January 18, 1930.

Dear Sir:

Yours of the 18th ult, in reply to the letter of December 4, 1929, from the Commissioners for the States of Colorado, New Mexico, Utah and Wyoming, relative to the sale of power at Boulder Dam and to charges to the Metropolitan Water District of California for water stored in the reservoir, was received and answer has been delayed, awaiting a copy of the report of the committee of experts which you forwarded but which has not arrived. Receipt is also acknowledged of copies of communications from the Attorney General and the Solicitor of the Department of the Interior, answering specific interrogatories propounded by your office.

We have not conferred with the Commissioners for the other States but have before us a copy of the answer to your letter by the Commissioner for New Mexico, in which we concur.

In your letter you state:

"You will recognize that I have before me the practical problem of selling power. Sale requires markets. The only market within transmission distance which can absorb the amount of power which must be sold to complete this dam is in Southern California, more than 250 miles away, via transmission routes, in close proximity to oil and gas fields. You will realize the impossibility of transmitting power 250 miles and selling it over an oil and gas area, except at a price fixed by competition of these immediately accessible resources".
You further state that you are advised by experts that 1.63 mills is the maximum "which can be demanded ag-ainst such competition" and that "power costing 1.75 mills or more at the penstocks * * * cannot be sold in that necessary market without bankrupting the bidder".

We sense that the great pressure and constant pers- uasion to which you and your advisors have been subjected by representatives of municipal and other interests in Southern California, have unduly emphasized the exclusiveness of the market in that section, whose people naturally desire to most profit by construction of the proposed works in Arizona and Nevada, and may have tended to underestimate the real value of power even in that region.

The offer by the State of Nevada to contract for one-third or all of the power at the rate of 1.75 mills at the pen- stocks, would seem to conclusively answer both the question of available market and of price to be paid for power of the value of which her officials should be competent to judge. Nevada officials likewise have the assistance of eminent experts. This offer by a commonwealth cannot be ignored or thrust to one side without violating the intent of the Boulder Canyon Project Act. It should prevail until proven erroneous. To deny Nevada the right to purchase power developed within her territory and to sell such power over her protest and at a lower price, to municipalities and public utility corporations of a neighboring State under contracts of a permanent nature, would be a proce-
at least unprecedented in the annals of our nation.

Desire of another State for control or benefit of such power to the detriment of the State of Nevada should not justify depriving Nevada of her share of such power or of invoking the aid of the United States to take such power from Nevada under authority of an Act of Congress, especially where that Act provides that the United States shall give Nevada "equal opportunity" with two other States as an applicant for purchase of power developed within her territory. We do not understand it to be the province of the United States to expropriate the property of one State for the benefit or profit of another State.

We fear that the "practical" phase of the problem confronting The Secretary for solution in the matter of obtaining revenue, has obscured the fundamental duty which rests upon The Secretary and upon all his advisors, under our constitutional form of government. It is the duty of preserving and promoting the sovereignty, political integrity and economic welfare of each of the States. In other words, the problems requiring solution appear to be:

(1) Protection of the rights of the other Colorado River States and particularly the States of Arizona and Nevada; and

(2) Sale of power and water with due regard to those rights.

The States of Arizona and Nevada, without doubt, have interests in and rights with respect to uses of waters of the
Colorado River flowing within their territory and along their common boundary, which should be respected both as matters of law and of sound public policy. That is the "region" where the reservoir is to be constructed and the power generated. That is the "region" most immediately affected, most vitally interested and most seriously damaged by neglect or injustice. Both their present and future needs should be ascertained and protected before consideration of the needs or demands of any other section.

The jurisdiction of the United States with respect to the waters of the Colorado River, except as modified by the Colorado River Compact, is no greater than the jurisdiction respecting any other stream of similar characteristics and questionable navigability. It is limited to the jurisdiction granted by the States to the nation and does not include the power to seize the territory or resources of one or more of the States for the permanent benefit and profit of another State or its people.

But, apart from the legal phase, considerations of justice and sound public policy should control. The situation with respect to the equities of the three States most immediately concerned in the benefits to be derived from Boulder Canyon power, illustrates the care required to preserve the States and to do justice to each of them, while disposing of power developed by works constructed by the United States in two of them. While the States, through the Congress, entrusted the Secretary with
broad discretionary powers in the allocation of benefits from the project, there is nothing in the Act or in the proceedings leading to its enactment, indicating an intent to subsidize the project for the benefit of a particular State or to authorize the expropriation of rights or denial of equities belonging to two or more States for the profit and permanent benefit of another State.

