July 8, 1927

Hon. Delph E. Carpenter,
Interstate Rivers Compact Commissioner,
Denver, Colorado

My dear Judge Carpenter:

Your letter of the 37th ult. came just before I left on a vacation for the holidays and I have deferred writing until I could get something more definite on the date and place of the meeting of the proposed conference.

The California Commission has been here today and are on their way to Denver. You will no doubt see them in the next two or three days. It seems to be the general opinion here that it would be better to have the meeting either in Denver or at Santa Fe, and I am hopeful that it can be arranged with Utah and Wyoming for either one of the two places. My personal preference was for the latter part of August but I am beginning to feel that the sooner we get into the conference, the sooner we can determine whether anything can be accomplished in time for Congress, and I am willing to give up my own views and the matter of my own convenience for an early meeting in August if it is desired by the other States.

The Gila River situation is something that I have not had any contact with until very recently. I agree with you at this time at least, that the administration of the matter by the Federal Court would be dangerous in principle. I was informed today that the United States has filed the suit in the Federal Court at Phoenix and has made New Mexico a party, but I have not seen the pleadings. I have suggested to the Governor, however, that we should try to have some kind of an agreement between Arizona and New Mexico on the Gila if it could be arranged, but we have not conferred upon the subject with any degree of certainty as to our next step.
I appreciate your pamphlet very much indeed, and I am seeking every bit of information that I can get upon all sides. The Colorado River situation has been a matter of interest to me for some years, but in view of the present probability that I am to take an active part for New Mexico it becomes necessary that I give it as intensive study as possible, and anything that I can obtain which will assist me in that particular will be most welcome.

Please permit me to assure you that I appreciate your sentiments with reference to our working together for our respective States and I reciprocate your feeling in the matter. The Governor has asked me to attend the meeting of the Fact Finding Commission appointed by Secretary Work which is to be held in Denver on the 15th of this month, and I am promising myself the pleasure of seeing you at that time.

Yours very truly,

[Signature]

Francis C. Wilson.
Aug. 17, 1927

Hon. Delph E. Carpenter,
Greeley, Colorado

Dear Judge Carpenter:

I am enclosing herewith, copy of paper which I delivered on the Colorado Compact before the New Mexico Bar Association last week. It is more informative than argumentative and I have tried to discuss both sides of the California-Arizona controversy without taking sides. I feel that it is better to leave New Mexico in as neutral a position as we can at this time. However, I am sending the copy to you especially because your criticisms would be very much valued by me.

I trust that you are much better and will take pleasure in seeing you next Monday.

I was unable to go with the Texas Commission up the San Luis Valley a week ago, but I want to discuss the Rio Grande situation with you when I arrive next week.

With regards, I remain,

Yours very truly,

Francis C. Wilson

W:W Inc.
October 21, 1937

Mr. William R. Wallace,
Newhouse Building,
Salt Lake City, Utah.

Dear Mr. Wallace:

In our eagerness to bring California and Arizona into accord at Denver, I wonder if we have been overlooking an important point. May I invite your attention to the following memorandum?

Under Article II of the compact the term "Lower Basin" means those parts of Arizona, California, Nevada, New Mexico and Utah within and from which waters naturally drain into the Colorado River System below Lee Ferry. Hence New Mexico and Utah are parts of the Lower Basin.

Under Article III there is apportioned to the Lower Basin 7,500,000 acre-feet of water per annum, plus the right to increase its use by 1,000,000 acre-feet per annum. Hence New Mexico and Arizona have an undivided interest in the 8,500,000 acre-feet apportioned to the Lower Basin.

Hence a tri-state compact to divide the water of the Lower Basin would be invalid without the assent and concurrence of New Mexico and Utah.

Query: Must the subsidiary compact to divide the Lower Basin water therefore be a five-state compact to be ratified by the legislatures of New Mexico and Utah?

Utah has storage possibilities for both irrigation and power development on the Virgin River and its tributaries, which should be fully protected in the Lower Basin compact, including freedom from the Mexican burden.

The Santa Fe Compact provides that present perfected rights to the beneficial use of waters of the Colorado River system are unimpaired by the compact. Utah's present perfected rights in the Lower Basin must therefore be satisfied out of the 8,500,000 acre-feet allocated to the Lower Basin, because the 8,500,000 acre feet is not allocated out of the main stream but out of the Colorado River System.
Query: Should the proposition of the Upper Basin Governors at Denver be amended so as to make a definite allotment to Utah? Both California and Arizona are given an apportionment out of which their present perfected rights must be satisfied. Is Utah not in the same situation? Furthermore, are we not entitled to make the same kind of a fight for our future development as Imperial Valley and Arizona are making?

I do not want to muddle up things at Denver by dragging in new and non-essential questions, but I am not sure that we have adequately upheld Utah's interests in the Lower Basin. I shall be glad to have you give this matter your thoughtful consideration and be prepared to advise me upon my return.

Very sincerely yours,

Geo. H. Dern
Governor.
Nov. 12, 1927

Hon. George N. Dern,
Governor of State of Utah,
Salt Lake City, Utah.

Dear Governor Dern:

I have your letter of November 7th including a copy of your letter of October 31st to Mr. Wallace.

Briefly, I can state the position of New Mexico in connection with the Conference at Denver in so far as the letter which you wrote to Mr. Wallace is concerned.

No agreement between Arizona, California or Nevada would be binding upon New Mexico or Utah unless we became parties to it. There is nothing in the Compact, inferentially or otherwise, which says that any State in the Lower Basin must become a party to an agreement between any two or more states of the Lower Basin who are dealing with rights which are exclusively theirs under the Compact, and if such states attempted to deal by an agreement between them with rights pertaining to another State in that Basin without the consent of that State, of course such an agreement would have no binding effect upon the State left out and it would have any recourse it saw fit to employ to protect itself. But, I do not understand that the three States are attempting to divide anything that belongs to Utah and New Mexico. For light upon that statement let us examine the proposals of the Governors of the Upper Division States made during the Denver Conference.

First. The primary purpose of the Colorado River Conference at Denver was to get Nevada, Arizona and California together on an agreement for the allocation of seven million five hundred thousand acre-feet from the main streams, underwritten at Lee Ferry by the States of the Upper Division by the provisions of Paragraph D of Article III. Proof of this is found in paragraph one (1) of our proposals which reads as follows:
"1. Of the average annual delivery of water to be provided by the States of the Upper Division at Lee Ferry under the terms of the Colorado River Compact:

(a) To the State of Nevada, 300,000 acre feet.
(b) To the State of Arizona, 3,000,000 acre feet.
(c) To the State of California, 4,200,000 acre feet."

Thus, so far as the foregoing is concerned neither New Mexico nor Utah is interested except to bring the States of the Lower Division in agreement and with the other States of the Upper Division to see that the terms of our underwriting agreement as contained in the Compact are fulfilled. I find nothing in the Compact which requires Utah and New Mexico to ratify an agreement between Arizona, California and Nevada upon a subject in which we are not interested. It is their property not ours which we are endeavoring to help them divide equitably. I never heard any one claim in Denver that an acre foot of that water could be applied to a beneficial use in either Utah or New Mexico.

Second: The Compact gives to the lower basin states the right to increase their beneficial consumptive use over and above the allocation in sub-section (a) of Article III, by one million acre-feet per annum, but this was not underwritten by the upper division states, and can be construed to mean that if the lower basin states could get that much water from any source, either from the tributaries, or from the main stream, or both, they could have that much more water. Perhaps it was intended to give them that allocation out of the main stream, if it existed there, over and above the quantity underwritten by the upper basin states, and possibly it was intended to represent in part the flow from the tributaries in Arizona into the main stream below Lee Ferry, but it forms no integral part of the situation so far as New Mexico is concerned, because we have not underwritten it in any way, which is true also of Utah and the other upper division states. Recognition of this fact is contained in paragraphs two (2) and three (3) of our proposals to the Lower Division States which, in order to obviate the necessity of reference to that document, I here copy as follows:

"2. To Arizona, in addition to water apportioned in subdivision "b), 1,000,000 acre feet of water to be supplied from the tributaries of the Colorado River flowing in said State, and to be diverted from said
tributaries before the same empty into the main stream. Said 1,000,000 acre feet shall not be subject to diminution by reason of any treaty with the United States of Mexico, except in such proportion as the said 1,000,000 acre feet shall bear to the entire apportionment in (1) and (2) of 8,500,000 acre feet.

"3. As to all water of the tributaries of the Colorado River emptying into the River below Lee Ferry not apportioned in paragraph (2) each of the States of the Lower Basin shall have the exclusive beneficial consumptive use of such tributaries within its boundaries before the same empty into the main stream, provided, the apportionment of the waters of such tributaries situated in more than one state shall be left to adjudication or apportionment between said States in such manner as may be determined upon by the States affected thereby."

Thus, the one million acre feet apportioned to the Lower Basin States by Sub-Section B of Article III of the Compact, goes to Arizona to be taken from her tributaries, subject, however, to the condition that each of the States of the Lower Basin, which includes New Mexico and Utah, shall have the exclusive beneficial consumptive use of its tributaries within its boundaries. Thus, the one million acre feet which Arizona gets under our second proposal must come from her tributaries and not from ours so we are not interested in that apportionment. By a parity of reasoning, as employed in the preceding paragraph, I find nothing in the Compact which requires ratification by the Legislatures of New Mexico and Utah of an agreement upon the subject of the one million acre feet in question between Arizona, California and Nevada in which our respective States have no interest and can have none.

Third, Utah and New Mexico are vitally interested in paragraph three (3) of our proposals as it is set forth above. But suppose it is written exactly as we proposed it into a tri-state compact between Arizona, California and Nevada, why should our respective States ratify that compact? So written into their compact it would mean nothing more than that they have gone on record in recognition, completely and without reservations, of the rights of New Mexico in the Gila and the Little Colorado, and of Utah in the Virgin and the Paria. Again, I find nothing in the Compact which says, inferentially or otherwise, that when two or more States in the Lower Basin enter into a compact wherein they recognize the rights of another State not a party to their Compact, in that Basin in water of the River System that the latter state has to ratify the agreement in order to make it binding as
between the signatory states. Take the converse of the foregoing. Suppose the three states did not include the proposal in their agreement. It would be beyond their power to contract in any manner affecting our rights without our consent and to the extent that they attempted to do so their agreement would have no validity whatsoever as to our respective States. Certainly Utah and New Mexico could not upon any theory be required to ratify such an agreement.

