

MINUTES OF THE

20th MEETING

COLORADO RIVER COMMISSION

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Bishop's Lodge  
Santa Fe, New Mexico

November 19, 1922  
3:45 P. M.

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## COLORADO RIVER COMMISSION

The twentieth meeting of the Colorado River Commission was held at Bishop's Lodge, Santa Fe, New Mexico, on Sunday afternoon, November 19th, 1922, at 3:45 P.M.

There were present:

Herbert Hoover, Representing the United States, Chairman	
R. E. Caldwell	" Utah
Delph E. Carpenter	" Colorado
Stephen B. Davis	" New Mexico
Frank C. Emerson	" Wyoming
W. F. McClure	" California
W. S. Norviel	" Arizona
Col. J. O. Scrugham	" Nevada

In addition there were present:

Mr. McKisick  
 Richard E. Sloan  
 C. C. Lewis  
 Arthur P. Davis  
 Ottomar Hamele  
 Mr. Bannister  
 Victor E. Keyes  
 Charles P. Squires  
 Edward W. Clark

The meeting was called to order by Chairman Hoover.

MR. HOOVER: We were discussing the paragraph on international relations "The burden of supplying water of the Colorado River System from the United States of America to the United States of Mexico in fulfillment of obligations, if any, which may exist or may be determined to exist between the two nations shall be equally apportioned between, and equally apportioned by the upper basin and the lower basin and the states of the upper basin shall deliver at Lee Ferry a quantity of water over and above that provided in Article III, which shall enable the fulfillment of one-

half of the amount required to satisfy such delivery."

MR. DAVIS: Your first clause, however, "In fulfillment of obligations, if any, which may exist,"-

MR. HOOVER: Wouldn't that allow the indirect invitation of of a private suite, the previous way it didn't.

JUDGE SLOAN: Do you think it inadvisable to include what may be established by a court?

MR. HOOVER: That is a pretty dangerous situation, here, of what may happen in a court proceeding because the nation might deny it.

MR. CARPENTER: We don't want to put anything in here that can be construed in any way as the slightest admission when it comes to matters of the State Department.

JUDGE SLOAN: I think it would be satisfactory to Arizona, particularly, if it could be fixed in any way that would not throw the burden upon the southern division in excess of the burden of the northern division. As a practical proposition, that they will be compelled to deliver water that could not be compensated for to the extent of fifty per cent by an additional flow from the northern division.

MR. CARPENTER: You can't do that without express language in here that you cannot put your finger on.

JUDGE SLOAN: What is the worst for us, to take the chance or the other?

MR. HOOVER: I think the worse situation is for you to have anything in here which looks like a recognition of the present situation.

JUDGE SLOAN: It is desirable to cut that down to the limit

and eliminate it altogether as far as the future is concerned if it can be done.

MR. NORVIEL: The spot is there, no matter how much we say "out" it is there.

MR. DAVIS: The first is a substantive question to be determined before anything can be drafted as to whether we are going to include rights that may be recognized otherwise than through a treaty. That is something that must be determined before any of us can draft anything. I think we should get that out of the way before we try to draft it.

MR. CALDWELL: Does this contract run to the government of Mexico, or are they just a third party to the contract?

MR. NORVIEL: Between two irrigation companies, - it was approved by President Diaz.

MR. HOOVER: The first question is, whether we dare recognize at all this present compact directly or indirectly.

MR. NORVIEL: It seems there is a contract by one section of the basin with a development company in Mexico recognized and approved by the President of Mexico, - it is almost an agreement.

MR. CALDWELL: Except the United States has not recognized it

MR. MC CLURE: I don't think we are morally bound to recognize it.

MR. NORVIEL: Do you assume the burden?

MR. MC CLURE: My portion of it.

MR. HOOVER: You were not here this morning (addressing Mr. McClure) when we came to this Mexican question. It goes concrete: as to whether or not we should attempt to provide here that the two basins should equally bear the present burden of Mexico, and

by so doing we give practically a moral substantiation to that contract which will be a very serious national embarrassment some day, and therefore, our debate is whether or not from a practical point of view we should not omit it, and with due regard to the fact that the burden is borne by the southern basin until such time as there is a remedy. We went over this ground which I think was agreed that at the present time the increase use of water by the Imperial Valley is impossible, therefore, there should be no increment of consumptive use of the southern basin through the development of the Imperial Valley. We think increased consumptive use in the Imperial Valley can only come about under two circumstances, first, the construction of an All-American canal. The moment that takes place the Mexican burden may be rid of so far as the basin, as a whole, is concerned, and there would be an opportunity to say to the Mexicans "You can't come in, and if you do you get it by a national treaty." Therefore we have a physical limitation of the lower basin. It would increase its consumptive use in respect to the Imperial Valley until it is rid of Mexico, because it cannot add physically to its own irrigation until it get an All-American canal. Therefore, my argument was directed to this end, that it is an immaterial thing at the present time,-- the burden that is now being carried by the southern basin... It is not increasing, and the margin of some billion and a half acre feet, which will be required for the further development of the Imperial Valley cannot fall on the southern basin until you have arrived, in fact, at a distance of Mexico.