We take official notice of the climate, geography, topography and other national features of the three States in question. Arizona is wholly arid and water must be artificially supplied to make the land fruitful and to fill human needs. Much of this water must be pumped. Much power will be required for mining and industrial and other purposes incident to the development of virgin territory. There is no cheap coal or oil supply. Water power is a most vital resource. The State is dependent for water and power exclusively upon the Colorado River and its tributaries. There are no other streams and the State furnishes a considerable part of the water supply of the river. The State is in process of development and requires both a large portion of the power developed at Boulder Canyon and revenues from power.

Nevada, likewise, is an arid State but rich in minerals requiring much power for development. There are no deposits of coal or oil. The State contributes some water to the Colorado River which forms its easterly boundary. Boulder and Black
Canyons, with one or two lower sites, are the only large natural opportunities for obtaining the power necessary for development of the entire State. If denied opportunity of obtaining such power, the State must either remain arid and undeveloped or import power and fuel from other States.

While the Colorado River forms the southeastern boundary of California, that State furnishes no part of the water supply of the river. As observed by The Secretary, that State has abundant supplies of oil and cheap fuel is available. Other rivers furnish power and water throughout the State. The needs of California for Boulder Canyon power are less than the needs of either Arizona or Nevada. Even though California were denied the use of any portion of such power that State would still be the principal beneficiary of the Boulder Canyon Project and most of the benefits would come without cost to the State or its people. Wherever the power may go, California will receive free of charge but at great cost to others: (1) flood protection along the lower Colorado River and to the vast expanse of territory included within the Imperial Valley and adjacent regions; (2) removal of silt from water for domestic, municipal, agricultural and all other uses; (3) storage and regulation of flow of waters for service of the Imperial Valley and the reclamation of a vast acreage of desert lands; and (4) the general benefits which will result from a controlled river including improvement of international relations. In addition to the tremendously expensive but
free gifts to that State, should be added the opportunity of a controlled and clear water supply for cities and farms far distant from the Colorado River and naturally dependent upon other supply, at a price which will represent but a trifle of the actual cost of the works necessary to give such benefits.

The Boulder Canyon Project is located entirely within Arizona and Nevada. It proposes to use the waters of the Colorado River as it flows through those States and the reservoir will occupy portions of the territory of each State. Those States have a legal and equitable interest in the river, its water, its power sites and in the power generated. They constitute "the region" in which the power is developed, in which it may be most economically distributed and used and in which the use of such power is imperative to the future development and general welfare of the entire territory.

It would seem self evident that every consideration of justice and sound public policy demands that the States of Arizona and Nevada should be given first and preferred consideration in all matters respecting the sale and disposition of power from Boulder Canyon, at least to the extent of two-thirds of such power; that in all contracts for the disposition of power to others provision be made for the protection of the power supply necessary for future expansion of development in each of those States; and that no contract be made for sale or disposition of such power which will compel future users in those States to
pay other than the price paid the United States by the most favored consumer of power from such project.

We wish to be understood as including all citizens, corporations, political subdivisions and other agencies using power, within the term "State". They are instrumentalities by which the State uses the power and contracts with them, in effect, are contracts with the State. Their use of the power runs to the benefit of the State as effectually as though the States were the contractor.

**PRICE OF POWER**

We do not concur in the opinion that Southern California furnishes the exclusive market for Boulder Canyon power or that a price fixed by conditions in that region should control. While there is insistent demand by that section for a greater portion of such power at a low price and the pressure brought to bear by agencies of that section, has been both continuous and persuasive, we are informed that markets may be developed in Arizona, Nevada and southeastern California, in the region where the power is developed and where the greater part of transmission losses may be avoided. In other words, the region legitimately entitled to first call upon the power is capable of absorbing such power in the process of development, including the proposed aqueduct for the Metropolitan District of California and the proposed Parker-Gila project in Arizona.
There are many price-controlling reasons for use of power in the region of Boulder Canyon among which are the saving in transmission losses and freedom from competition of cheap fuel. The region is devoid of coal or gas and competing power must originate on the Pacific coast and must bear the burden of transmission losses. While Southern California may be a temporary market, it is not the best permanent market.

Arizona and Nevada and nearby consumers in California can pay a higher price for Boulder Canyon power than can be obtained in Southern California. Furthermore, from every viewpoint, economic, political, legal or otherwise, this region is entitled to first call upon the power of the project. Contracts for sale of power to Southern California (Pacific Coast) consumers should be temporary and should reserve the power for first use in the region where it is developed. To now permanently contract the sale of power to such Southern California consumers on the basis of competing conditions in that region, would not only prejudice future prices but would permanently remove such power from the region where developed, thereby to perpetually deny the benefits of such power to the region and to the people rightfully entitled thereto.