Fourth. As regards paragraph five (5) of our proposals to the states of the Lower Division, I have never thought it amounted to much because it is made "subject and subordinate to the provisions of the Colorado River Compact" which means that whether they use unapportioned waters between now and October first, 1933, or not the fact is hardly material since after that date the water unapportioned under the Compact can be apportioned and any use by California and Arizona of it would be subject to that apportionment. Let them put it into their agreement if they wish, for it cannot affect us.

Fifth. You make the point that present perfected rights have to be satisfied out of the allocation to the Lower Basin States. As to perfected rights in tributaries in the lower basin states, I do not so read the Compact, but that is immaterial since at no time have I heard it suggested in Denver or elsewhere that we were doing more than allocating the water at Lee Ferry underwritten by the Upper Basin States and conceding to each state the tributaries within its borders. In absolute support of that statement I ask you to recall that we deducted from the 7,300,000 acre feet at Lee Ferry to be divided between Arizona and California the present perfected rights of Arizona including Indian rights from the main stream and those of California from the same source and then split the balance evenly between them. We did not deduct the present perfected rights of Arizona on her tributaries from the 7,300,000 acre feet for obvious reasons. Then why should we amend the proposals made in Denver by the Upper Division Governors so as to make "a definite allotment" to New Mexico and Utah when these two states have no place at all in the picture? California, Arizona and Nevada cannot validly contract as to rights which do not belong to them, nor can we demand of them recognition of rights to which we have no claim.

Please bear in mind that the Santa Fe Compact does not attempt to allocate all of the waters of the Colorado River system, for if it did it would have had to have made an allocation of the waters of the tributaries of the
Hon. George H. Berrn,  
November 13, 1927

River in Arizona amounting to, say, 7,000,000 acre feet, nearly as much as is actually allocated in perpetuity to the lower Basin states. Thus, it is plain that there are unappropriated waters not only in the main stream but also in the tributaries. That fact is recognized in the Compact (see particularly Article VI, (a)), and we were insistantly adhering to it in Denver.

Answering your question, therefore, seriatim,

I submit:

1. New Mexico and Utah have no interest in a tri-state compact between Arizona, California and Arizona dividing the water delivered and underwritten by the Upper Division States at Lee Ferry and thus our assent by ratification is not necessary to the validity of such a Compact.

2. The proposition of the Governors of the Upper Division States at Denver should not be amended to include "a definite allotment to Utah" and New Mexico -(I note you say "Upper Basin Governors", but it was the proposition of the Upper Division Governors and not "Upper Basin Governors", and it seems to me that in our capacity as mediators the distinction is important). How could we ask for a "definite allotment" out of something in which as Lower Basin States New Mexico and Utah could claim no interest and in which we have no rights? The only allocation to the lower basin in which we could by any stretch of the imagination claim any interest is in the 1,000,000 acre feet, and that we safeguarded by our proposals as already pointed out. Furthermore, that quantity of water out of the tributaries of Arizona could not affect the rights of Utah and New Mexico in their tributaries.

May I conclude by saying that you have at all times adequately protected Utah's interests in the lower basin. I am speaking, of course, from my observations and knowledge of the proceedings at Denver. To the extent that it may aid in substantiating that conclusion, you are at liberty to use this letter in any manner that you see fit, and to call upon me again if I have failed in any degree to make myself clear upon the points herein discussed.

Permit me to remain, Governor, for the seven state ratification of the Santa Fe Compact, always,

Faithfully yours,

Inter-State River Commissioner for New Mexico.
November 12, 1927

Hon. Delph E. Carpenter,
Inter-State River Commissioner for Colorado,
Greeley, Colorado

My dear Mr. Carpenter:

Tuesday I received a letter from Governor Dern, enclosing a copy of a letter which he had written to Mr. Wallace asking certain questions and requesting my views upon the subject. For your information I am enclosing herewith, a copy of his letter to Mr. Wallace and a copy of my answer.

In writing my answer, I think under "First" at the bottom of page one of my letter, I should have written in before the word "underwritten" four lines from the bottom, the words "to the extent" so that there could be no misunderstanding as to my meaning, but I have mailed the letter to Governor Dern assuming that anybody reading the letter and what follows will know what I mean without adding those words.

This is just a brief note written hurriedly but I am very anxious to get your views upon the method of approach disclosed by my letter to the questions he asks. I have an intuition as to the source of the questions which he asks and it sounds like brother Wallace to me.

With sincere regards,

Faithfully yours,

Francis C. Wilson
Inter-State River Commissioner
for New Mexico

W:W
Incs.
November 22, 1937

Hon. Delph E. Carpenter,  
Inter-State River Commissioner for Colorado,  
Greeley, Colorado

Dear Mr. Carpenter:

I have noticed considerable in the newspapers lately advocating the substitution of a flood control dam for the Boulder dam project, and I have been led to register my thoughts upon that subject in a letter which I have today written, a copy of which is enclosed, to Congressman Tilson, Republican Leader of the House.

Would you be good enough to spare the time to read the letter, which will not take long, and if you have time, would you give me the benefit of your thoughts upon the subject.

With regards, permit me to remain,

Faithfully yours,

[Signature]

Francis C. Wilson
Inter-State River Commissioner for New Mexico.
November 22, 1937

Hon. John C. Tilson,
House Office Building,
Washington, D. C.

Dear Sir:

IN RE: COLORADO RIVER COMPACT
ON THE BOULDER DAM PROJECT.

In recent country wide publications I have noticed a tendency to attempt to divert Congress from the main purposes of the Boulder Dam Project on the Colorado River, and to plant in the minds of persons more or less disinterested but desirous of seeing the proper thing done in that connection, the idea of the construction of a flood control dam as a substitute for the proposed Boulder Dam Project. May I suggest some thoughts in that connection from the standpoint of the Upper Basin States, as I understand it, and particularly of my own State.

The Boulder Dam project as originally defined, has four primary purposes and I give them in the order of their importance to the Upper Basin States:

FIRST. To impress upon the entire Colorado River System the Colorado River Compact between the seven Colorado River States to the end that their future uses of the river may be protected and the terms of the Compact enforced by agreement between the States with the approval and co-operation of the Federal Government such approval to be given in the Act of Congress authorizing the project and such co-operation to be rendered by the Government in its construction and subsequent operation of the project. The Compact, provides adequate machinery for the adjustment of differences between the State, but the control of the Federal Government in the administration and the distribution of impounded water will be of the greatest value in the settlement of possible disputes between the States of both basins as well as those within the lower basin concerning the acquirement of rights in excess of Compact allocations. In no other way, and especially not by a flood control dam, could this be efficiently and adequately accomplished.
SECOND. As soon as the authorization by Congress is given for the construction of the Boulder Dam Project, including the All-American Canal, the Mexican situation can be brought to a head and it should not be long before a treaty could be entered into with Mexico. There is no greater menace to all of the States included in the Colorado system than the Mexico situation. The administration by the Government of the United States of water impounded in the Boulder Dam project including its distribution thru the All-American Canal to American water users, would give the Government immediate control of the appropriations in Mexico. If the United States of Mexico refused to come to a settlement of existing equities by Treaty, then the American capitalists who are behind the project in Mexico could be forced to accept a limitation of the rights which they could acquire in the future in the waters of the river. In the event of a Treaty, the Government would continue its control of the Boulder Dam Project, for the purpose of fulfilling its treaty obligations, and to protect the States of the Colorado River System from any additional encroachments by the land owners in Mexico. This could not be accomplished by a flood control dam, and, in fact, it is more than likely that such a dam would lead to further appropriations by land owners in Mexico which could not be controlled.

THIRD. The Boulder Dam project has for one of its principal purposes flood control, and while it may be argued by the advocates of a flood control dam that this purpose will be satisfied by the construction of such a dam, yet it could not be anything more than a temporary expedient. I am not an engineer, but I view the desilting of the stream as important an element in flood control as that of actual control of the water during flood seasons. Any dam which is constructed must be adequate from both standpoints and I am unable to believe that a mere flood control dam will function efficiently as a desilting proposition. If it is a fact, and I have never heard it controverted, that the Colorado River discharges annually a volume of silt equal to the total amount of dirt removed for the excavation of the Panama Canal, it would appear that a flood control dam could not remedy one of the most difficult factors in any program involving protection of the Imperial Valley. If I am correct in this conclusion, then a flood control dam will fail essentially to accomplish the purpose of those who advocate it. No project except the Boulder dam could fulfill adequately both purposes.
FOURTH. Finally, while power is an incident to the entire project, it is an essential one in that it cannot be expected that the Federal Government will undertake any project such as the All-American Canal and a flood control dam without a means of recouping its expenses. The Imperial Valley and the district which is under irrigation in that section in the Lower Basin from the main stream could not possibly sustain the cost of an All-American Canal and a flood control dam. A flood control dam would not provide a constant head such as is required for the generation of power, whereas the Boulder Dam project has tremendous potentialities in this connection as you know. If my understanding concerning the situation in Congress is correct, it is futile to assume that Congress will appropriate money of the taxpayers of the country for the construction of the All-American Canal and the flood control dam without definite provisions for the repayment of expenditures. The Boulder Dam project affords ample assurance through the power possibilities of the repayment of that money, and by no other means, so far as I know, can this be assured.

New Mexico is not primarily interested in the method which may be employed by Congress in its wisdom to dispose of the power so as to guarantee repayment to the Government of the monies expended for the construction of the entire project which includes the All-American Canal, but we are vitally interested in the protection of our future by the Colorado River Compact. The construction of a flood control dam would only add fuel to the flames and force the Upper Basin States into litigation to protect their rights against the increased uses of water by the Lower Basin States which would undoubtedly result from a flood control dam. We are seeking to avoid the uncertainties of litigation and if the whole situation is involved in the uncharted difficulties which would flow from the construction of a flood control dam one of the most important purposes of the Colorado River Compact would be destroyed. We would have no recourse except to the courts and in view of the Wyoming-Colorado case we appreciate very fully what would quite likely be the outcome of our efforts to protect ourselves by that means.