MR. CARPENTER: Leaving that much surplus in the river to care for the present condition.

JUDGE SLOAN: It is quite accurate to say that demand from Mexico is fixed, because the demand from the Imperial Valley is fixed. As I understand it, they are not taking, in Mexico, one-half of the water under the contract, but they might exceed upon that by the development of additional lands, - that's the practical thing that would effect this seven and a half million acre feet allotment.

MR. CARPENTER: Judge Sloan, until the All-American canal is built the acreage that would be included in the increased demand is shut off, leaving that surplus in the river.

JUDGE SLOAN: In the event that's built.

MR. CARPENTER: No, I said until the seven and a half million acre feet, there is considered an increase in the Imperial Valley for future development wasn't there? Now, then, until that future development that water remains in the stream and goes on down.

JUDGE SLOAN: But that doesn't meet the objection.

MR. CARPENTER: It does, for this reason, when that canal is built the international development will be handled that way.

MR. HOOVER: It becomes a burden on the two basins.

JUDGE SLOAN: What I am saying, assume now that they increase their demands up to the full quantity of water that the Imperial Valley may use, or carry in their canal. That would be a million acre feet, - more than that, - that would enter into the calculations.

MR. CARPENTER: Don't you get Mr. Hoover's reasoning, that the Imperial Valley itself would not be making a demand for the increase, it would be Mexican lands.

JUDGE SLOAN: You overlook just the point I made before. The Mexican government might say "You can't get a drop unless you give

us one-half," and then the Imperial Valley would be confronted with this situation, -we must either deliver the water or we must suffer a diminution.

MR. CARPENTER: But the water is there.

JUDGE SLOAN: A diminution from what they may be entitled to from this seven and a half million flow annually.

MR. CARPENTER: The water is in the river and in the canal until they take it out by the All-American, and when they do that then the international problem develops.

JUDGE SLOAN: Suppose we develop and need that increase that we give to Mexico. That arouses a controversy between us and California immediately. It puts the burden upon the southern division immediately to take care of that Mexican situation. If some provision could be put in without mentioning Mexico at all by which you could share this burden, it would be established so that it is a recognized necessity on the part of the Imperial Valley to furnish that water, -recognized through treaty or through court decree of some court binding upon them or otherwise. That would be all that I should say we could justly demand, -against our interest to demand anything more which would be expressed in the compact.

MR. HOOVER: I am not objecting to the partition of the water, but I don't want to embarrass the Federal Government when it comes to the Mexican situation.

MR. MC CLURE: What would be the result if we don't mention it?

MR. HOOVER: That the southern division will carry the burden until we get the American canal.

MR. MC CLURE: The Imperial Valley has reached its limit until that American canal is built.

MR. HOOVER: That amount will flow down the river until you get the All-American canal.

MR. CALDWELL: There will, at least, be that much toward satisfying the Mexican burden for the present.

JUDGE SLOAN: How are you going to express the obligation after that without mentioning it?

MR. CARPENTER: Do you know of any way, - I know of nothing except language, and I am fearful of that.

MR. DAVIS: I think it can be expressed if we once agree on what we want to express, - I think some of us can express it, if it is agreed that we are assuming only half of the burden that may be assumed by treaty I think we can find language to express that idea.

MR. CARPENTER: State what you said to me a while ago.

MR. DAVIS: I hardly think it is necessary. If we want to make it apparent that we are not recognizing any present right in Mexico, either under that contract, or any other way, I see no objection to saying so, - starting the paragraph right off with a flat statement that the States, by entering into this compact do not admit or recognize any right in Mexico to the right to demand any water whatever, - being the idea, - not the language.

MR. CARPENTER: Let me give you an idea to pick at, - it came into my range of thought and is probably worthless. Suppose it would be stipulated in this compact that the burden of supplying all water that was necessary to pass Yuma for diversion below

shall be equally borne by the two divisions,- yes, I realize that the Imperial Valley is in that division.

MR. MC CLURE: I think we might accept that,- all water to be divided below Yuma to be equally divided between the two divisions.

DIRECTOR DAVIS: There may be something in Mr. Carpenter's statement, because the Imperial Valley is now under contract to change its heading to Laguna Dam. That could be placed in, and leave Mexico in without mentioning it.

MR. HOOVER: What is the geographical situation there,- does it pass the head or not?

MR. NORVIEL: It is below Yuma.

MR. CARPENTER: I was thinking of the All-American canal when I made the suggestion. The All-American canal will now be above Yuma. Of course, at present the amount passing Yuma would have the effect of imposing an additional burden at once at Lee Ferry that in our minds we had already cared for at that point, which would not be satisfactory I know to,-

MR. HOOVER: That would be putting on the upper states half of the burden.