Nevada has rendered a great public service in offering to contract for the purchase of one-third or all of the power at 1.75 mills per kw. hour in lieu of 1.63 mills per kw. hour fixed by The Secretary. We are informed that such offer is made...
upon expert advice after thorough consideration of all factors.

The United States can ill afford to contract for sale of power at a lower figure than 1.75 mills. That price would assure ample funds to complete and pay for the project in the face of obstacles greater than heretofore overcome by man.

**DOMESTIC WATER**

In his letter, The Secretary states that it is not feasible to sell power at more than 1.65 mills because a greater charge would bankrupt the purchaser. Then, as a reason for nominal charges for storing water for the Metropolitan Water District, he states:

"The basis for Federal erection of this dam is navigation, flood control, and reclamation. Power is sold in order to build the dam; the dam is not being built in order to sell power. If power can pay the way, I see no necessity for requiring domestic water to bear an undue burden".

We respectfully direct attention to the fact that the Act had other purposes than those mentioned and that, evidently, The Secretary overlooks the broader features and underlying intent of the Act. The Act covers a much broader field than the building of a dam and making contracts for repayment of the cost. The Act provides for settlement of interstate titles and relations respecting the waters of the Colorado River and provides for construction of the first unit of a comprehensive development of the whole Colorado River Basin in harmony with the principles of interstate justice embodied in the Colorado River
Compact. This first unit is now under consideration and the breadth of vision, wisdom, respect of the rights and equities of the seven interested States and the financial acumen exercised in these initial steps will determine future progress as well as the success or failure of the first unit.

There are no mandatory provisions requiring The Secretary to protect the States from which power is to be withdrawn. Such provisions were unnecessary. They are written into the whole fabric of the Act by the fundamental law of our nation.

There are no mandatory provisions requiring The Secretary to charge sufficient for power and storage of domestic water to provide a reasonable revenue to those States in return for power benefits received by others. Yet, such is the plain duty of The Secretary and the unquestionable intent of the Act.

There is nothing mandatory directing The Secretary to charge sufficient to produce revenue for liquidation of the $25,000,000.00 appropriation for flood control, within fifty years, but, this does not relieve The Secretary from taking every legitimate measure to accomplish that purpose.

Again, we respectfully direct attention to the fact that the statement of The Secretary leads to a narrow and unwarranted construction of the Act and of the fulfillment of his discretionary duties thereunder.
Admittedly, a charge of twenty-five cents per acre foot for storage, removal of silt and regulation of flow of water for domestic purposes is but a very nominal charge. One dollar per acre foot has always been considered reasonable by those familiar with the facts. We are informed that sixty-two cents has been recommended by the engineers advising The Secretary as a very reasonable charge. Every reduction made in the price correspondingly decreases the revenues otherwise available to compensate Arizona and Nevada, to pay the $25,000,000.00 flood control item and to hasten the day when funds will be available for the construction of other units in a general comprehensive development of the Colorado River System in other States. There is nothing in the Act to compel The Secretary to collect reasonable charges, yet, without doubt, the underlying purpose, intent and plan of the Act indicates that he should do so.

The United States will establish a precedent by the action of The Secretary, which will be invoked with relation to future projects. A trifling charge for storage of domestic waters for California with consequent injury to the other States and delay in liquidation of the flood control appropriation, would seem an unfortunate policy establishing a bad precedent.

The extent of the injury resulting from failure to make reasonable charges for this service is discussed by the Commissioner for New Mexico, to which we refer.
CONCLUSION

All seven Colorado River States are directly interested in the Boulder Canyon Project. All are interested in the stability of the financial arrangements for the repayment of the cost of construction of the first unit of a comprehensive plan. But they are more interested in preserving and promoting interstate justice and comity. Six of them have concluded a perpetual compact as the foundation for the accomplishment of these purposes. The seventh will join whenever certain differences with California are settled. The Colorado River System waters a vast territory and development must proceed in an orderly manner. The rights and equities of each State must be respected and protected under all circumstances. This is a first and primary consideration. Injustice destroys confidence. The resources of one State must not be confiscated for the aggrandizement of another State or its people. Just compensation must be made for benefits received.

In furtherance of these purposes, the Colorado River States joined in preparation of the bill and supported the enactment of the Boulder Canyon Project Act. It is not an Act to authorize a subsidy for Southern California. Its purpose is to authorize construction of a first unit for the benefit of all the Colorado River States.

