Hon. Delph E. Carpenter  
Attorney at Law  
Greeley, Colorado

My dear Mr. Carpenter:

Thank you sincerely for your letter of the 24th instant; and before answering your questions I desire to express my pleasure at the opportunity I had in Washington City of seeing and visiting with you and your wife, and for the splendid courtesy and kindness extended me by both of you. I am also sincerely thankful to the entire Colorado delegation for their courtesy and kindness to me while in Washington.

I agree with your suggestions as to the manner of the argument to be presented to the United States Supreme Court on March 9, except that it seems to me that it is far less important that the Attorney-General or someone representing each state argue some phase of the issues to be presented at that time than it is that two or three lawyers of outstanding ability who have participated in the negotiations resulting in the Compact and the Colorado Project Act argue the case on behalf of the defendant states. I am sure all of the lawyers representing the defendant states agree that it is most unfortunate that you will not be physically able to participate in the argument. I believe every lawyer present so expressed himself in my presence. If you were able to present the argument, I believe that the defendant states, outside of California, would be entirely willing that you alone argue the case in behalf of these states.

You have been a most active participant in all negotiations leading up to the signing of the Compact and in the activities before Congress which resulted in the Project Act. Your activities in this regard put you in a most admirable position to present a comprehensive argument in behalf of all the six defendant states.

My personal opinion is that the new Attorneys-General of the various states should not participate in the argument, for the reason that such a procedure would result in cutting up the short time allotted to each side so much that none of the lawyers would have time to present a coordinated argument to the Court. While it is always an honor to appear before the United States Supreme Court, I do not believe that this matter ought to be the occasion to gratify personal ambition or to honor those who have not participated in the negotiations which have resulted in this great enterprise to a sufficient extent to be entirely familiar with the details leading up to the Compact and the legislation. My observation of cases conducted in the United States Supreme Court convinces me that the Court, almost without exception, closely quizzes the lawyers arguing before it, on matters of detail concerning the facts and circumstances surrounding the matter before the Court. Certainly, these new Attorney-Generals of the various states would not be in a position to answer questions which might be asked of them by the Court as intelligently or completely as lawyers who have been engaged in these negotiations for many years. For the foregoing reasons, my view of the matter is that we should select two or three lawyers of outstanding ability who have an intimate
knowledge of these negotiations and of all details which might be considered pertinent by the Court, and who have had considerable experience in presenting matters to the United States Supreme Court and are of good standing before that Court.

Knowing Californians as I do, I assume that California will have some lawyer to argue the case on behalf of California, although they have joined with the Solicitor-General in his brief. Of course, the Solicitor-General will desire an hour or an hour and a half to present his argument on behalf of the Secretary of the Interior. At a conference which the representatives of all of the defendant states had with the Solicitor-General, he stated that he doubted whether the Supreme Court would allow more than two hours to each sovereignty in the argument. I suggested that the Solicitor-General should have at least one hour, inasmuch as we decided that he should open the argument and have a short rejoinder in closing the argument. Attorney-General Webb and representatives of some of the other states suggested that one hour would probably not be long enough for the Solicitor-General; and he seemed inclined to doubt that that was sufficient time for him. He stated he would try to get more than two hours for the argument on behalf of the Secretary of the Interior and the six defendant states, but doubted that the Supreme Court would be willing to give more than four hours to the entire argument. Assuming that the Solicitor-General and the six defendant states will be given only two hours, and the Solicitor-General should take even one hour of that time, there would remain only one hour, or sixty minutes, for the six defendant states, or ten minutes for each state. This would hardly be sufficient time for a lawyer to cover any phase of the argument, especially if the Supreme Court indulged in much quizzing of the lawyers presenting the argument.

My view of the matter is that, if California is willing to waive its right to argue the case, the entire time to be allotted to the defendant states should be divided between two lawyers; and, if California insists upon arguing the matter, that the argument on behalf of the defendant states should be limited to three lawyers representing the defendants, and that these should be limited to not more than three, and that these should be such lawyers as above described.

The important thing is to win this suit on our motion to dismiss if possible. The matter of honoring the new Attorneys-General is of much less importance. For the foregoing reasons, I am willing to forego the honor of arguing the case in behalf of Nevada and, as stated to those present in the conference at Washington City, I do not expect to participate in the argument any further than to be present and assist in whatever way I can by suggestion to those who do present the argument. It does seem to me, however, that a good deal is to be gained by the presence at the argument of some lawyer representing each defendant. I agree with you thoroughly on what you say with reference to the "cumulative effect" of calling the roll of states, and believe that considerable is to be gained by the interest manifested by each state in the outcome of the motion by the presence of the Attorney-General of each state or someone representing each state in Court at the time of the argument.

However, if it cannot be arranged so that one or two lawyers will present the entire argument on behalf of the defendant states, and it be decided that each state should participate in the argument, I agree with you
should "organize the argument so that each speaker hammers a particular spike," instead of the duplications which would be bound to result from leaving each speaker free to argue that portion of the question which he selects. I feel, however, that if each defendant state is to present an argument, the Supreme Court will look upon the situation as an effort to gratify the personal ambition of the Attorneys-General or those representing the states for the honor of presenting an argument to the Supreme Court, and that the effect of the argument will be far less effective than if one or two lawyers present a comprehensive argument of the entire question before the Court. However, I am willing to abide by the judgment of such men as you representing the various defendant states.

Since California has joined with the Solicitor-General in his brief on behalf of the Secretary of the Interior and that brief covers both the Compact and the Act, it seems to me that California is somewhat tied to the position of defending the entire enterprise, both the Compact and the Act.