MR. CARPENTER: Which we feel have already provided for.

MR. HOOVER: Until the All-American canal was provided and then it would be clearly the treaty situation that would arise, wouldn't it? Would there be any water going into Mexico from the All-American canal?

MR. CARPENTER: No.

MR. HOOVER: It seems to me you would have to prevent that, because those below might make another contract to supply water

of the All-American.

MR. CARPENTER: I have a vague recollection of seeing some time a discussion that expressed that the Mexican lands now served by the present Imperial Valley canal might some day be similarly served by water dropped by the All-American,- I don't know where I got the idea.

MR. MC CLURE: It is feasible.

MR. CALDWELL: Assume that appropriations are limited to the provisions of this contract, the water over and above that that is left in the river might be dedicated to the supplying of this burden, it seems to me, until there is an international agreement.

MR. CARPENTER: It automatically gets there.

MR. CALDWELL: I know some one of the other states might want to take it up until the end of the period, or something of that sort.

MR. CARPENTER: They get it anyhow.

MR. CALDWELL: Who gets it? They don't if it is diverted before it gets to the boundary as a secondary right, and if it is permitted to go down to satisfy the Mexican burden it is very certain there is enough to do it.

MR. CARPENTER: The only object would be to compel the lower division to release it in some big reservoir, because it already gets there and always will get there. As a matter of fact it will continue to go there until the lower development reaches the maximum.

MR. HOOVER: We are not dealing with the practical situation at all, because the flow for the next fifteen or twenty years is in excess of the seven and a half million acre feet, and that

flow is ample to take care of this extra burden, the present burden of Mexico, and the practical assumption is the All-American canal will be completed long before that seven and a half million acre feet will be absorbed, or long before the seven and a half million acre feet will be absorbed above. Here you have got prospective use on Mr. Davis' figures of six million one hundred thousand acre feet above for discussion, and it probably would be twenty years before you got up to that figure, which means that twelve million acre feet are going to go down anyhow, and it will be enough to drown Mexico in excess of all the development below. We are dealing with an impracticable situation - simply a possibility - which was the reason I reached the conclusion it was not a pertinent question because before the time that this water will be absorbed, either above or below, to any point where this becomes interesting, the American canal will have been completed and the treaty will have been fixed.

MR. SLOAN: Provided in the meantime there will be recognition of the government of Mexico.

MR. HOOVER: Have you got something Davis?

MR. DAVIS: Something that hits my idea. We do not admit or recognize that there exists any obligation on the United States or any state to deliver water, or allow water to flow to the United States of Mexico for use upon lands in that republic, but if by international agreement, or otherwise, an obligation to deliver any such water shall be established, then and in that event the burden of supplying such water shall be equally borne by the upper and lower divisions, etc. The way I was arguing in my own mind is this: I am looking at it now from the viewpoint of the

upper division. Those states are apparently willing to accept one half of whatever burden may be imposed by a treaty - the burden which is imposed by a treaty is necessarily much greater than any burden which may be established by a court, because a court, in fixing rights, would deal only with existing rights. That is to say, water actually appropriated, while we all assume that in a treaty there will be provision not only for lands on which water is now used, but a provision for water for additional lands which a court would not take into consideration, so that as a practical question, it seems to me if we are willing to assume half of the larger burden we should assume half of the lesser burden. I took it up with Mr. McClure and he thought it would be alright.

MR. MC CLURE: I am not at all certain that would be the case. Those men are shrewd enough to know there must be a reckoning some of these days and it must come through federal sources.

MR. HOOVER: You will have also all the Americans who have holdings down there aligned at once against this compact, which is worth considering. I thought it was to avoid all we can.

MR. DAVIS: That goes to the first statement that we recognize no right in Mexico - that observation.

MR. HAMELE: It appears there might be reasons why Congress might not wish to approve a statement of that kind,

MR. HOOVER: Because this would be a congressional statement.

MR. DAVIS: It is a correct statement as it exists - the method of expressing it might be improved on.

MR. HOOVER: What we have here is this: "The burden of supplying water of the Colorado River System from the United State of America to the United States of Mexico in fulfillment of

obligations, if any, which may exist, or may be determined to exist, by the two governments, shall be equally apportioned between and equally borne by the upper basin and lower basin and the states of the upper basin shall deliver at Lee Ferry a quantity of water over and above that provided in Art. IIIx which will enable the fulfillment of one half of the amount required to satisfy such delivery." I don't know that we need say that. It is the U. S. government as far as we are concerned in the basin here, that determines.

MR. DAVIS: I rather like that language myself. That implies treaty.

JUDGE SLOAN: The other might imply executive action.

MR. CARPENTER: Why not say 'nations.'

MR. HOOVER: Governments rather imply treaty, while nations might imply other processes.

MR. CARPENTER: As determined by the nation, it is determined by its government.

MR. HOOVER: But it may be its Supreme Court.