It may be argued that the Government could authorize the construction of a flood control dam and impress upon it the terms of the Colorado Compact to the same extent that it might do in connection with the authorization of the
Boulder Project, but it is fairly certain that California would not accept such a dam in lieu of the storage project, and thus would not ratify the Compact. It is doubtful if Arizona would ratify the Compact under such conditions, and thus, there would be no Compact and no protection to the Upper Basin States. The Upper Basin Governors at the recent conferences in Denver were able to bring Arizona and California together to an extent not theretofore approached. Arizona accepted the suggestion of the Governors as regards the division of water from the main stream to the extent that those waters are underwritten in the Compact by the Upper Basin States at Lee Ferry, with certain reservations not material here, and the proposals were then within four hundred thousand acre-feet of the minimum demands of California. We feel that it will not be a great while before the two states will be brought together, and we believe that Congress should give us the time necessary to bring about that agreement.

The flood control dam proposals seem to us to represent an effort on the part of those who do not want to see the project constructed to add to the controversial matter now before Congress by pitchforking into the arena ideas of alleged economy which have no place in any fair consideration of the subject, for the reason that the taxpayers' money is safeguarded by the power end of the project at Boulder Canyon.

My purpose in this letter is to draw your attention to the fact that the principal objects which we seek to attain through the Boulder Dam Project cannot be accomplished by a flood control dam. Within the brief limits of a letter of this character it is impossible to go into detail, but if I have been able to draw your attention to those principal purposes and the impossibility of fulfilling them through a flood control dam, I shall have accomplished what I have sought to do by this communication.

Yours very truly,

Francis C. Wilson
Inter-State River Commissioner
for New Mexico
November 22, 1927.

Hon. John C. Tilson,
House Office Building,
Washington, D.C.

Dear Sir:

IN RE: COLORADO RIVER COMPACT
ON THE BOULDER DAM PROJECT.

In recent countrywide publications I have noticed a tendency to attempt to divert Congress from the main purpose of the Boulder Dam Project on the Colorado River, and to plant in the minds of persons more or less disinterested but desirous of seeing the proper thing done in that connection, the idea of the construction of a flood control dam as a substitute for the proposed Boulder Dam Project. May I suggest some thoughts in that direction from the standpoint of the Upper Basin States, as I understand it, and particularly of my own State.

The Boulder Dam Project as originally defined, has four primary purposes and I give them in the order of their importance to the Upper Basin States:

FIRST: To impress upon the entire Colorado River System the Colorado River Compact between the Seven Colorado River States to the end that their future uses of the river may be protected and the terms of the compact enforced by agreement between the States with the approval and cooperation of the Federal Government, such approval to be given in the Act of Congress authorizing the project, and such cooperation to be rendered by the Government in its construction and subsequent operation of the project. The Compact provides adequate machinery for the adjustment of differences between the States, but the control of the Federal Government in the administration and the distribution of improved water will be of the greatest value in the settlement of possible disputes between the States of both basins, as well as those within the lower basin concerning the acquisition of rights in excess of Compact allocations. In no other way, and especially not by a flood control dam, could this be efficiently and adequately accomplished.
Hon. John C. Tilson,
November 22, 1927.

-2-

SECOND: As soon as the authorization by Congress is given for the construction of the Boulder Dam Project, including the All-American Canal, the Mexican situation can be brought to a head, and it should not be long before a treaty could be entered into with Mexico. There is no greater menace to all of the States included in the Colorado system than the Mexico situation. The administration by the Government of the United States of water impounded in the Boulder Dam Project including its distribution thru the All-American Canal to American Water users, would give the Government immediate control of the appropriations in Mexico. If the United States of Mexico refused to come to a settlement of existing equities by Treaty, then the American capitalists, who are behind the project in Mexico could be forced to accept a limitation of the rights which they could acquire in the future in the waters of the river. In the event of a treaty, the Government would continue its control of the Boulder Dam Project, for the purpose of fulfilling its treaty obligations, and to protect the States of the Colorado River System from any additional encroachment by the land owners in Mexico. This could not be accomplished by a flood control dam, and, in fact, it is more than likely that such a dam would lead to further appropriations by land owners in Mexico which could not be controlled.

THIRD: The Boulder Dam Project has for one of its principal purposes flood control, and while it may be argued by the advocates of a flood control dam that this purpose will be satisfied by the construction of such a dam, yet it could not be anything more than a temporary expedient. I am not an engineer, but I view the desilting of the stream as important an element in flood control as that of actual control of the water during flood seasons. Any dam which is constructed must be adequate from both standpoints, and I am unable to believe that a mere flood control dam will function efficiently as a de-silting proposition. If it is a fact, and I have never heard it controverted, that the Colorado River discharges annually a volume of silt equal to the total amount of dirt removed for the excavation of the Panama Canal, it would appear that a flood control dam could not remedy one of the most difficult factors in any program involving protection of the Imperial Valley. If I am correct in this conclusion, then a flood control dam will
fail essentially to accomplish the purpose of those who advocate it. No project except the Boulder Dam could fulfill adequately both purposes.

FOURTH: Finally, while power is an incident to the entire project, it is an essential one in that it cannot be expected that the Federal Government will undertake any project such as the All-American Canal and a flood control dam without a means of recouping its expenses. The Imperial Valley and the district which is under irrigation in that section in the Lower Basin from the main stream, could not possibly sustain the cost of an All-American Canal and a flood control dam. A flood control dam would not provide a constant head such as is required for the generation of power, whereas the Boulder Dam project has tremendous potentialities in this connection as you know. If my understanding concerning the situation in Congress is correct, it is futile to assume that Congress will appropriate money of the taxpayers of the country for the construction of the All-American Canal and the flood control dam without definite provisions for the repayment of expenditures. The Boulder Dam project affords ample assurance through the power possibilities of the repayment of that money, and by no other means, so far as I know, can this be assured.

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River Compact would be destroyed. We would have no recourse except to the courts, and in view of the Wyoming-Colorado case, we appreciate very fully what would quite likely be the outcome of our efforts to protect ourselves by that means.

It may be argued that the Government could authorize the construction of a flood control dam and impress upon it the terms of the Colorado Compact to the same extent that it might do in connection with the authorization of the Boulder Project, but it is fairly certain that California would not accept such a dam in lieu of the storage project, and thus would not ratify the Compact. It is doubtful if Arizona would ratify the Compact under such conditions, and thus there would be no Compact and no protection to the Upper Basin States. The Upper Basin Governors at the recent conference in Denver were able to bring Arizona and California together to an extent not theretofore approached. Arizona accepted the suggestions of the Governors as regards the division of water from the main stream to the extent that those waters are underwritten in the Compact by the Upper Basin States at Lee Ferry, with certain reservations not material here, and the proposals were then within four hundred thousand acre-feet of the minimum demands of California. We feel that it will not be a great while before the two states will be brought together, and we believe that Congress should give us the time necessary to bring about that agreement.

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Mr. John C. Tilson,
November 22, 1927.

attain through the Boulder Dam Project cannot be accomplished by a flood control dam. Within the brief limits of a letter of this character, it is impossible to go into detail, but if I have been able to draw your attention to those principal purposes and the impossibility of fulfilling them through a flood control dam, I shall have accomplished what I have sought to do by this communication.

Yours very truly,

Francis C. Wilson,
Inter-State River Commissioner for New Mexico.

W:W
December 1, 1937

Hon. Frank C. Emerson,
Governor of State of Wyoming,
Willard Hotel
Washington, D. C.

Dear Governor Emerson:

I am profoundly disturbed by your letter of the 28th ult. Any advocacy or support of the Upper Basin States to a flood control substitute for the Boulder Dam Project would, to my mind, be destructive of everything we have labored for. In my letter to Congressman Tilson of November 23rd, copy of which I sent you, I gave as the first and most important purpose of the Boulder Dam Project the impressing upon the entire Colorado River System of the Colorado River Compact "between the seven Colorado River States to the end that thereafter their uses of the river may be protected." Certainly you could not disagree with that. If you agree, then the question is, could a mere flood control dam accomplish that purpose? You heard California constantly reiterate in Denver that the State was not interested in anything except a complete project,—flood control, de-silting of the river water, the All-American Canal, and conservation of flood flow for new arid areas, and that they would not sign the Compact or agree to it without that project being built. How, then, can you possibly hope for any agreement by California to a substitute measure which gives only one of the four named points, to wit, flood control, and entirely disregards the other, to it, most vital items? Of what advantage would a flood control dam be to Arizona? It would profit that State not at all and I have no hope of the agreement of Arizona to the Compact based upon a flood control measure. If that is true and I am correct in my assumption that either one or both of the two States would refuse to sign the Compact if only a flood control measure were passed by Congress, I cannot see where you derive any hope of protection by that kind of a measure since it would be impossible to have a Colorado River Compact impressed upon the system through the Act of Congress authorizing a flood control dam. If I am correct again in assuming that you would be in favor of a flood control dam rather than the Boulder Dam Project, I am quite certain that no hopes would remain of the Colorado River Compact to which the Upper Basin States are absolutely committed, and properly so.
You say that in a flood control dam there would be less danger than in the Boulder Dam Project. How is it possible to arrive at such a conclusion? A flood control dam would certainly operate to equalize the flow of the river and when that happens then the uses in Mexico are certain to increase to the irretrievable damage of all of the states of the Colorado system. A flood control dam would prevent floods from going down the river and being wasted without great damage, but to achieve this, such a dam would have to hold back very large quantities of flood water and let it out in a more gradual fashion so that a flood could not occur in the lower reaches of the river. Could there be any question but that this equalization of the flow of the river would advantage Old Mexico and the water users there to a very great extent? And every drop of water to which Mexico acquired rights by virtue of that situation would impose an international duty upon the Government of the United States to recognize those rights twenty-five, fifty or one hundred years from now as the outcome of treaty negotiations, with no hope of a treaty at this time. Assuming that under the conditions which will attend a flood control dam, Mexican rights will be increased rapidly each year, do you expect Mexico to hasten into a treaty, or rather don't you foresee that every delay diplomacy can throw into the negotiations to postpone a determinative settlement by treaty will be resorted to by that Nation. Without the All-American Canal we could not force that Country to meet the issue of a treaty.

I may have misconstrued all of the purposes for which we held our conferences in Denver, but I thought the Compact and the control of the Mexican situation were the two primary things which we were handling and a flood control dam would, as already shown, destroy the possibilities of the Compact, and, literally, would open the gates wide for Mexico and the American capitalists who own the projects there to increase their uses of water for a long time to come without possibility of interference. If the Federal Government once builds a flood control dam it will be a hundred years before you will be able to get an appropriation from Congress for the construction of such a project as the Boulder Dam on the river, and meanwhile what would happen to us with California and Mexico getting every drop of water they could by the equalization of the stream by a flood control dam. I am overwhelmed by the possibilities adverse to the interests of the Upper Basin States which would result from a flood control dam.