I thank you sincerely for the kind remarks you have made of me in your letter. I assure you that I have the profoundest respect for all of those representing Colorado whom I met at Washington, and sincerely appreciate the opportunity given me to join with Colorado and New Mexico in their brief.

Yours truly,

[Signature]

Attorney-General

GM'b
Received at 711 - 8th Ave., Greeley, Colo.

VR2 67 NL = RENO NEV 30

HONORABLE DELPH CARPENTER =
INTERSTATE COLORADO RIVER COMMISSIONER GREELEY COLO =

AS ATTORNEY GENERAL ELECT OF NEVADA QUALIFYING JANUARY
FIFTH NINETEEN THIRTY ONE I WILL BE UNABLE ATTEND
CONFERENCES ATTORNEYS GENERAL AND OTHER OFFICERS AT
WASHINGTON CITY ON THAT DAY AND CANNOT ARRIVE THERE UNTIL
JANUARY NINTH STOP OUR MUTUAL FRIENDS MALONE DISKIN AND
OTHERS HERE COMMEND YOU HIGHLY AND I WOULD THEREFORE
APPRECIATE YOUR SENDING ME IMMEDIATELY SUCH INFORMATION AND
SUGGESTIONS AS MAY BE CONVENIENT STOP REGARDS =
GRAY MASHBURN.

THE QUESTION OF HOW TO SEND MONEY IS BY TELEGRAPH OR CABLE
RECD your wire and had already decided not to go due to fact that states are apparently agreed upon the method of procedure at. first I was afraid they were going to offer separate arguments and as you know we are only concerned with two points and that is that first the six state contract and boulder dam project act must be defended together and second that no claim be made of government ownership and control be made of unappropriated water stop our legislature in session and important matters pressing so am unable to leave regards=

GEO W MALONE.
Georg W. Mallory
6th Engineer Corps
Nevada
Frank, unless you have some personal reason for going, I believe unnecessary to go to Washington stop. It would ascertain that the spirit which is last thing we wish to stop. Cooperative spirit prevails. Stop Wire me your views

Regard

Delphi E. Carpenter

Feb. 26, 1931
UNDERSTAND THERE IS STILL SOME DANGER OF STATES NOT HOLDING TOGETHER IN ARGUMENT BEFORE SUPREME COURT ON ARIZONA SUIT

MY OPINION THIS WOULD BE DANGEROUS IF NOT FATAL STOP

SOME OF INTERESTED STATES INCLUDING OUR ATTORNEY GENERAL BELIEVE I MIGHT BE OF ASSISTANCE IN THIS CONNECTION BY MEETING WITH THEM IN WASHINGTON IN ADVANCE OF THE ARGUMENT STOP IF YOU BELIEVE I SHOULD BE THERE PLEASE WRITE OUR GOVERNOR F B. BALZAR AND ATTORNEY GENERAL GRAY MASHBURN SENDING ME COPIES OF LETTERS REGARDS=

GEO W MALONE...
George W. Malden
State Engineer
Reno, Nevada

Confidential yours received stop No indication of disagreement on contrary ColoradoUtah
Wyoming working together and defending on Nevada coordinated stop Am informed
New Mexico Governor refused employ them
argue for New Mexico but that these
Malone

Feb. 21, 1931

Cooperation among other states stop Bannister and Wilson very objectionable Utah and Wyoming hence Bannister will not participate in argument and if Wilson appears it will be for New Mexico only.
Dray Mashburn
Attorney General
Reno, Nevada
Feb. 21, 1931

Lately altogether occupied with Platte negotiations stop Today General Ireland informed me Colorado Utah Wyoming cooperating Arizona case and anticipating your cooperation stop Informed New Mexico Oregon refused employing Wilson and Barrister eliminated
Gray Mashburn

Feb. 21 31

account other states stop Ireland will communicate with you stop Believe good prospect united front regards

Chief of Staff

Elipha. C. Carpenter
WE HAD FIGURED ON GOING WITH NEW MEXICO AND COLORADO BUT UNDERSTOOD THEY WERE TOGETHER STOP WILL CALL YOU TELEPHONE THREE PM PACIFIC TIME MONDAY REGARDS=

GEO W MALONE
Feb. 23, 1931

George W. Malone
State Engineer, Reno, Nevada

Better delay phone call until tomorrow.
Today holiday stops Ireland will phone.
Masaburn stop problem has been to get
Utah and Wyoming into cooperation with other
states stop. This snow assured stop failure
their States to pay fees to Ray and Wilson.
probably eliminate their stop. Other
attorney's will present case.

Dolph C. Carpenter
RECEIVED AT

VV93 39 = CARSON CITY, NEV 23 12 16P

HON DELPH E CARPENTER =

GREELEY, COLO =

1931 FEB 23 PM 1 56

DISAPPOINTED WILSON OR BANNISTER NOT TO ARGUE BOULDER DAM

SUIT MOTION SINCE YOU CANNOT STOP WIRE IMMEDIATELY WHETHER

UPPER BASIN STATES WILL DEFEND BOTH COMPACT AND CONGRESSIONAL

ACT IN ARGUMENT STOP CANNOT UNITE IN LUKE WARM DEFENSE

OF ACT =

GRAY MASHBURN NEVADA ATTORNEY GENERAL.
COPY OF
WESTERN UNION TELEGRAM

Feb. 23, 1931

Gray Mackburn
Attorney General, Carson City, Nevada

Answering your letter, Attorney General, Ireland advises Colorado's policy will be support both compact and...