MR. CARPENTER: Of course, pursuing that one step further, that is a determination by a government - one branch of the government.

MR. MC KISICK: I think there is a great deal of force in Judge Davis' contention.

MR. HOOVER: It brings us back merely to the question of determining "If any, which may be determined to exist," - don't say who determines. I am eliminating the red rag to various people.

MR. CALDWELL: Are we correct in assuming, Judge, that a

court only establishes rights as they exist, meaning that there is only apportioned rights to water when the water has been supplied?

MR. DAVIS: What I had in mind was this. No court would have power to say that a certain amount of water should go down to Mexico for the supply of lands which had no water rights at present. While by treaty such an obligation could be established - that was the idea.

MR. CALDWELL: Maybe a court might say that in certain eventualities water would go down to supply these lands, virtually having the same effect as a treaty allocating a lump of water.

MR. DAVIS: I can't imagine just how such a thing could arise. Are you referring to a contract down there for half of that water?

MR. CALDWELL: Yes.

MR. SLOAN: Yes, on the basis of contract.

MR. DAVIS: That's a possibility; then it would immediately raise the question of the validity of the contract, because there is existing right on that contract.

MR. CALDWELL: It might be as far reaching as a treaty up to the terms of the contract.

MR. DAVIS: Yes, but I had in mind the treaty obligation would be much broader - would involve a larger amount of water than involved under that contract.

MR. MC KISICK: On the other hand there is this possibility: That we run along as conditions now exist, supplying the Mexican demand out of the diversions made by the Imperial Valley up to the extent of their present use. When the all American Canal is constructed, and diversions are no longer made through the Mexican

Canal, certain lands will have acquired some right to water which they had been using, and they will contend that they are entitled to continue to use it. The amount they are now using is 950,000 acre feet. I don't know whether they could go beyond and establish a further right to the Mexicans on the contract or not.

MR. HOOVER: We covered that by this expression "In fulfillment of obligations, if any, which may be established by the two governments etc."

MR. CALDWELL: I rather like the two governments myself.

MR. CARPENTER: I cannot help but feel that the two governments would not only have a good psychological effect and the state department less embarrassed, but would also be an inclusive term - whatever the governments establish - the state department and the courts would be included in that. The action of the court is an action of the branch of government.

MR. HOOVER: We said "two governments". If we said U. S. Government, that would be only one.

MR. CARPENTER: I am in error.

MR. HOOVER: If not our government, it would imply executive action that might go down and establish it.

MR. DAVIS: I doubt myself if there will be any court action to establish any rights in Mexico. I am very much inclined to doubt whether any court would have any jurisdiction.

JUDGE SLOAN: Except this one contingency, that the Imperial Valley might bring suit to compel delivery of water, sufficient for its needs and lie down as one condition the fact that it is compelled in order to enjoy its right for a number of years to deliver water to Mexico, and the court might say that is

not an unreasonable condition, therefore you will be allowed a sufficient quantity of water to meet your needs, which would include necessarily the amount they are compelled to deliver under their contract.

MR. DAVIS: I think the court possibly, as a matter of guess work, would decide precisely as the Supreme Court of Colorado decided, where there was an attempt to obtain adjudication of water from the Colorado in New Mexico, and they refused to do it.

JUDGE SLOAN: Was that a condition upon which the Colorado use was already enjoyed? .

MR. DAVIS: It was a long continued diversion in Colorado, by which the Colorado Court refused to recognize any appropriation outside of Colorado.

JUDGE SLOAN: I think a court would allow a diversion of the Colorado River for use of water in Mexico direct, but in order to enjoy its own established rights, if that was necessary, the court might fix the amount of water which might be diverted.

MR. DAVIS: I do not believe a Mexican land owner will go into a court of the United States and compel the delivery of water to that Mexican land. I doubt it, is what I mean.

JUDGE SLOAN: I agree.

MR. DAVIS: I doubt if the same result could be obtained by indirect action.

JUDGE SLOAN: Except a court would take this into consideration - except a refusal by the court would mean refusal to grant relief to its own suitors - that's the only consideration that could possibly effect the situation adversely to us.

MR. DAVIS: It would raise the question to divide water in the United States for the benefit of Mexican lands.

JUDGE SLOAN: Which would be denied if that's all there is to it.

MR. DAVIS: That's the reason I am willing to take the chance.

MR. HOOVER: Then you think "which may be established" is alright?

MR. DAVIS: I would be in favor of the wording that you had originally, but I would accept this, but I prefer the other.

MR. HOOVER: The wording I had was "which may be established by the two governments."

MR. DAVIS: I would prefer that, but I think it is immaterial and would accept the other.

MR. HOOVER: Mr. McClure, which expression do you prefer "which may be established". Shall we put in "by the two governments."

MR. MC CLURE: I think that might prove a long contingency - omit those words preferably.

MR. CARPENTER: Put them in.

MR. CALDWELL: I would prefer to have them in, but my opinion is not worth much.