In preparing the bill, the magnitude of the undertaking
was recognized. It was evident that the United States should undertake the construction and that there must be liberal discretion vested in those in control. The representatives of the States having the utmost confidence in the prudence, wisdom, deliberation and justice of The Secretary of The Interior, agreed to repose in him unusual discretion in the practical administration of the undertaking in accordance with the underlying spirit of the Act and of the common plan in furtherance of which the bill was prepared and supported.

The Colorado River Compact was approved and now is the law of the river, except with the State of Arizona. The Boulder Canyon Project was authorized with wide discretion in The Secretary in the fulfillment of both the letter and the spirit of the Act. The States look to The Secretary to fulfill the unusual trust confided in him in such a manner that the rights and equities of all the interested States will be respected and preserved and that the practical problems of the undertaking will be so solved that the project will be both successful and a favorable precedent justifying construction of further units.

We anticipate with confidence that mature consideration of all phases of the problem will convince The Secretary of the justice of protecting the interested States by charges for power
and storage of water adequate to not only pay the dam but also sufficient to furnish funds for payment of the flood control appropriation and payment of reasonable returns to Arizona and Nevada in exchange for benefits received from use of their resources.

Respectfully submitted,

Delph E. Carpenter,
Commissioner for Colorado.

The Honorable,
The Secretary of the Interior,
Washington, D. C.
February 21, 1930

Hon. Delph E. Carpenter,
Interstate River Commissioner,
Greeley, Colorado

Dear Delph:

I am enclosing herewith copy of letter which I have today written to Will Hay which will give you my attitude on the situation in Utah.

I have not had time to write any letters since my return to my brother Commissioners as I was called out of town almost as soon as I reached home and have just returned from that last absence.

The letter that I referred to from Secretary Wilbur in my letter to Hay held out hope, I thought, of consideration of our position as regards the power and also indicated that he still had hopes of adjusting the California situation. I do not think that he intends to take any action for a while yet notwithstanding the newspaper reports to the contrary. Have you any suggestions?

Sincerely yours,

Francis C. Wilson
Interstate River Commissioner
for New Mexico

W:W
Encl.
February 21, 1930

Mr. W. W. Ray,
Colorado River Commissioner,
Walker Bank Building,
Salt Lake City, Utah

Dear Will:

About as soon as I reached Santa Fe I was called away on a bank loss in Roswell which involved two Surety Companies which I represent and I have just returned from that trip. I intended to write you as soon as I reached here concerning the memo which Miss Brown finished on the plane between Phoenix and El Paso and which I mailed as soon as we reached El Paso to you to Phoenix in care of Westward Ho Hotel. I hope you received it. I am sure it was hurriedly done and had a number of errors. Miss Brown was quite sick on the plane suffering from airsickness. We had a fairly rough trip for new fliers but she was the only one who suffered very badly. If you have the matter in shape now and will send it to me I would be glad to get it on to the others and ultimately to Washington. I am not sure as to the allocation suggestions by Senator Pittman altho in default of anything better I would be willing to accept it if we could get it over.

As yet I have not had time to write to either one of my Senators from this State and in fact have only written pressing letters which had to be gotten out on my return here. I noticed something in the papers to the effect that a resolution has been introduced in the Utah Legislature in an effort to recall the Utah action ratifying the six State compact. I wonder if Senator Patterson realizes that he is playing directly into the hands of the California people by such action. You know, as I do, that nothing would please the California fellows headed by Carr more than to see some method of getting out from under the compact entirely, and instead of forcing the issue by such effort at withdrawal it would give California much aid and comfort to know that Utah could and would withdraw. I was glad to see by the newspaper that you had told them that you thought that legally they could not do so, in which view I certainly concur, but even the gesture is bad policy at this
time for the Upper Basin States. Our only hope for protection lies in the Six State Compact and we have got to stay with it throughout regardless of what happens because our major stake lies in our water rights for the future. Of course, we are going to fight for everything else we can get but we should not lose sight of that most important element in our compact agreement, to-wit, the protection for the future of our water rights under the compact as ratified.

We know now, as a result of the Reno conferences, that California would like to destroy the compact just as much, if not more, than Arizona because they think we are getting more water under the compact than we are entitled to get. It is not a question of whether that conclusion is a correct reflection of the true facts or not but at any rate we do know that the compact does protect us to the extent of the allocation in perpetuity to the Upper Basin States. To imperil that protection by any action looking to a revocation of the Six State Compact is a fatal blunder to the Upper Basin States and is losing sight of our most material benefit under the Colorado River Compact as it now stands. I know that your own attitude is the same as mine and that you have always had the very same attitude which you have expressed so frequently in public as well as privately, that we must have the compact and that we should strive to get all we can out of the administration of the Boulder Dam Bill by the Secretary of the Interior provided that such action as he may take does not imperil the compact which is our fundamental charter.