Before you can get California to agree to the Colorado River Compact, there must be something more than a flood control measure unless all their statements at Denver are contrary to the fact, and contrary to their own convictions, which I do not
Hon. Frank C. Emerson
December 1, 1937

believe. I think they specifically stated their position truthfully when they said that they had all of the normal low water flow of the river at the present time divided with Mexico and thus had nothing to gain by any measure except such as the Boulder dam contemplates, to wit, de-silting, flood control, All-American Canal, and additional water for new areas in order to enable them to pay back the cost of the All-American Canal. My letter to Congressman Tilson was written in the light of that fact and in the belief that that statement by California is literally correct. My conclusions in that connection were not based wholly on their statements, but on the engineering facts as well. Thus, your conclusions that California would agree to the Compact provided a flood protection dam and nothing more was authorized by Congress seems to me to be untenable. Surely, before the Upper Basin States split upon this question, we should try to accord our viewpoints, and that without any delay whatsoever. We have moved along so well on the Compact to date with no close an accord between California and Arizona that I am afraid any suggestion even of our approval of a flood control dam would destroy all that we have done.

You will understand that I have no objection to a flood control dam, provided California and Arizona would ratify the compact upon that measure becoming a law, but we know, or should know, that such an outcome cannot be hoped for and thus this angle is completely out of the picture to my mind, and it should not be contemplated unless there is the clearest kind of an understanding that such a measure alone would satisfy California and Arizona and get them into the Compact. Since this is not possible why nourish the thought or express it as a possibility? If we are to be consistent in our position that it is the Compact with us first and all the time, we cannot properly, as it seems to me, contemplate the flood control measure as one to which our support can be given. Thus, we should advance the strongest reasons possible, and consistently hold to them, in opposition to such a substitute for the Boulder Dam.

I am informed that the flood control suggestions come from the Chandler crowd in Los Angeles and from the power interests who do not want the Boulder Dam built and see an opportunity to inject this substitute into the situation and thereby confuse the issues and postpone action. I notice that the Utah Fact Finding Commission which is absolutely opposed to the Boulder dam proposition and to the construction by the United States of a power plant on the river has suggested constantly the alternative of a flood control dam. Their position is the same as that of the private power interests, and the obstructionists in California
who are interested in the Mexico end of the situation. Certain-
ly, we cannot afford to line ourselves up with that
element because they are not interested in the Compact in
any way and are only hopeful of killing the Boulder Dam
Project by throwing arguments into our midst which will
lead to dissention amongst us. I am positive that they
viewed the results of our Denver conference with fear and
saw in those conferences a possibility stronger than existed
before that the States would get together and that their
efforts to keep us apart would be ended.

I am wiring you today that without further delay
we should have a conference of the Upper Basin States and
see if we cannot get into accord on these vital questions.
I think we should have held one long before this, but I
had no idea that we were beginning to drift apart.

My letter to Congressman Tilson was an effort
to impress upon him and whoever might read it, the primary
purposes of the Upper Basin States in their agreement upon
any project like the Boulder Dam as follows:

First. The obtaining of the consent of all of the
states to the Colorado River Compact which means California's
consent and that of Arizona.

Second. Protection against Mexico by the All-American
Canal, thus making it an essential part of the Boulder Dam
Project.

Third. Flood control, and as a necessary incident thereto
the de-silting of the stream.

Fourth. To afford means whereby the Federal Government
could be reimbursed by the sale of power for its expenditures,
and there is no other method except the power features which
could afford the required income to repay the Government for
its expenditures.

I hold that we are not interested in how the Govern-
ment sells the power except that we would like to see Arizona
and Nevada obtain some portion of the revenue and ultimately
own the power end of the project. Are these not the main
objects of any project which we can support? And is it not true
that the project whatever it may be must satisfy all four pur-
pose or otherwise it cannot give us what we seek? If that
question is answered in the affirmative, then we know without
argument that a mere flood control dam will not satisfy
any of them except that of flood control in which we are
only interested from a humanitarian standpoint.
You state in your letter that you cannot concur "in the general position" which I have taken in support of the Boulder Canyon Project. Permit me to suggest that you could not have read my letter to Congressman Tilson very closely for the reason that I take no general position whatsoever, and my position is as concrete as the four points which I set forth could possibly make it. I have always contended that I would be for any measure which would give the maximum protection to the State of New Mexico and the other states of the Upper Basin and my entire letter to Congressman Tilson was addressed to the point that provided the facts as I stated them are correct, the Boulder Dam would give that maximum protection and a flood measure could not. I very much hope that you will read my letter again to Congressman Tilson and I think you will find that that is exactly what I have done in that letter. Certainly no Upper Basin State can disagree with the points made and if that is a correct conclusion, then if the Boulder Dam will protect us and a flood control dam will not, we are driven to support the former and to fight the latter.

You will be thrown with Mr. Garfield and I trust that you will give him my best regards, and accept the same for yourself.

Faithfully yours,

Francis C. Wilson
Inter-State River Commissioner for New Mexico.
December 1, 1927.

Mr. Delph E. Carpenter,
Greeley, Colorado.

My dear Carpenter:

I have just received from the Federal Radio Commission a letter dealing with Radio Station KFKA, at Greeley, of which you wrote me under date of November 22nd.

I am rather inclined to the thought that it might possibly be better for those interested in this Station to permit a real try-out of the new scheme adopted by the Federal Radio Commission. If it is determined after a fair trial that the same wave length now enjoyed should be not interfered with I shall be glad to take up the matter again with the Commission.

Sincerely yours,

[Signature]

W/Rh
Encl.
FEDERAL RADIO COMMISSION
COMMERCE BUILDING
WASHINGTON

November 30, 1927.

Honorable Charles W. Waterman,
United States Senate,
Washington, D. C.

My dear Senator Waterman:

Your communication of the 25th instant, addressed to Honorable E. O. Sykes, has been referred to me, and in reply I assure you that I have presented to the Commission the case of Station KFKA and urged that no change in wave length be required at this time, but I have to advise you that the Commission have made a number of changes, effective December 1st, and it is desired by them that a thorough trial or test be made and, in the event that an improvement is not made, then other changes will be necessary.

I believe the only difference the change of wave length will mean to KFKA is the fact that they will come in at a different point on the dial, and surely the listeners will very soon acquaint themselves with that slight change.

Yours very truly,

(signed)
Harold A. Lafoont, 
Commissioner.

True Copy/BD
Mr. Delph E. Carpenter,
Greeley, Colorado.

My dear Carpenter:

I have your letter of November 22nd and am glad that you have written me concerning the wireless difficulty.

I shall at once get in touch with the Radio Commission and see if I cannot induce them to permit the retention of the present waive length. Personally, I cannot understand why the federal authorities persist in consistently interfering with the local wireless conditions, especially as those stations already established and functioning apparently are giving entire satisfaction to the various communities. It would seem, however, that many of our federal bureaus must indicate their activity by innumerable orders and regulations, otherwise apparently they are of the opinion that their usefulness is not appreciated.

In any event, I shall do all I can, and I trust you will be good enough to write me whenever you feel I can be of assistance.

With kind personal regards, I am

Yours very truly,

W/Rh
Received at 711 Eighth Avenue, Greeley, Colo. Telephone Greeley 3

11V D 15 GOVT

SN WASHINGTON DC 1000A DEC 17 1927

DELPH E. CARPENTER

GREELEY COLO

TELEGRAM RECEIVED RE TEACHERS COLLEGE RADIO SITUATION AND WILL DO EVERYTHING I CAN AT ONCE

CHAS W. WATERMAN

821A
December 14, 1927.

Sen. Charles W. Waterman,
Washington, D. C.

In re: Broadcasting Station K.F.K.A.

My dear Senator:

I enclose herewith copy of letter to Ed Hoelter, chairman of the Radio Committee of the Greeley Chamber of Commerce, from the manager of the State Teachers' College Radio Station K.F.K.A. As you will note, the new assignment of frequency and power is unsatisfactory. I am informed that it is very unsatisfactory.

Our people will appreciate the favor if you take this matter up with the proper authorities.

Sincerely yours,

Delph E. Carpenter.
February 15, 1928.

Hon. S. Harrison White, M.C.,
House Office Building,
Washington, D.C.

My dear Judge White:

I regret that I was unable to confer with you respecting the amendments to the Casper-Alcova Bill which Governor Emerson and I agreed to, the day before I left Washington. I called up your office in the morning of the day of my departure but found that you were absent. I intended to take the matter up with you in the afternoon but at noon, received a telephone call from the Secretary of Interior, requesting my presence at a conference on Colorado River matters with Dr. Mead et al, that afternoon. This matter took up my time until train departure.

I left the amendments which Governor Emerson and I agreed to, with E. Brooks Fryé, Secretary of the Senate Committee on Irrigation, with request that he have copies made and placed in the hands of the Colorado delegation. I think you will find that the amendments conform to your suggestion in your letter to Senator Phipps.

Yours very truly,

DEC:DM
March 27, 1928.

My dear Senator Waterman:

I enclose herewith carbon copy of my letter to Senator Phipps which will be self explanatory. I fear that California draftsmen have misstated the intent of the committee. I fear that the proponents of the bill will either have to consent to several amendments or they will place the Senators from the upper States where they can take no other position than that of opposition. I will write you further after the Governor’s conference.

Very truly yours,

Delph E. Carpenter,
Commissioner for Colorado.

To Senator Charles W. Waterman,
Washington, D. C.

DEC:DM
March 29, 1928.

Hon. S. Harrison White, M. C.,
Washington, D. C.

Dear Mr. Harrison:

I enclose herewith a copy of my letter to Senator Fipps, which will be self explanatory. I feel that the Representatives in Congress for Colorado, should flatly and firmly oppose the Swing-Johnson bills, at least until they have been put in proper shape to clearly protect the upper States. Otherwise, we shall be eternally exposed to claims of prior appropriation by California and Arizona.

Official business delays the meeting of the Governors at Denver, but Congress should not take any action until after the four upper States have expressed an official opinion respecting this important legislation and have suggested such amendments as may be necessary to protection of the upper States.

Stripped of all camouflage, the bill in its present form is a California measure to appropriate a development of the Colorado river for the primary benefit of California at the expense of the States which furnish the water. California furnishes no part of the water of this river and her development can well await a settlement of interstate problems.