MR. EMERSON: I would prefer to have them in, but would accept the other.

MR. NORVIEL: I believe that those two words should be omitted, but I don't like the whole thing. - Don't like any recognition.

MR. DAVIS: I would agree with Mr. Norviel to leave out all recognition of Mexico.

MR. NORVIEL: Not in this sort of compact; we will have to have it; that's the reason I got away from this sort of definition.

MR. DAVIS: Your objection now goes to the entire compact?

MR. CARPENTER: I don't think that's fair to Mr. Norviel.

MR. HOOVER: Can we take it then California and Arizona would agree to this if we leave out the words "by the two governments," so it would read "The burden of supplying water of the Colorado River System from the United States of America to the United States of Mexico in fulfillment of obligations, if any, which may be established, shall be equally apportioned between and equally borne by the upper and lower basin." Would you approve of it that way.

MR. NORVIEL: I would.

MR. MC CLURE: I would.

MR. HOOVER: How does that strike the rest of you? One gives an opportunity for a court determination presumably, and the other involves a treaty.

MR. CALDWELL: May not leaving out those words some time mean that private individuals, regardless of the government might demand rights on certain grounds. It seems to me important that final adjudication of these rights in toto should be by the governments.

MR. EMERSON: They would have to establish their rights to the court.

MR. CALDWELL: The final adjudication should be between the two nations.

MR. HOOVER: In the first place, the court determination would likely be less than an international treaty, and second, if

a court determines it, the treaty, you can take it, will confirm it, because it would have the value of an instrument of the United States, and they could not very well deny it, so it is fairly well inclusive.

MR. CALDWELL: The courts would not undertake it anyway.

MR. HOOVER: They are not likely to and if they should, it would be binding upon the government, so it really doesn't matter which way.

MR. CALDWELL: I will accept it, to be agreeable.

MR. HOOVER: We can take it we have fixed that one.

MR. DAVIS: I accept it in principle - I am not satisfied that the language is exact. I am thinking now as to that word "establish" as to whether that does in itself contemplate that it is determined either by treaty or by a court. The right may be established merely by an appropriation.

MR. HOOVER: We can go back to the other word 'determine'.

MR. DAVIS: Established and determined would cover what I had in mind.

MR. CARPENTER: Suppose a court of Mexico would establish something, where are you?

MR. DAVIS: Would there be any objection to saying "established by a treaty or court decree."

MR. HOOVER: Then you invite the thing right off.

MR. DAVIS: I think some word could be found to cover that thought. All I want is not to commit myself too strongly on that.

MR. HOOVER: We will pass this for the present. We next come to the Preference clause, which reads: Art. 5. (a) The uses of the waters of the Colorado River System for purposes of navigation

shall be subservient to the need and necessary consumption of such waters for domestic, agricultural, manufacturing and power purposes

MR. CARPENTER: Now it is my original thought to follow the word 'domestic' with the word 'municipal'. The suggestion was brought forward that municipal might be taken to include power.

MR. HOOVER: Is there any other amendment to that paragraph? I may just mention there may be the same opposition to that in Congress, but I don't know how much.

MR. NORVIEL: I was just wondering if the word 'flood control' would have any influence or effect.

MR. HOOVER: To put in the first clause flood control?

MR. CARPENTER: It isn't of any use at all.

MR. HAMELE: I have already suggested that I think it is unwise to put that paragraph in this compact because this these contracting parties have no power to make such provision in the first place, and in the second place, it endangers the compact because it is almost certain to be eliminated by Congress in some form of reservation, which may make it much more difficult to get a formal approval of the compact; that is, to make the approval final and binding. This question of navigation is one which the federal government guards very jealously, and I have not heard any reason given before this commission, except a purely sentimental one, as to why it should go in, and I think it would be said by the government that an approval of such a clause might embarrass the state department in connection with a treaty with Mexico. There are various questions still unsettled as to what the rights of Mexico are under previous treaties in connection with navigation, and with that in mind, it seems almost absolutely certain that the

government would not approve this. If these states want this navigation question swept aside, the logical way, and the proper way, it seems to me, is to do it by a separate act, then the question can be brought on its merits and passed on its merits. If it is injected in this compact, it cannot be handled that way, and would have a tendency, as I view it, to possibly kill the compact.

MR. CARPENTER: I am a little rusty, Mr. Hamele, on the rights of the states and the United States in respect to navigation. Of course, I realize that the rights of the nation is paramount in the matter of navigation, but don't the states of themselves have certain control over navigation, subject always to the paramount power of the United States.

MR. HAMELE: That's true.

MR. CARPENTER: As to the states, have they not a right as to whatever powers they may have, to contract respecting those powers?

MR. HAMELE: That's true. What's intended by this compact is for the states to legislate to the extent they can upon that point and that the approval of the United States shall complete the legislation and cover the whole subject and eliminate it and make the status as defined in this contract. The United States could not possibly agree to it.