I know from previous experience with Mr. Wallace that he agrees with us in this respect. I have had a letter from Secretary Wilbur in which he intimates that he is willing to consider anything that we submit and that while he proposes to go ahead with his contracts he is giving consideration to our proposals with reference to the power. It might be well for us to hit while the iron is hot and before it is too late and I would like to have the benefit of your suggestions in that connection.

Sincerely yours,

Francis C. Wilson
Interstate River Commissioner for New Mexico
October 1, 1930.

Hon. Delph Carpenter,

Greeley, Colorado.

My dear Mr. Carpenter:

Mr. Ward Bannister was in town today and told me that he understood you had not received an invitation to the ceremonies at Las Vegas, in connection with the commencement of Hoover Dam. I was grieved to hear this, in view of your prominent part in the success of this project, and particularly the major part you played in drafting the Colorado River compact. I had requested that invitations go to all of the Colorado River Commissioners from Las Vegas in my name and I suppose that, through some inadvertence, this never reached you.

I should have liked for you to be there and you can be sure that I am counting on your continued participation in carrying on this great work.

Very truly yours,
October 22, 1930

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

My dear Mr. Carpenter:

I have your letter concerning the division of water on the San Juan. The difficulty lies in the fact that in your proposition there is no definition of the depletion on the other tributaries of the San Juan in which we are interested. For instance, in the case of the Animas and the La Plata, the future disposition of the flow of the two streams is not defined, and the same can be said of the Los Pinos. Furthermore, our studies of the situation on the river above the latter tributary do not indicate that there is any possibility of the appropriation and beneficial application of the water above the New Mexico line in Colorado to the extent of the reservation in your proposal. The point is that New Mexico could never build any project on the San Juan River if we are not assured of a certain flow as an annual average proposition over a period of years. That is particularly true of the general intent of your Compact. If, for instance, there was reserved in Colorado the right at any time for all future time, to-wit, in perpetuity, to apply waters originating in Colorado to beneficial use in that State regardless of projects built lower on the river in New Mexico, we could interest no one in the construction of a project in our State. There must be a certainty of supply sufficient to satisfy the needs of any project which we should build in this State in order to make any project feasible. I doubt if the Government would ever undertake a federal project on the river which would be subject to the right of Colorado at some future time to so deplete the flow as to destroy the project or even impair its usefulness. Any project constructed in New Mexico would build up tremendous values in property and any rights acquired to water, and if Colorado in even the remote future, had the right to take water from the watershed in Colorado which would impair the flow of the river and thereby destroy those rights and the values created thereby, no permanency could attach to the development of New Mexico.

I have tried to make this plain before and again I am expressing it as I did a year ago in order that you may understand that the position of New Mexico in this connection must necessarily depend as regards a compact upon a specific and dependable agreement.
as regards quantity of water in perpetuity. It would be far better for us to go without a compact and to depend entirely upon rights acquired by priority of beneficial use than to enter into a compact which in its very inception would destroy all hope of development in our State on the San Juan River.

    I shall be sorry if the foregoing statement disappoints you but that is apart from the fact, and has nothing to do with the conclusion that New Mexico cannot agree to any proposal which does not clearly define her rights for all time in the San Juan River and its tributaries.

Sincerely yours,

Francis J. Wilson
Interstate River Commissioner for New Mexico

W:W
February 26, 1930

Hon. Delph E. Carpenter,
Interstate River Commissioner,
Greeley, Colorado

My dear Delph:

It is quite apparent that the California settlement will not help at all unless we can get some kind of a meeting in Washington which would result in concerted action to block appropriations for the immediate construction of the project even tho the Secretary makes the contracts. I have little optimism in view of the situation but if we are going to do anything in Washington it ought to be done before the contracts are signed. What do you think upon that subject, and do you believe that we could do much good by sitting in on the making of the contracts before they are actually signed?

Hope you are much improved.

Sincerely yours,

Francis C. Wilson
Interstate River Commissioner for New Mexico
October 10, 1930

Hon. Delph E. Carpenter
Greeley, Colorado

Dear Mr. Carpenter:

This will acknowledge receipt of your letter of October 9, relative to suit filed in the Supreme Court on October 8 by the State of Arizona.