Sincerely yours,

Belph E. Carpenter.

Commissioner for Colorado.
March 29, 1926.

Hon. Francis C. Wilson,
Santa Fe, New Mexico.

My dear Mr. Wilson:

I am enclosing herewith a carbon copy of my letter to Senator Phipps. To me, the committee amendments are dangerously ambiguous and, in view of the continuing menace of adverse claims by the seventh state which does not become a party to the Colorado River Compact, I feel that the language of the amendments should be clarified. I will appreciate your frank expression. I may be in error. If not, will you kindly try your hand at a preparation of the amendments to cover the situation?

From a letter I just received from Governor Dern, it appears that the date of the four state meeting is still in doubt. I feel that the upper States cannot afford to run the risk of confronting congressional legislation which will cast a cloud upon our future development, without at least a protest. Do you feel that I am unnecessarily disturbed?

Sincerely yours,

Delph E. Carpenter,
Commissioner for Colorado.
Greeley, Colorado.
April 12, 1928.

FRANCIS C WILSON

SANTA FE NEW MEXICO

EMERSON GOES EAST MONDAY NIGHT FOR ABSENCE TEN DAYS OR MORE STOP
HE CAN CONFER WITH US DENVER SATURDAY OR CHEYENNE MONDAY STOP HE
INFORMALLY
INVITES YOU DERN ADAMS AND MYSELF MEET HIM SATURDAY DENVER OR CHEYENNE
MONDAY INFORMALLY CAN YOU BE THERE

DELPH E CARPENTER

(Charge to Acc't)
April 13, 1926.

My dear Senator Waterman:

I am informed that a new Federal Judge is to be appointed for Nevada. We are tremendously interested in this appointment. Ethelbert Ward and his disciples in his crusade to obtain a line of Federal Court decisions to the effect that the United States, not the states, controls the waters of all western streams and that Congress may do as it pleases with such waters regardless of the will or of the laws of the states, some years since selected Nevada as the breeding ground for this propaganda. This they did because the Federal Judge (who lately resigned) is opposed to any state control of any subject matter. They filed a suit on the Truckee River, whereby the Federal District Court takes perpetual jurisdiction over all administration of diversions of water regardless of state authority, and whereby the state authorities will be permanently ousted and Federal Court bailiffs will run the river forever. Final decision has not been handed down in this case and it is of the greatest importance that a lawyer with sane views and plenty of courage be selected for this post. His final decision in the Truckee River case may become the leading authority on the subject of state jurisdiction over waters. I would suggest that you confer with Senator Pittman, with whom I have discussed this subject. I understand Frank Norcross has been suggested. I do not know Mr. Norcross but I am informed that he is a good man for the place. In any event, I most earnestly urge that you take as much interest in this appointment as though it were being made in our own state.

Respectfully yours,

To Senator Charles W. Waterman,
Washington, D. C.
My dear Senator Waterman:

Owing to a series of interferences by official duties, the Governors and Representatives of the four Upper States have been unable to confer with respect to the necessary amendments to the Swing-Johnson Bill as reported. Governor Emerson and I will confer tomorrow in the hope of working out some suggestions. This will then have to be forwarded to New Mexico and Utah for approval and further comment with consequent delay.

The more I study the bill, the more I am convinced that it is extremely dangerous to the Upper States and that the amendments inserted for the protection of the Upper States are so ambiguous that they are dangerous. I find a general concurrence in this view and a feeling that it is imperative that the bill be further amended. I would suggest that you notify the sponsors of the bill that you will be compelled to work and vote against the bill, at least until such time as satisfactory amendments shall have been included.

The more one studies this bill, in the light of a thorough knowledge of the river, the more one is convinced that it is a very loosely drawn measure, prepared with a single purpose of benefiting the one state which furnishes no part of the water of the river and which has no equitable claim to more than a minor part of the benefits to be derived from the use of the stream. The recent amendments for revenues to the states amount to a mere gesture when it is considered that such revenues may only come from possible net revenues and after payment of the annual operation and maintenance costs on the All-American Canal. The bill should be carefully redrawn in such a manner as to protect all interested states and provide a decent revenue to Arizona and Nevada whose territory it is proposed to invade and whose resource it is proposed to convert to the exclusive use and benefit of California.

If I were in the Senate I would flatly refuse to do other than to oppose this bill until it is redrawn. However, political reasons may dictate the necessity of jeopardizing the future of the Upper Basin States by passing some sort of a measure at this session regardless
of consequences. If put to this dire extremity, the Senators and Congressmen from the Upper Basin States should at least stand firm in their insistence that the language of the bill shall clearly and unequivocally and in plain terms protect the Upper Basin States against any possible adverse claim from the one state (California) which derives the primary benefits from this bill.

I will report any further progress at an early date.

Yours very truly,

Delph B. Carpenter,
Commissioner for Colorado.

To Senator Charles W. Waterman,
Washington, D. C.
SANTA Fe, NMEX 952A, APR 14, 1928

HON. DELPH E. CARPENTER,

Greeley Colo.

Sorry cannot attend conference cannot leave here until after Wednesday April Eighteenth at Earliest.

FRANCIS C. WILSON

1017A
CONFIRMATION.

This office sent you a telegram this day per the Western Union Telegraph Co., of which the following is a correct copy:

DAY LETTER

April 14, 1928

Hon. Delph E. Carpenter
Greeley, Colorado

Sorry cannot attend conference cannot leave here until after Wednesday April eighteenth at earliest

Francis C. Wilson

Paid
Charge Francis C. Wilson
Greezeley, Colorado,
April 22, 1928.

Hon. Francis C. Wilson,
Santa Fe, New Mexico.

My dear Mr. Wilson:

I enclose herewith copies of my letters of this date to Senators Phipps and Waterman, which will be self explanatory. Will you kindly give me your reaction respecting the two forms of amendment suggested.

I have prompted to forward the suggestions to Washington without time for further consultation with you, owing to the desire of Governor Emerson to have them before him.

Very truly yours,

Delph B. Carpenter,
Commissioner for Colorado.

DEC:DM
ENCLS
Greeley, Colorado,
April 26, 1926.

Hon. John A. Whiting,
State Engineer,
Cheyenne, Wyoming.

Dear Mr. Whiting:

I enclose herewith copy of my letters of April 20th to Congressman Taylor, in re, Casper-Alcova Bills, also carbon copy of amendment agreed to and sent to Taylor and to both Colorado Senators.

Very truly yours,

Delph E. Carpenter,
Commissioner for Colo.
Greeley, Colorado.

May 14, 1928.

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

My dear Senator Waterman:

Hereewith a carbon copy of my letter of this date to Senator Phipps regarding the Casper-Alcova and Saratoga Bills. In view of the importance of this legislation, I request your serious consideration of the matter.

Very truly yours,

Delph E. Carpenter,
Commissioner for Colorado.
Greeley, Colorado.

May 14, 1926.

Honorable Charles E. Winter, M.C.,
House Office Building,
Washington, D.C.

My dear Mr. Winter:

I enclose herewith carbon copy of my letter of this date to Senator Phipps, in re the Casper-Alcova and Saratoga Bills.

The more I consider that portion of the Casper-Alcova Bill under discussion, the more I am convinced that the provisions should be amended. Probably you are bound to this by agreement with Nebraska but our Senators and Congressmen are not by reason of the fact that we were not parties to the conference with Nebraska attorneys. I have no disposition to be a disturbing factor, but I feel it to be very important that the language of the bills be al clear that no misconception may be placed upon the provisions of the act in later years.

Very truly yours,

Delph H. Carpenter,
Commissioner for Colorado.

DEG: EM
ENCL: 1
June 18, 1928.

Senator Chas. W. Waterman,
Equitable Building,
Denver, Colorado.

My dear Senator:

Yours of the 31st ult suggests that we confer respecting Colorado River matters at some time during the week. I can come down at any time to suit your convenience. My voice is stronger in the morning and I could arrive at ten thirty if that will suit you.

Very truly yours,

Delph E. Carpenter.
July 6, 1920.

Honorable Francis C. Wilson,
Commissioner for New Mexico,
Suite Salmon Bldg.,
Sante Fe, New Mexico.

My dear Mr. Wilson:

Yours of the 31st ult in re, Rio Grande and enclosing your interesting proposal of the amendments to the Boulder Canyon legislation, at hand. I note with pleasure the fact that in the event I come to Ojo Caliente you will be able to informally confer with me there. I realize such informal conversations where frank discussion occurs and no one is bound, to be of the utmost importance especially in this case. What times during the next sixty days will best suit you? I will try to arrange my visit to conform with your convenience.

Governor Corlett has requested that he or representatives of the San Luis Valley irrigation interests, be permitted to attend the sessions of the Rio Grande Commission. In view of the tremendous importance of the whole subject to the very existence of the irrigation interests in both Colorado and New Mexico, it would appear that a limited number of representatives of such interests in both states be permitted to attend sessions of the commission. However, in order to avoid confusion, such attendance should be by a very limited number who do not participate in the discussion and act purely in an advisory capacity with the respective commissions. With the Colorado River Commission we first held open sessions at which everybody was allowed to speak. We then went into executive session for the purpose of outlining a program. This was followed with open sessions at various points in the territory involved. After this we returned to our respective homes for the purpose of assimilating the facts and of outlining various proposals to be considered by the commission at its next session which was held at Santa Fe and was intended to be executive. On arrival at Santa Fe, we found so many present wanted "just one more word" with the commission that we held open sessions for two or three days after which we went to executive session until the compact was agreed to. At these sessions each lawyer member was allowed an engineer advisor and each engineer member a legal advisor. Governors of states, both active and newly elected, were given the freedom of coming and going at their pleasure.
It may be necessary for us to proceed along similar lines. It affords me extreme pleasure to note by your letter that your people have decided "to make one more effort to agree upon a compact with Colorado" before commencing any litigation. Our people are of the same mind and it appears to me that we, as commissioners, are brought face to face with a situation of the gravest responsibility calling for our best efforts and a most thoroughgoing consideration of the rights and interests of all in a spirit of the utmost good faith. Probably this will demand public hearings as well as semi-executive and of executive sessions. We must all be thoroughly advised of the facts before attempting to draw a compact and those who wish should be given opportunity to express their views.