MR. MC CLURE: Haven't I the right to assume, inasmuch as Congress has taken the right to lead, practically, by consenting to the construction of the Laguna Dam, therefore we may follow it with this step?

MR. HAMELE: There isn't any specific consent by Congress

for the construction of the Laguna Dam. There is an act that is so interpreted, but all it says, it gives the right to divert power from a navigable stream to water Indian lands, and others. There is no direct provision in any act providing for construction of a dam across the Colorado River.

MR. MC CLURE: The federal government has built one, that's the practical view of the situation.

MR. HAMELE: That doesn't destroy navigation.

MR. CARPENTER: If the United States is a part of this compact and signs as such, it will be presumed that it dealt with their paramount right of control of navigation. It occurred to me afterward the other day, that while I would wish and hope that the United States of America might construe this to be, in legal effect a control of their power of navigation, it has several times occurred to me that inasmuch as it is a transaction between the states, would it be interpreted as far as I would hope it would go or would it not really be interpreted simply to mean as to the power of the states over navigation, that they agree as here expressed. I am prone to believe that the latter might be the interpretation, although the former would be my wish.

MR. HAMELE: The argument was presented here that it was the wish of the states that the rights of the national government may be eliminated, or made subservient as defined in this article, and I think if the U. S. approved this compact with this provision in without some specific reservation on the point - that's what it would amount to.

MR. CARPENTER: If that's the interpretation, doesn't it raise the issue here in this compact, and isn't it just as well to

raise it in the compact as it is a special bill?

MR. HAMELE: In a special bill, the thing would stand on its own feet and could be handled on its own merits, while a great many other things are bound up in this compact, and it is a sort of - well, - forced action on it, you might say, and cannot be considered on its merits as it could in a separate bill. I see no great harm that could come to any of the states by a continuation of all federal rights regarding navigation. I don't know of any harm that could come to any of these states.

MR. HOOVER: At the present moment, the war department keeps a man down here at places where the diversion is made in the lower basin and constantly tells them what they can and cannot do.

MR. HAMELE: That's principally to protect the Yuma people from flood and the destruction of their property.

MR. HOOVER: They do it, however, on the ground of navigation.

MR. NORVIEL: I suggest: "The consumptive uses of the Colorado River system so far as this compact is concerned, shall have preference right as follows: Domestic, municipal, agricultural and power." speaking only of consumptive uses.

MR. HOOVER: And cut out all of the rest?

MR. NORVIEL: "The uses of the waters of the Colorado River System for purpose of navigation shall be subservient; that the consumptive uses of the waters of the Colorado River System, so far as this compact is concerned, shall have preference in right as follows: Domestic, municipal, agricultural and power."

MR. CARPENTER: I make one servient and one dominant.

MR. EMERSON: I move that we adopt Article A.

MR. DAVIS: Seconded.

MR. HOCVER: It is moved and seconded that paragraph 2, Art.5. be adopted and that the word 'municipal' be inserted after the word 'domestic'.

MR. CALDWELL: MR. NORVIEL: MR. CARPENTER: MR. MC CLURE: Aye

MR. HOOVER: "(b) The uses of the waters of the Colorado River System for purposes of generating power or of manufacture shall be subservient to the uses and necessary consumption of such waters for domestic and agricultural purposes and shall not interfere with or prevent the use of said waters for said dominant purposes."

MR. CARPENTER: 'Municipal' will be a qualifying word.

MR. NORVIEL: I don't see how 'municipal' must mean power.

MR. CARPENTER: Let the word 'municipal' referring to uses here mean all the uses of municipalities and cities, as specifying particularly except power.

MR. NORVIEL: Have we a definition of 'municipal' in connection with cities and towns that would help us?

MR. HOOVER: Define municipal in advance. What is your definition then?

MR. CARPENTER: I haven't any prepared, but can dictate one, or I will prepare one: I would rather prepare one - it will be quicker.

MR. HOOVER: Prepare one that will exclude power.

MR. CALDWELL: Omit 'domestic' out of the first paragraph and put 'municipal' in its place, and then power in the same paragraph is clearly distinguished from municipal, and 'municipal' in the next paragraph below instead of 'domestic.'

MR. HOOVER: Farmhouse use is not agricultural.

MR. NORVIEL: Stock watering I suppose comes under domestic use.

MR. HOOVER: Is there any further comment on this?

MR. MC KISICK: Col. Scrugham isn't here, but when this was discussed the other day, he wanted some provision for industrial applications, other than those requiring consumption of power and it seems to me this would be the appropriate place to handle it with a qualifying definition of the same, as municipal. "Manufacturing" is in paragraph (a), but has no corresponding use in paragraph (b).

MR. HOOVER: I am afraid of getting a lot of definitions against power, because it gives more emphasis to the ostracism of power and that we don't want.

MR. MC CLURE: We don't want to ostracize it but simply to make it subservient.

MR. CARPENTER: Manufacturing is considered broader than power.