I have written for a copy of the petition, and, as soon as received, I will consult with the Attorney General relative to the policy Wyoming will pursue.

Very truly yours,

[Signature]

John A. Whiting
State Engineer

JAW: DW
September 27, 1930

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

Dear Delph,

I have just returned from a two weeks absence to find your letter of the 20th inst. with your suggestion for a compact on the Upper Colorado river, together with your remarks in connection therewith. I have not had time to look them over thoroughly and tomorrow I am compelled to meet with the members of the Committee on the Public Domain for a trip through the State. I shall be back in Santa Fe by the latter part of next week. After returning here I found that I could not possibly consider going on with them as there are too many things heaped up in my office for me to leave. If, however, you feel that you would like a meeting in Denver of the Upper Basin States, sometime after the 15th of October, I shall try to arrange it. You are doing a great deal of good work as usual on the compact, and whether I can agree with you or not as to the principle involved, still I can heartily congratulate you on the study and work which you have given it. I am in hopes of being able to devote sometime to it, but I don't know when I have been so crowded with work as I have been this fall and summer,—things that have to be attended to.

I went to Las Vegas, Nevada, for the opening ceremonies incident to the commencement of work on the Boulder Dam Project. It was an interesting event and I wish you could have been there. Congressman Eaton was present representing the Governor of Colorado, but I don't think there were any other representatives from the Upper Basin States, which I much regret.

Sincerely yours,

Francis C. Wilson
Interstate River Commissioner for N.M.

Please convey to Mrs. Carpenter my best regards.
October 23, 1930

Hon. Delph E. Carpenter,
Interstate River Commissioner,
Greeley, Colorado

My dear Mr. Carpenter:

I have your letter of the 16th inst. enclosing a letter from the Federal Power Commission setting forth the provisions to be inserted in all licenses issued by the Commission for power projects on the Colorado River and its tributaries. I can see no objections to the phraseology employed and it seems to me to be sufficiently comprehensive to embrace every possible contingency which might be necessary to protect the rights of the States under the Colorado River Compact.

Yours very truly,

Francis C. Wilson
Interstate River Commissioner for New Mexico
September 5, 1933.

Thomas J. Warren:
Avery Block,
Fort Collins, Colorado.

My dear Warren;
Answering your inquiry, the Colorado River Compact most certainly does permit use of Colorado River waters within the South Platte drainage.

Paragraph (b) of Article II provides that the "Upper Basin" shall include all parts of Colorado located without the drainage area of the Colorado River System which are now or shall hereafter be served by waters from the system" and Article III apportions, in perpetuity to the "Upper Basin" the exclusive beneficial consumptive use of 7,500,000 acre feet of water per annum.

The apportionment is to the entire "Upper Basin" which includes all lands in Colorado now or hereafter served by waters from the Colorado River and its tributaries. The same is true in respect of lands of the "Lower Basin" which now or hereafter may be served by waters apportioned to that Basin, such as lands in Imperial Valley or those to be served by the Los Angeles Acqueduct.

The Grand Lake project was recognized as a potentiality during the discussions. I only regret that the Colorado Legislature omitted to provide for necessary rights of way in the Act of 1929 making cession of jurisdiction of the Park to the United States, in manner recommended by those of us who recognized the early necessity of construction of that very feasible and meritorious project.

Very truly yours.
CONFIRMATION

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

NIGHT LETTER

January 7, 1930

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

I am mailing you within next two days my reply to Secretary Wilbur's answer to letter of Commissioners of Upper Basin States (Stop) Has Colorado any commercial deposits of bauxite and if so please wire me extent and location and percentage of aluminum.

Francis C. Wilson

Paid
Charge F. C. Wilson
The worst discipline is all to come before. The Indian is more than half Human. The English is more than half Christian. To make a compact between the two is as much the part of one as the part of another. Do not make it a matter of trade or profit, or name and fame. The name and fame is a thing in itself. The name and fame is a thing in itself. The name and fame is a thing in itself.
Greeley

July 19, 1930.

Honorable Ray Lyman Wilbur,
Acting Chairman,
Federal Power Commission,
Washington, D. C.

In re: L-Legislation,
Colorado River Compact

Dear Sir:

Replying to your letter of June 27th, respecting the phrasing of clauses for inclusion in permits and licenses for projects upon the Colorado River and tributaries, while the suggestions and memorandum forwarded with my letter of June 6th, were not the result of a conference of the Commissioners for the Upper States of the Colorado River, the suggestions were submitted to and approved by the Commissioners before being forwarded to the Federal Power Commission.