The Rio Grande Commission as last constituted, was composed of commissioners for Colorado and New Mexico and with Herbert Hoover acting as the representative of the United States. We met at Colorado Springs and organized, electing Mr. Hoover chairman. Representatives of Texas appeared and requested time to prepare for participation and the commission recessed for that purpose. Subsequently, Commissioner Seth resigned and there has been no meeting of the commissioners since that time.

The nomination of Mr. Hoover for President will prevent his further consideration and I see no necessity in aggravating him by even calling the matter to his attention as I am certain he regards the matter closed so far as he is concerned. As federal representative, he was proceeding without statutory authority and without pay or provision for expenses. He consented to participate purely out of public spirit and in the hope that order might be brought out of the chaos prevailing with respect to the Rio Grande.

Will the whole matter not resolve itself as follows: Informal conversations between representatives of the three states followed by public hearings at which the State Department, the International Boundary Commission and the Bureau of Reclamation will be requested to appear by appropriate representatives; semi-executive and executive sessions of the commission at which a representative of the United States will probably informally participate in an advisory capacity; and the preparation and conclusion of a three state compact for submission to the three state legislatures and to Congress. If such is the proceeding, let us hope that the federal representative is not some mere employee of some bureau but, rather, is a man big enough and free enough to materially assist in composing the differences between the three states without fear of censure or criticism by some department head. A Charles E. Hughes could bring about a three state compact while some engineer of some bureau would not be so circumstanced that he could render that commanding aid essential.
May I request an expression of your views. If we undertake merely a two state compact the matter will not be so cumbersome but the results will not be so comprehensive. Is it not better that we undertake to clear up the whole situation by proceeding deliberately with that end in view?

I hope that in due course of events, representatives of the four upper states can agree on an amendment to the pending Boulder Canyon legislation which will be pressed by the Senators and Congressmen with a united front. This I hope to discuss with you at an early date.

Very truly yours,

Delph E. Carpenter,
Commissioner for Colorado.
July 6, 1923.

Honorable Francis C. Wilson,
Commissioner for New Mexico,
Suite Salmon Bldg.,
Santa Fe, New Mexico.

My dear Mr. Wilson:

Yours of the 21st ult in re, Rio Grande and enclosing your interesting proposal of the amendments to the Boulder Canyon legislation, at hand. I note with pleasure the fact that in the event I come to Ojo Caliente you will be able to informally confer with me there. I realize such informal conversations where frank discussion occurs and no one is bound, to be of the utmost importance especially in this case. What times during the next sixty days will best suit you? I will try to arrange my visit to conform with your convenience.

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It may be necessary for us to proceed along similar lines. It affords me extreme pleasure to note by your letter that your people have decided "to make one more effort to agree upon a compact with Colorado" before commencing any litigation. Our people are of the same mind and it appears to me that we, as commissioners, are brought face to face with a situation of the gravest responsibility calling for our best efforts and a most thoroughgoing consideration of the rights and interests of all in a spirit of the utmost good faith. Probably this will demand public hearings as well as semi-executive and executive sessions. We must all be thoroughly advised of the facts before attempting to draw a compact and those who wish should be given opportunity to express their views.

The Rio Grande Commission as last constituted, was composed of commissioners for Colorado and New Mexico and with Herbert Hoover acting as the representative of the United States. We met at Colorado Springs and organized, electing Mr. Hoover chairman. Representatives of Texas appeared and requested time to prepare for participation and the commission recessed for that purpose. Subsequently, Commissioner Seth resigned and there has been no meeting of the commissioners since that time.

The nomination of Mr. Hoover for President will prevent his further consideration and I see no necessity in aggravating him by even calling the matter to his attention as I am certain he regards the matter closed so far as he is concerned. As federal representative, he was proceeding without statutory authority and without pay or provision for expenses. He consented to participate purely out of public spirit and in the hope that order might be brought out of the chaos prevailing with respect to the Rio Grande.

Will the whole matter not resolve itself as follows: Informal conversations between representatives of the three states followed by public hearings at which the State Department, the International Boundary Commission and the Bureau of Reclamation will be requested to appear by appropriate representatives; semi-executive and executive sessions of the commission at which a representative of the United States will probably informally participate in an advisory capacity; and the preparation and conclusion of a three state compact for submission to the three state legislatures and to Congress. If such is the proceeding, let us hope that the federal representative is not some mere employee of some bureau but, rather, is a man big enough and free enough to materially assist in composing the differences between the three states without fear of censure or criticism by some department head. A Charles E. Hughes could bring about a three state compact while some engineer of some bureau would not be so circumstance) that he could render that commanding aid essential.
May I request an expression of your views. If we undertake merely a two state compact the matter will not be so cumbersome but the results will not be so comprehensive. Is it not better that we undertake to clear up the whole situation by proceeding deliberately with that end in view?

I hope that in due course of events, representatives of the four upper states can agree on an amendment to the pending Boulder Canyon legislation which will be pressed by the Senators and Congressmen with a united front. This I hope to discuss with you at an early date.

Very truly yours,

Delph E. Carpenter,
Commissioner for Colorado.
August 23, 1928

Hon. Delph E. Carpenter,
Interstate Stream Commissioner for Colorado,
Greeley, Colorado

Dear Delph:

I was somewhat startled to read the recommendation made by Governor Smith in his acceptance speech concerning the employment of a Colorado River Authority to handle the development of the Colorado River. I felt it was up to me to give a statement so that the people in New Mexico, regardless of party, could be informed concerning the proposal, and I am enclosing herewith a copy of the interview as given out. Although I appreciate that you are a Democrat yet I feel quite confident that you would agree with me as regards this recommendation. At any rate I think Governor Smith should have consulted with the Democratic leaders in the States affected before putting out such a drastic proposal.

With sincere regards and best wishes, I remain,

Sincerely yours,

Francis C. Wilson
Interstate River Commissioner for N.M.
As Interstate River Commissioner for New Mexico for the past fourteen months it has fallen to my lot to devote the greater part of my time to study of the problems involved in the Colorado River Compact, the legislation in Congress known as the Swing-Johnson Bill which authorizes the construction of the Boulder Dam project and the All American Canal, and the effect of both on our water resources potentially present in the San Juan River, the sources of the Little Colorado and the Gila River, all tributaries of the Colorado River within our borders. The magnitude of these resources will be better understood if the people of New Mexico are informed that the San Juan River has a mean annual flow at Shiprock of more than the capacity of the Elephant Butte project and nearly twice the mean annual flow of the Rio Grande at Picacho. With proper conservation and use of the waters of this river, six hundred thousand acres of lands in New Mexico now useful only for grazing can be converted into highly productive agricultural lands by irrigation. To our people accustomed as they are to the value of water when applied to our semi-arid lands, it is not necessary to enlarge upon the incalculable asset for future development represented by the flow of the San Juan River. The Colorado River Compact was designed to protect that and similar great resources of the upper basin states, to-wit, New Mexico, Colorado, Utah and Wyoming from mighty projects in the lower basin, to-wit, below the Grand Canyon which would appropriate all the waters of the River by applying them to a beneficial use before the Upper Basin States could command the means to develop their projects. The Compact has been ratified by the Legislature of New Mexico, both on a seven state and on a six state basis, and the effort of all the representatives of New Mexico, both in and out of Congress, has been devoted during the past year to obtain Congressional approval of the Compact and to impress it upon the Boulder Dam project by means of Congressional legislation. This effort was successful in the House of Representatives in the last session of Congress, ably supported and voted for by Congressman Morrow. In the Senate the legislation has had the support of both our Senators, but went over at the close of the last session as unfinished business and it is likely to come up for passage early in December. Thus, it will be noted that in New Mexico at least, regardless of party, we have been fighting for the Compact, and successfully so to date, which
means that we have joined hands to assure to New Mexico the great resources lying dormant now in the San Juan valley. As to our sister state of Arizona, we are sympathetic with some of her ambitions in connection with her fight on the Boulder Dam project, and we are hopeful that some of those ambitions may be reduced to amendments which can be embodied in the Swing-Johnson Bill before it becomes a law.

In view of the foregoing I am greatly disturbed by the following taken verbatim from Governor Smith's speech of acceptance:

"I am of the opinion that the best results would flow from the setting up of a Colorado river authority, representative equally of all the states concerned. The development should be by the states through the agency of this authority by treaty ratified by congress."

This is no new or novel proposal. On December fifth, 1937, Congressman Davenport of New York introduced a bill (H.R. 5770) creating a commission to be called the "Colorado River Authority" to consist of sixteen Commissioners, two from each of the seven Colorado River Basin States, and two at large, all to be appointed by the President. The powers conferred upon the Commission are very broad and include the authority to determine upon the allocation of water rights or water power to the seven states in the Colorado River Basin, with due regard to the allocation as provided for in the Colorado River Compact; to regulate and preserive the flow of the river for irrigation and domestic uses, and for the satisfaction of present perfected rights and for power; to issue bonds and debentures for the construction of irrigation and power projects and to pledge as security revenue derived from the sale of water for irrigation and for power, or electrical energy, which said bonds are declared to be instrumentalities of the government and free from taxes; and to do many other things which would be necessary to, or implied from, the foregoing. In the case of allocations of water or power, appeal is permitted to the courts, but under such conditions as to make such appeals onerous and of doubtful value. The bill has the merit of being a model of legislative draftsmanship, but it is wholly inapplicable to conditions in our States where the law of prior appropriation is recognized as the law of the land and each State jealously guards its own water laws.

The bill has never been seriously considered in Congress because it was obviously not adapted to conditions in the Colorado River Basin States. Patterned after the legislation creating the interstate corporation known as the "Port of New York Authority", its framers did not seem to realize that the problems of management and financing the development of the port of New York in which
only the States of New York and New Jersey are interested, problems which after all are localized in a comparatively small area, would be widely different from the problems incident to the control, management, and promotion of projects upon a river two thousand miles long from its source to its mouth, affecting vitally the future of seven great sovereign states, involving the surrender of their sovereign powers and their right to direct their own great destinies, to a commission of sixteen men to be appointed by the President of the United States.

The definite recommendation made by Governor Smith as above quoted must come, therefore, as a distinct shock to men and women of all parties in every state in the Colorado River Basin. It is not a partisan question. There are no politics in it. The issue was not raised by the platform of either party, and Governor Smith has injected it into the campaign not as a Democratic measure, but as his own conception of the solution of a problem which has engaged the best minds in Congress for the past ten years and which, because of that application is now close to final determination. His proposition is predicated upon the destruction of all the constructive work that has been accomplished in which Mr. Hoover has played a leading part, and the substitution of a system which means the control and regulation of our water resources by a commission instead of by the States within which those resources exist, a surrender of sovereignty to which no thinking person could subscribe. He has definitely committed himself, and therefore, his administration, if he should be elected, to a Commission form of control of the development of the Colorado River and its tributaries, and except for the comparatively meager representation which each state would have upon such a commission, to the principle that each state would surrender to that commission all control and jurisdiction over its water resources to the extent that they may exist in the Colorado River system.