MR. SCRUGHAM: I request that adequate provision be made to cover water required for mining and milling. I wish to insert the terms "mining and milling" in this article of the fact because it seems desirable the rights of those who use water for such purposes.

MR. CARPENTER: Suppose we put in mining and milling and then say that 'municipal, mining and milling, will not be taken to include the generation of power.'

MR. SCRUGHAM: How about "domestic, municipal, agricultural, mining and milling purposes".

MR. CARPENTER: Milling is a generation of power.

MR. SCRUGHAM: Not the milling of ores. Milling is an entirely separate process from mining. A dependable water supply is required for milling.

MR. CARPENTER: Why not say the words 'municipal, mining and milling.'

MR. NORVIEL: I think the word 'industrial' would cover that.

MR. CARPENTER: I would rather have that.

MR. HOOVER: I am not sure but that Mr. Norviel hasn't something that will be helpful. I think we might as well take in the other industries.

MR. NORVIEL: This would not include a water mill for grinding corn - industrial would use all.

MR. EMERSON: Would 'industrial' cover it?

MR. SCRUGHAM: I favor the term 'mining, Milling and other industries'. I want to conform to the language of our state statutes.

MR. EMERSON: Industrial, will take the place of manufacturing and so it will materially lessen the expression.

MR. HOOVER: In the previous paragraph this shows the notation of the same idea, so let's say "mining, milling and other industrial uses." Mr. Carpenter's suggestion was --

MR. NORVIEL: None of which shall include the generation of electric power.

MR. HOOVER: "Municipal, mining and milling and industrial uses shall not be taken to include the generation of power." Is it satisfactory?

MR. NORVIEL: MR. EMERSON: MR. CARPENTER: MR. SCRUGHAM:

MR. DAVIS: Aye.

MR. HOOVER: Then we come to paragraph (c). "The provisions of this article shall not apply to, or interfere with the regulation and control of the appropriation, use and distribution of water by any state within its limits."

MR. CARPENTER: The previous paragraphs imply only interstate relations and this provision limits the others to interstate relations.

MR. EMERSON: Isn't it intrastate, rather than interstate?

MR. HOOVER: In other words, I just wanted to be sure whether it did make the rest wholly interstate, and whether or not one state will decide what it's going to do if it doesn't upset the rest of them.

MR. NORVIEL: Refers to the whole basin, the first two sections. I don't see any necessity for (c) at all.

MR. SCRUGHAM: I think that paragraph is a desirable part of the compact.

MR. HOOVER: Let's see how we stand on it? I don't think it's material.

MR. MC CLURE: I think it isn't important; aye.

MR. SCRUGHAM: MR. CARPENTER: MR. DAVIS: MR. CALDWELL:

MR. EMERSON: Aye.

MR. NORVIEL: Just a word right here: "Use and distribution of water by any state". What does 'by any state' mean?

MR. HOOVER: Within the limits of any state. -- The last time we said that wasn't necessary. I think Mr. Norviel made a point; it looks like states use - what is meant is within a state and should be "within the limits of any state."

MR. CARPENTER: If I were writing it for a lawyer I would

say "intrastate."

MR. NORVIEL: Write it for laymen and I would see what it means.

MR. EMERSON: I think in all the states, the water is declared to be the property of the state, and when you speak of determination by any state, it refers to the whole volume of water within the state.

MR. HOOVER: Is that satisfactory now, Norviel? (addressing the rest) Is that satisfactory? (Everyone assents) Then we can pass that article. This is a new edition of 'Purposes', the contents of which have been suggested by various parties: "The major purpose of this compact is to provide for the equitable division and apportionment of the use of the waters of the Colorado River System among the seven states signatory to this compact in order to promote interstate comity by removing causes of present and future controversies between them, and thus to assure the expeditious agricultural and industrial development of the Colorado River Basin through storage of its waters and the early erection of river control works for the protection of the Imperial Valley. To this end the Basin is divided into two divisions and apportionment of the use of an equal amount of the waters made to each of them with provisions that at a subsequent time a further equitable apportionment of the use of the remaining unappropriated waters may be made to correct the inequities that cannot now be foreseen; and the relative importance of different beneficial uses may be established and provision made for settlement of future controversies." I have incorporated one idea of my own in relation to the control works in the Imperial Valley in the hope it might

satisfy a mob of farmers saying we are not doing anything for the control works. They want to introduce a clause into the compact making it contingent upon the erection of such control works. Such an expression in the purposes of the compact of such obvious consequences of any development, would not carry any legal weight.

MR. CARPENTER: Do you need to limit that to the Imperial Valley. It is the lower part of the territory of the United States that we want to protect, both the Yuma and Imperial Valley, isn't it?

MR. HOOVER: I don't object to that.

MR. NORVIEL: There are three valleys that are in danger. The Paloverde, first, and the Yuma and Imperial. I guess the Imperial Valley needs the greatest protection as its headgate is in danger of flood menace and is caused by the dam at the headgate.