I am forwarding copies of your letter to the Commissioners of New Mexico, Utah and Wyoming, and cannot now express their reaction. However, I take the liberty of expressing my present views, subject to revision after advice from the Commissioners.

Respecting the proposal to include in permits and licenses, merely the clause "subject to all the terms and conditions of the Federal Water Power Act and of the act of December 21, 1928, known as the Boulder Canyon project act", I doubt its sufficiency either as a matter of policy or as a compliance with the mandatory provisions of Section 13 (c) of the Boulder Canyon Project Act. The Colorado River Compact is a separate instrument. It is the permanent law of the Colorado River. Section 13 (c) of the act commands that all permits and licenses shall be issued upon the express condition and with the express covenant that the rights of the recipients or holders thereof to waters of the river or its tributaries, for the use of which the same are necessary, shall be subject to the Colorado River Compact, not subject to the act approving the compact. But, irrespective of the mandate of the act, sound policy would seem to require some specific reference to the instrument which is the basic law of all rights obtained by the permittees or licensees. Licenses or permits also should be subject to the provisions of the Federal Water Power Act and the Boulder Canyon Project Act.
The Boulder Canyon Project Act does not specifically require the insertion of clauses making permits or licenses subject to future compacts between Colorado River States. It does approve the Colorado River Compact and make it the law of the river and Article VI of the compact and Section 19 of the Act both provide for future compacts. But, irrespective of the compact, the rights of a permittee or licensee to the use of water can be no greater than the rights of the state in which his project is located and the rights of his state, with respect to those of other States, always are subject to future definition by interstate compact or by decision of the Supreme Court in a case between the interested states. The insertion of a clause making the permit or license subject to future interstate compacts, approved by Congress and the state legislatures, would express no new rule or change of rule and would make certain, rather than uncertain, the limitations of the rights of the recipients. I respectfully urge that clauses substantially as heretofore suggested, be included.

Respectfully yours,

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

My dear Delph:

I was delighted with the receipt of your letter of January 14th, and hasten to reply. I regret exceedingly that you have not fully recovered your health.

The past year was a very hard one for Mrs. White. She underwent two major operations and is not yet fully recovered from them. As for myself, my health has steadily improved and I am in a truly wonderful condition physically.

I note what you say concerning Governor Hunt's re-election, and I am pleased to say in connection therewith that he made a most wonderful comeback, and, in my judgment, he is stronger today in the estimation of the people than he has ever been. The Legislature is now in session and gives every indication of working most harmoniously with the Governor. The Governor's message was the strongest, in my opinion, that he has ever delivered, and the indications are that his present administration will result in great good to the State.

I faded out of the Colorado River picture at the time of Governor Hunt's defeat in 1928, but I want you to understand that Arizona has no fight with Colorado or any of the upper-basin states. On the contrary, in my opinion, Arizona is now fighting Colorado's battles in the Supreme Court. You have always contended and asserted the doctrine of state ownership of waters flowing within the state, and this doctrine is being contended for by Arizona in the suit now pending in the Supreme Court. I am not familiar with the bill of complaint filed by the Attorney General and have no knowledge of the various legal questions raised, but I understand that one of the maincontentions raised by Arizona in its suit is that the
Federal Government has invaded the sovereignty of this State, in that it is now claiming federal ownership of the waters of the Colorado River.

Colorado should be vitally interested in the success of Arizona's contention that the water of the Colorado River flowing within the state is owned by the state in trust for the benefit of the people of the state. You, for many years, have asserted state ownership of waters and denied federal ownership thereof. So I must confess I was somewhat surprised by the opposition of Colorado to Arizona's suit. I am of the opinion that Colorado's interests would be better conserved if it had given its support to this state in its contentions.

You are certainly mistaken in your statement that Arizona has fired any "shots" at the State of Colorado, and I feel certain that Colorado will not be hurt in the event Arizona is successful in its present suit.

Trusting that you will feel able, at no very distant date, to again favor me with a letter, and with assurances of my very high personal regards, I remain

Sincerely yours,

Samuel White

SW:F
ENC-2
Dear Ward,

Re: my other night letter.

This date stop I make suggestion therein contained in bold that I may want to establish inter-state relations as volunteer desiring to assist stop. If you and your governor are interested I will undertake to embody my proposed plan in a thorough draft of which bill to be considered by Arizona legislature stop.