The voters of New Mexico must decide at the coming election whether they will support such a doctrine or not. My duty is done when I have set before them the facts as I know them. If any further information is requested of me, in good faith, I shall be glad to furnish it if it is within my power.
August 30, 1928.

Hon. Francis C. Wilson,
Sante Fe, New Mexico.

My dear Wilson:

Many thanks for your letter enclosing your statement regarding the Smith speech. I approve of your statement although as I understood Governor Smith over the radio, his remarks were limited entirely to power. However, I probably misunderstood him.

There is a good big chance of my going to Ojo Caliente the latter part of next week for a stay of a couple of weeks. How would that time suit you for an informal visit regarding both Colorado and Rio Grande matters?

Very truly yours,

Delph E. Carpenter.
September 4, 1928.

Mr. A. L. Woodmansee,  
Barnesville, Colorado.

My dear Mr. Woodmansee:

I enclose herewith a copy of my letter to Himman which will be self explanatory. He wrote me that he could not get his expert but is looking for another man. He also wrote that auctioneer Allen will conduct the sale on October 20th.

Carl thinks he and Charles McMurray can get the rough edge taken off the cattle during the next two weeks. If so, it may save us getting an expert.

I handling the cattle I would suggest the following program:

Turn your heifer and all dry cows out to pasture right away.

Turn the yearling heifers now at the yards (including the white one) back out to pasture for a while.

Leave all the cows and calves to be weaned at the reservoir pasture for a couple of weeks longer as they are doing fine but bring in all the young stock from the reservoir pasture so that Carl and McMurray can work on them. They will be much harder to handle than the cows which have calves; and better get them in shape right away as they will work off considerable flesh during excitement of handling.

Polish the horns and trim up each animal as it is handled and as quick as it is gentle, turn it back out to pasture. Don't keep gentle stuff around under foot, keep working them out to the pastures as fast as they are gentle and trimmed up.

Figure on weaning the calves at the reservoir pasture about the middle of September, just a day or two before Carl has to go to buy spuds during the day. He will help you nights and mornings even after that, but it is well to have him and McMurray handle all the rough ones before that time.

About the middle of September, bring in the cows and calves from the reservoir pasture, take off the calves, handle, trim and polish up the cows and shove them back to pasture.
If I were you I would never think of weaning your two bull calves. When you take them off their mothers they will lose their "milk" flesh and you will not receive as much for them as you will if you leave them suckling and sell them with their mother. Those two bull calves will do more to sell a mother than anything else you can do, providing you keep them in milk flesh.

I expect to go to New Mexico to attend a conference on Rio Grande River matters, leaving here next Friday and be gone about two weeks. I will probably take Mrs. Carpenter with me. If you want to write me, my address will be Ojo Caliente Hot Springs, Ojo Caliente, New Mexico.

Very truly yours,
September 6, 1928.

Honorable Francis C. Wilson,
Sante Fe, New Mexico.

My dear Wilson:

If nothing prevents, I shall leave Denver for Ojo Caliente tomorrow evening and will be there a couple of weeks. I will be delighted to have the opportunity of talking over matters with you informally. I can talk in the morning, mutter at noon and whisper in the afternoon.

Very truly yours,

Delph E. Carpenter.
Hon. Delph E. Carpenter,  
Greeley, Colorado.  

My dear Senator:  

I have investigated just a little to see whether any Federal Court has made any decision on the question of priorities to the use of water out of a common interstate stream as between domestic irrigation and manufacturing uses, and I have not been able to find anything. I have not the time to go on with the investigation.  

What I want to know is, whether there has been any declaration that a subsequent appropriation in Colorado for domestic or irrigation purposes supersedes, in the view of the Federal courts, an appropriation prior in time in Arizona for purely manufacturing purposes.  

I would like to know, if the courts have said anything about it, what their attitude may be upon the precise question whether, if all of the unappropriated water of the Colorado River should be appropriated in Arizona or Nevada, or California, for purely manufacturing or power purposes, the farmer in Colorado is cut off from making any appropriation in any tributary in Colorado for irrigation purposes as against the demand of the prior appropriation specified in a lower State.  

Very truly yours,
October 13, 1928.

Hon. Francis C. Wilson,
Santa Fe, New Mexico.

My dear Wilson:

I will be free the first four days of next week or Tuesday and Wednesday of the week following. I have a cattle sale on the 20th and must be here in Greeley on the 19th, 20th, 21st and 22nd. I am thinking of leaving for a ten days' stay at Ojo Caliente, returning here in time to vote. Under this schedule, I will be free for a consultation with you at Denver on the 15th, 16th, 17th or 18th or the 23rd and 24th. If you do not find it convenient to come to Denver this month, we could confer immediately after election.

Awaiting your pleasure, I am

Very truly yours,

Delph E. Carpenter.
Delph E. Carpenter, Esq.
Greeley, Colorado.

My dear Carpenter:

I have your letter of December first, together with enclosure, and shall give this subject earnest thought and consideration.

I am grateful for your kindness in sending this to me.

Sincerely yours,

[Signature]

W/Rh
December 7, 1923.

My dear Senator Waterman:

I enclose herewith a copy of my original report and supplemental report as commissioner for Colorado, on the Colorado River Commission, which was submitted to our Legislature and was their guide in ratifying the compact.

I think it would be well for you to have this incorporated in the Congressional Record during the debate as it covers several phases of interpretation of the compact that are important.

Very truly yours,

Delph E. Carpenter.
Received at

V4 57 NL=WASHINGTON DC DEC 12

DELPH E CARPENTER=
GREENEY COLO=

EXPECT TO USE SENATE CHAMBER IN CAPITOL THERE WILL BE NO
SOCIAL FUNCTIONS SO FAR AS I AM CONCERNED STOP EXPECT
BOULDER DAM BILL TO PASS TOMORROW OR FRIDAY AT LATEST STOP
TODAY FORM A AMENDMENT ADOPTED AND WILL BE IN BILL WITH
LIMITATION CHANGED FROM FOUR MILLION SIX HUNDRED THOUSAND
TO FOUR MILLION FOUR HUNDRED THOUSAND=

FRANCIS P WILSON.
my dear delph:—

writing as deadlocked at usual. any美术 on exemption of girls from "mexican border" cale river compact" and consideration of every kind.

am enclosing a copy of an article presented eminence by col. donovan yesterday— it was prepared thence by williams & bromwell, we hope you went much although i doubt of you could do much good here.
December 4, 1929.

Hon. Ray Lyman Wilbur,
Secretary of the Interior,
Washington, D. C.

Dear Mr. Secretary:

The Colorado River Commissions of the States of Colorado, New Mexico, Utah, and Wyoming, have been in joint session at Denver, Colorado, for the past two days. One of the purposes has been to give consideration to the recent developments concerning the sale of the power proposed to be produced, and of the water to be stored at Boulder Dam.

We have had before us for consideration the subject of the recent proceedings had before you and the steps taken by you with respect to the fulfilling of the requirements of the Boulder Canyon Project Act concerning revenue.

In our approach to this subject, we have had in mind the background afforded by the history of the Colorado River Compact and of the Boulder Canyon Project Act. This law in its final form is a legislative compromise, affecting very sacred rights of the states involved, and concluded years of serious controversy. For instance, as the bill was originally drawn, it contemplated the raising of only sufficient revenue to repay the United States for the cost of the project. This limited aspect of that feature of the bill did not prove satisfactory to the states involved, with the exception of California. The result was that certain amendments were made considerably broadening the field to be covered by the revenue returns and more specifically defining the rights of the States.

Section 4, provides in its closing paragraph for the disposition of excess revenues, that is to say, revenues in excess of the amount necessary to repay the United States, which of necessity implies that revenues over and above that amount are to be realized from the contracts for power and water, otherwise the provision to make the designated payments to Nevada and Arizona would be only an empty gesture. The support of the State of Nevada to the bill was obtained by the recognition of the principle involved in this provision.

Again the provision in Section 5, for the creation of a revolving fund, after the repayment to the United States of all advances and interest, was placed in the bill upon the insistence of the State of Utah, supported by the other Upper Basin States, and the ratification of the Compact by Utah and the support of the bill by that state was obtained largely by the premise held out by this provision. Utah had withheld its adherence to the Compact until this amendment was secured. The
revolving fund, with its assurance of the development of the river system, brought to the bill and to the Compact the support of the State of Utah.

The correctness of the foregoing conclusions is demonstrated by the provisions of Section 5, to-wit, that the contracts shall be made "with a view to obtaining reasonable returns" and should be revised periodically on the application of either party to the contract to meet competitive conditions in the area served by the power from the project. If the sole purpose of the Act was to obtain only sufficient revenue to repay the Government, these provisions would have no meaning. The fact is that paragraph c, of Section 5, contains a mandatory direction that the Secretary of the Interior shall make the contracts with prices fixed by him to meet the revenue requirements of the bill, which include not alone the repayment of the Government but funds for the States of Arizona and Nevada, and the attainment of the time as soon as practicable when the revolving fund shall become an existing benefit to the Upper Basin States.

Construing all of the provisions of the bill affecting the revenue to be obtained from the contracts for the sale of power the mandate of the bill is that a price which will give "reasonable returns" to the entire project, in as great an aggregate as the market can economically sustain, shall be obtained.

Under the terms and practical operation of the Boulder Canyon Project Act the contracts now under consideration by the Secretary, if made, may effectively expropriate sixty-four per cent of the power to be produced at Boulder Dam, in perpetuity. Such a situation affecting as it does the prosperity, happiness and welfare of the people of the states involved, is of extreme concern to those states, and from their viewpoint, not only justifies but requires the most deliberative consideration.

The bill contemplates that the power should be sold not at as low a price as will safely insure the repayment of the Government but at as high a price as the purchaser can afford to pay under competitive conditions.

If the foregoing conclusion is not correct, then the Government of the United States would be placed in the position of favoring one section, to-wit, Southern California, in opposition to other sections, for instance Utah, Nevada, and Arizona, whose industries would thus be subjected to unfair competition with the favored industries of California. It is not conceivable that the other states would have supported the bill if they had thought it susceptible of a construction resulting in such permanent economic disadvantage.

