tunnel diversions out of drainage, uses of water, evaporation from reservoirs within the Upper Division, and all other like subjects.

**ARTICLE III.**

Provides that the burden of supplying water to the Republic of Mexico in compliance with future treaties shall fall equally upon the two Divisions of the river and that the States of the Upper Division shall furnish their one-half in addition to the minimum fixed by Article II. It will be noted that this removes the entire Mexican question from the consideration of the Commission. This international question is a matter wholly for the State
Department. Whatever burden is put upon the river will fall equally upon the whole stream.

**ARTICLE IV.**

Provides for an ex-officio commission whose sole and exclusive duty shall be that of ascertaining, determining, and publishing the amounts of the annual flows of water past Lee's Ferry. This commission will naturally make provision for the Geological Survey or some other agency to keep records at Lee's Ferry with opportunities for check-rating, and other safeguards.

**ARTICLE V.**

Deals entirely with the States of the Upper Division. Provides the States of the Lower Division shall not interfere with the present or future development within the States of the Upper Division, so long as the States of the Upper Division supply to the Lower Division by delivery at Lee's Ferry, the minimum flow fixed by Article II of the Compact, and also the flow necessary to supply one-half the Mexico burden, and that so long as the Upper States keep within the minimum no adverse assertions shall be made against the stream within the Upper Division.

Also provides that reservoirs constructed within the Upper Division for the storage of water for the
Lower Division shall not interfere with the development of the Upper Division and all waters released from such reservoirs and passing Lee's Ferry shall go to the credit of deliveries by the Upper Division for the benefit of the Lower Division.

Also provides that all controversies between two or more of the Upper States respecting any internal stream, etc., are specifically reserved for separate settlements by the States so involved.

ARTICLE VI.

Deals entirely with the Lower Division. Provides that the States of the Lower Division shall have free and unrestricted use of the waters of their own streams according to their own laws, and also the free and unrestricted use of all waters to pass Lee's Ferry from the Upper Division as provided by Article II. Also provides that any controversies between two or more of the Lower States are specifically reserved for separate settlements between them. It will be noted that both Articles V. and VI. leave the local administration of water supplies subject to the Constitution and laws of the States in which the waters flow, limited only by the interstate obligations assumed by the compact and subject to future interstate obligations voluntarily assumed by two or more of the States respecting contro-
confined purely to such States.

**ARTICLE VII.**

Provides that navigation shall be subordinated to other and preferred uses of the waters of the river and shall not interfere with the construction of works necessary to put into effect such preferred uses.

**ARTICLE VIII.**

Provides that while the local laws of each State shall control in all matters respecting the preference of the uses of power over other uses as regards intrastate problems, as between the States, uses of water for power shall be subservient and inferior, within each division, to uses for other purposes. It will be noted that this question of preference of power over other uses is naturally divisional and can arise only between uses within each of the divisions and not between the divisions themselves. This Article provides that as respects inter-state relations within the Division power use shall be subordinated and inferior to other uses, but that for intrastate purposes the preference of one use over another shall be controlled by local laws. The constitutions of several of the States specifically state the rules of preference as regards intrastate control and regulations. These provisions have been construed by the local courts and it is not our province or desire to disturb these local conditions, but as regards reservoirs in one
State (in a Division), hereafter to be constructed for power purposes, in its relation of future development in another State of the same Division, it is appropriate to provide that such new power development shall not interfere with future irrigation development in the other State, even though the power development would otherwise be entitled to superiority over subsequent irrigation development if both the power and irrigation development had taken place in one State.

**ARTICLE IX**

Provides that the compact is founded entirely upon the physical and other conditions peculiar to the stream, and is based wholly upon the facts with respect to that stream and shall not be taken as a precedent respecting adjustments between two or more States involving the waters of some tributary of the Colorado River. It may be remarked that the conditions on some tributary might be very different from those obtaining upon the main stream, and the main stream compact would therefore be wholly out of place if applied, in principle, to the settlement of a mere local controversy involving some tributary. Several of the contracting States have other rivers upon which questions may arise with neighboring States. None of the contracting States could afford to contract in this case if the terms of such a compact
would bind them either in fact or principle as regards the future settlement with other States upon other streams.

**ARTICLE X.**

Provides merely for ratifications and exchange of advices between Executives.

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The figures used with respect to the flow of the river and other like facts are, of course, subject to revision according to the true situation as it may develop.

All questions respecting uses of water which, as regards return to the parent stream, are wholly consumptive, (such as the tunnel diversions in Colorado and Utah and the Salton Sea in California) are automatically cared for by the divisional apportionment of the waters of the river.

In all probability the Upper Division will never be able to reduce the stream to the proposed minimum, but if an extreme condition should ever arise this development must stop when the minimum is reached.

The recent decision of the Supreme Court in the Wyoming vs. Colorado case settles all controversy respecting the rights of Utah or Colorado to make the water out of the drainage or of California to divert water in-
to the Salton Sea basin. It also lays down the rule that Lower States cannot stand by and permit waters to go to waste and thereafter call upon Upper States to make up the deficiency resulting from such waste, but the Lower States must make reasonable provision for storage of the excess waters that reach their territory.
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