Regards,

[Signature] Delph
Feb 27 1937

Charles Ward
Attorney at Law
Phoenix Arizona

Please permit suggestion that Arizona may make Effective Colorado River Compact between Arizona and Upper Basin States without ratifying or approving the Compact or making it Effective with California or Nevada staff this by Act of Arizona Legislature. Thereafter to be approved and agreed to by Act of Legislature. Arizona would pass an Act for such purpose which Act thereafter would be accepted and agreed to by Act of Legislature of each Upper Basin State.

Delph E. Carpenter
March 1, 1937.

Hon. Delph Carpenter,
Greeley, Colorado.

Dear Delph:

Your two night letters were received yesterday. I did not answer by wire because I wanted to write you this letter.

There is absolutely no use to try and make a compact as you suggest, although to me I can see great advantage to the upper basin states and to Arizona in such a compact; that is, it is for the purpose that I think you have in mind. Yet the whole thing is changed here. Under the new regime our newly elected governor has by message, advocated, it seems to me, the building of what is known as the high line project, and to facilitate that, has asked for an appropriation for surveys of such project in an amount of One Hundred and Fifty Thousand Dollars.

Fred Colter is now the big man in irrigation in Arizona, and I am enclosing you a copy of an article published in yesterday's paper, purporting to flow from the brain and pen of Fred. It doesn't sound like his thought or his writings, but in all events, he has kept pounding away until it looks like he has convinced a great body of people that they can take no water out of the river without it having the effect of Arizona ratifying the Seven State Compact. He also makes the same argument, and gets over with it, that that is the effect of even taking our share of power from the Boulder Dam.

I have noted for months, both in the weekly and daily papers, articles and letters written by individuals all over the state, directly advocating the high line project, and fighting any effort to make any contract or agreement to take water out and apply it upon the Parker Gila project, which in my judgment is the only project that is feasible for the use of waters from the main stream. Of course, there may be other lands lying adjacent to this project which by pumping water up to higher levels, might be used.

In the article which goes into about every question, you will note that Arizona has won every suit that she has filed. I remember
that as each suit was decided, the high liners always claimed that Arizona had lost the suit, but now apparently their claim is that in each case we were highly successful, and I much fear that with the new political set up, we are now starting on the road again to have this question of the Colorado River a political one, and if we do, I am afraid that never in the time of our children's children, will Arizona get much benefit from the Colorado River. If all factions in this state had worked together, we could have made contracts with the Interior Department which would allow the use of water upon all the lands of the Parker Gila Project, and that water could be put upon those lands at such a price that the farmers who would take the land, could handle it at a profit, and I believe that if such had been the case, we could have received from the government sufficient financial help so that this water could be so applied. As I see it now, I am afraid that Arizona is not going to get much help out of its interests in the river. I am afraid that by its non-use, we will find a great amount of the water going onto lands of Mexico, and there beneficially applied, and once applied, Arizona and even the northern basin states may find that a future administration may be loath to deprive Mexico of water which it has applied to its lands.

Anyway, under this high line canal, I don't see how this or any other state could possibly raise the money to build dams above Boulder Dam, and then to build tunnels, as I understand one of which is over eighty miles in length through great mountains, the geology of which at great depth is unknown. I don't think it will ever be accomplished. I wish it could be, but the expense is so prohibitive that it seems to me it is just a dream, and I am afraid while we are dreaming, we will lose the opportunity to irrigate six or seven hundred thousand acres in the Parker Gila project, which we could have irrigated if our people would work together, but they won't. Any man who suggests any kind of a compact, no matter how fair, will now be dubbed a traitor to his state. You know, I have been bitter against the Seven State Compact. As far as I am concerned, under no circumstances would I ever advise a single member of the legislature to ratify it.

Years ago we could have got the Tri State Compact with California whereby the rights of Arizona were protected; then it would have been all right to have ratified it, but we could not secure that kind of a compact, and now you will see that nothing can be done on any other kind of a one.

Well Delph, my lungs have not been very good this winter, I am getting old, and I am going to retire this summer from the active practice of law. Of course, a man who has been practicing for so many years will have odds and ends that he must wind up, but I am going to make it possible to go away for a few months at a time if I wish to, and I am going to commence looking after investments
which I have, and see if I can't by personal attention, make them pay enough to keep us.

Daughter joins me in sending Mrs. Carpenter, the boy and youself, our love and best wishes.

I ask about you from every one coming down. Carmelita was rather astounded at some people who were here from Greeley, but they didn't seem to be acquainted with you folks, although they had heard of you. She told them that they didn't know the best people in Greeley.

Well, good-bye, and I hope you are feeling better.

Yours most sincerely,

[Signature]

[Address]

[Date]