It is apparent from the foregoing that every state in the Basin has a vital interest in the present and future economic results of the development of the Boulder Project, and this is true whether or not any of those states derive a present direct benefit from the project.
It was with a full understanding of the economic possibilities involved in the handling of the contracts that those states caused to be written into the bill, Section 16, providing for an advisory commission to cooperate with the Secretary of the Interior in the exercise of any authority conferred upon him by Sections 4, 5, and 14 of the Act. We suggest that this advisory commission be called upon by the Secretary to function in the capacity contemplated by that Section.

To enter into contracts for the sale of power at a price less than its competitive production costs would not only put the Upper Basin States at a great present economic disadvantage, but would postpone the development of the upper river, and thereby tend to protract the period of such economic disadvantage.

While California has always, in meeting with the Upper Basin States, evidenced a willingness to pay the full fair competitive value for the power produced at Boulder Dam, and she should not and could not fairly pay more, the representatives of the Upper Basin States have never had submitted to them or available that such price is substantially in excess of the price of 1.63 mills per kwh., tentatively suggested by the Secretary as a basis for discussion. It is apparent that the price to be paid by the purchaser must be such as to insure the procurement and performance of the contract, but not such as to result in economic inequality between the states involved.

If the State of Nevada can afford to pay 1.75 mills per kwh. then 1.63 mills per kwh. is apparently not the price at which the power should be sold. If California secures freedom from floods and silt, and an adequate water supply, all of which the Upper Basin States gladly accord to her, she ought not ask that electricity be sold to her consumers for less than it is fairly worth.

We have given serious consideration to the charge which ought to be made for storage of water to be used for municipal purposes. The service charge for storing this water manifestly should be a fair proportion of the cost of the undertaking based upon the value of the service. If the service is merely nominal the charge should be nominal. If the service rendered is substantial the charge should be substantial and not nominal. On the basis of the average per capita use of water in American cities a charge of 25¢ per acre foot per year would be about 5¢ per capita per year. We feel that such charge is in no way commensurate to the service rendered and that the charge should be very substantially increased.

The foregoing is submitted with due regard to and appreciation of the great amount of time and consideration given by you to the
subject of this communication. We are further mindful of the very great importance of the subjects herein discussed and of our duty to render every possible assistance to you and to your Department in this great undertaking in order that in the interest of all of the states involved every phase of the matter may be fairly presented and considered before final action is taken. It is in that spirit we submit this letter.

Respectfully,

FRANCIS C. WILSON
Interstate River Commissioner for New Mexico.

J. A. WHITING
Colorado River Commissioner for Wyoming.

ROBT. E. WINBOURN
Attorney General of Colorado.

DELPH E. CARPENTER
Interstate River Commissioner for Colorado.

L. WARD BANNISTER
Special Counsel for City of Denver, Colorado.

WILLIAM R. WALLACE
Colorado River Commissioner for Utah.
January 20, 1930.

Charles W. Waterman,
Senate Office Building,
Washington, D. C.

Dear Mr. Waterman:

I enclose herewith carbon copy of letter of Mr. Carpenter to The Secretary of the Interior. Upon his departure for Reno, Nevada, Saturday, Mr. Carpenter requested that I forward this copy to you.

Very truly yours,

Dorothy A. Marshall,
Secretary.

DM.
ENCL:1
March 27, 1930.

My dear Senator:

The enclosed letter is for you personally. If you think The President should see it, I would suggest that you place it in his hands in person. He should know the situation, but whether it is advisable to bother him, is for you to judge. The situation is positively bordering on scandal and there is much trouble brewing. Wilbur is a hopeless failure as a negotiator and is recklessly but unintentionally unfair. He is considerable of a misfit.

Yours,
March 27, 1930.

My dear Senator:

The Colorado River situation worries me. Disturbing conditions multiply. A feeling of injustice is gradually permeating the whole situation. It involves not only the economic integrity of the project but places the President in a very delicate situation.

I attended the Reno conference and found the atmosphere surcharged with "too much California". There was a general feeling that the President, the Secretary of the Interior, Director Mead, expert advisors and others in positions of power were all from California and that there was little use for negotiations as the power and the major portion of the waters of the river would be subsidized for Southern California and particularly for the city of Los Angeles. The attitude of the California delegation confirmed the general impression. Not only did they descend in a host but came as conquerors with expressions of alleged generosity toward the vanquished (Arizona and Nevada). The then recent announcement by the Secretary of the Interior, of plans for disposition of power to be generated at Boulder Dam, sustained their attitude. Then, drunk with victory, they not only made hard and unreasonable demands as regards water supply, but fell to fighting among themselves respecting the division of the assumed spoils. The splendid efforts of Colonel Wm. J. Donovan, Chairman, were of little avail. California had come to take what she wanted and proposed to get it. The situation grew worse daily as the Californians quarreled among themselves and the meeting recessed to reconvene and repeat the performance at Phoenix.

The situation demanded a firm hand with strong support. Unfortunately, such was not forthcoming. A positive statement to the California delegation, by the Secretary of the Interior, that nothing would be done respecting either disposition of power or construction of works until an agreement had been reached respecting the division of water, would have set the boat upon an even keel. But nothing of the kind was done and the Secretary went to Washington, where in a few days he met with the irrigation committees of the House and Senate and announced that he would proceed to let contracts for the sale of water shortly, regardless of the failure to accomplish a division of water by reason of failure of the California delegation to agree among themselves.
Almost concurrently, the California delegation met at Los Angeles, agreed among themselves, announced that they did not care to further negotiate with the other states and demanded the immediate construction of Boulder Dam.

From this point, the other states "drop out of the picture" and California becomes the exclusive scene of action.

Immediately following the declaration by the California delegation that there would be no further negotiations with the States in which the reservoir is to be constructed, the Secretary sent an assistant to California to deal with California interests respecting the disposition of the power to be generated in Arizona and Nevada. What, if any, consultation was had with officials of those two states, does not appear. Certain it is that he consulted freely with representatives of the California interests.

On the 22nd inst, the Secretary released to the press, an announcement "that an agreement has been reached upon the allocation of the power to be developed by the Boulder Canyon Dam Project" whereby sixty-four per cent of the power generated in Arizona and Nevada is to go permanently to California and but eighteen per cent to each of the States of Arizona and Nevada for use within those states. The Secretary embodied a copy of his telegram to Northcull Ely, Executive Assistant, "who had been for three weeks in Los Angeles discussing the details of the projected contract", wherein he congratulates the California interests for dividing the power among themselves but in which he makes no mention of any consideration of the wishes of the States of Arizona and Nevada or of negotiations with those States. He then urges settlement of the water question by the States and after advocating local settlement of regional problems, he concludes his statement as follows:

"In the long negotiations leading up to the present agreement we have had the active cooperation of many men throughout Southern California. Chief Engineer Scattergood, of the Los Angeles City Power Company has given many months of his great engineering skill to this project. I particularly wish to express my appreciation of the careful studies made by Commissioners Haynes and Scofield. Their active cooperation will be of great assistance in completing the project. The members of the Metropolitan Water Board have consistently stood for the best interests of the southwest region. I do not see how we could have gotten forward as far as we are now without the vision and persistence of Mr. William P. Whitsett, Mr. John G. Bullock and Mr. W. B. Matthews."
I utterly fail to comprehend the viewpoint of the administration. The whole situation is patent with evidences of partiality. It does not bear the appearance of fair play and of a desire to dispense equal justice. I am not in a position to know all that transpired behind the doors, but appearances indicate a failure to make reasonable provision for the potential necessities of Arizona and Nevada, including the Parker-Gila and other similar pumping projects in Arizona.

A settlement of the water question between Arizona and California in advance would have opened the way to harmonious solution of all problems and such a settlement would have been probably but for the failure of those in authority to stand firm regardless of pressure.

Litigation is almost certain to follow the unfortunate failure to agree. The announcement of the apportionment of power and the methods employed, together with the statements contained in the press release of the 22nd, not only aggregate the situation but arouse all the feeling of injustice and necessity of drastic measures in necessary self defense, which have been smoldering in Arizona for some time and make such litigation almost certain.

The action by the Secretary forecloses all probability of peaceable settlement of the water question. The people of Arizona are alert, intelligent and very sensitive. They will take lasting offense at the action of the administration. This precludes settlement by compact.

Construction of Boulder Canyon Reservoir is very important to all of us but one dreads to obtain the structure by such methods. While, I believe, the courts will uphold the Boulder Canyon Project Act and the Colorado River Compact, it will require protracted legal warfare and the result is always uncertain.

While we are tardy, it is not too late to remedy the situation. The Secretary has not entered into contracts. He still may so modify his decision that its fairness will be self-evident. He then could quietly tell the California commission that, after mature consideration, he is convinced that there should be no letting of power contracts until the water problem is disposed of. Chairman Donovan could then reconvene the commission and keep it in session until an agreement is reached. But this would require that the Secretary maintain a firm position and endure an avalanche of criticism. While this is better than prolonged controversy and litigation, I fear the Secretary would not take kindly to the suggestion.
Unless some such action is taken, we are in for trouble and I dread it. I am writing you that you may be quietly thinking the matter over.

With best wishes, I am

Sincerely yours,

Delph E. Carpenter.
Duplicate pages not scanned

See originals in folder

Water Resources Archive
Colorado State University Libraries
March 31, 1930.

Delph E. Carpenter, Esquire,
Greeley,
Colorado.

My dear Mr. Carpenter:

I want to acknowledge receipt of your recent correspondence addressed to Senator Waterman and to say that the Senator is absent from the City for a few days. Of course, this matter will be treated in confidence and placed before him at the first possible moment.

With kind regards, I am

Sincerely yours,

ESR/H

Secretary.
April 9, 1930.

John A. Whiting,
State Engineer,
Cheyenne, Wyoming.

My dear Whiting:

Secretary Wilbur answered me as follows:

"I am glad to have your congratulations upon arriving at a basis of disposition of the Boulder Dam power.

I note with particular interest your two propositions. I am doing the best that I can to try to secure future development for both Arizona and Nevada. I have though the immediate responsibility of getting contracts signed to pay for the power. Following your suggestion, I will look further into the matter."

This all goes to show that sometimes it pays to keep up the fire.

Sincerely yours,

Delph E. Carpenter.