MR. DAVIS: Just the ordinary river levies, and the menace that high water is to these levies. The Imperial Valley diversion is supposed to somewhat aggravate that.

MR. HOOVER: We could say, "The lower part of the basin," but it wouldn't quite satisfy them. They would want you to put it in the sky near the snow banks.

MR. DAVIS: It isn't really germane to the compact at all.

MR. CALDWELL: I am wondering if this may not really some time be made a menace, such a menace that it cannot pass Congress. It depends on the order in which these things come up in Congress. It seems to me. If the compact were in Congress at the same time a bill providing for river control were in Congress, it might you might find them trading as between the compact and the bill to the disadvantage of the public possibly.

MR. HOOVER: I would cut that down like this "through storage of its waters and the early protection of the lower part of the basin from floods.

MR. CALDWELL: Personally, I would like to have reference to the Imperial Valley if it will not endanger the passage of it through Congress.

MR. EMERSON: It would have a certain psychological influence in Wyoming to mention it, but I don't believe it would be the means of defeating the compact at all.

MR. MC CLURE: I think it was recognized fully and agreed to by California because the Paloverde suffered so last spring.

MR. CARPENTER: "Just to assure the agricultural development the storage of water and to encourage the early erection."

MR. HOOVER: That's weaker. We are only assuring by this compact that that will be done.

MR. EMERSON: It is expressed in here so as to attract the favorable attitude of the people in the southern territory.

MR. DAVIS: I like the latter language of this much better myself.

MR. SCRUGHAM: 'To protect the lower part of the basin from floods.'

MR. HOOVER: It sounds a little impressive - I tried to make it that way.

MR. NORVIEL: Why not add 'protection of lives and property.'

MR. HOOVER: Any other comment on this piece of oratory?

MR. HAMELE: Wouldn't it be a more accurate expression if the word 'through' would be changed to 'include'.

MR. HOOVER: It minimizes the strength of it if you say inclu

MR. CARPENTER: Why don't you strike 'through'?

MR. DAVIS: It weakens the sentence: put in the last three lines, which it seems to me are out of place. As a matter of arrangement they could go in before the "further equitable apportionment."

MR. HOOVER: "To establish the relative importance of the different beneficial uses of water and to make provision for settlement of future controversies among the seven states signatory to this compact in order to promote interstate comity, etc."

MR. NORVIEL: An apportionment of the waters to each of them.

MR. HAMELE: A portion of the water, or portions of water.

MR. HOOVER: An assignment of a portion, or something like that, why not say 'apportionment'.

MR. DAVIS: The implication being we are apportioning all, when we are not.

MR. HAMELE: The word 'unappropriated' might be changed to 'unapportioned.'

MR. HOOVER: Can we pass this now?

MR. NORVIEL: I hadn't seen this matter until now, but it looks fairly well, but I would like to have a chance to reach it over.

MR. CARPENTER: I will kick on "to this end".

MR. NORVIEL: I think the word "unappropriated" should be left there; it means what is intended.

MR. HOOVER: Unappropriated or unapportioned.

MR. DAVIS: I will vote for either.

MR. HOOVER: It will be unappropriated.

MR. EMERSON: It might mean something - we have a definition for "unappropriated."

MR. DAVIS: We use both words in the body, unappropriated and unapportioned, and consequently it seems a matter of indifference which one we use here.

MR. HAMELE: It might be defined to mean unappropriated waters under the laws of the different states. That would mean something entirely different than what we have in mind here.

MR. HOOVER: I suppose anybody reading it primarily will go back to the definition and see what we mean. I think we have agreed on this and will now take up the Title. Mr. McKisick has submitted a draft. "Pursuant to an Act of Congress of the United States, approved August 19, 1921, and to the acts of the several legislatures conforming thereto, the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming acting by and through the undersigned Commissioners, respectively appointed by the Governors of the States after suitable negotiations wherein the United States of America participated by and through Herbert Hoover, appointed by the President of the United States, have agreed upon a compact which has been approved by the representative of the United States, and which is in the words and figures following, to-wit:"

MR. DAVIS: I like the general tone of it. I was wondering about those two first lines. As a matter of fact the legislative acts preceded the congressional act.

MR. CARPENTER: I don't agree with that. There are some ideas that are good and others that might be improved on. If you don't put that on the front page, you have to typewrite the name under the signature at the back and designate who he is, and you accomplish the same thing easier the other way.

MR. NGRVIEL: I would suggest the one I had in my compact if it had not met with such immediate resistance.

MR. DAVIS: You might have as good luck as I did.

MR. HOOVER: Mr. Norviel, Mr. Carpenter and Mr. Davis started alike, that is, to name the status first, because it is a state compact, instead of introducing the federal government. That was a co-incidence of mind.

MR. HAMELE: If you were to name the representative of the United States, you should also name the representatives of the states.

MR. HOOVER: That's provided here. The old one started off, "The states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, having resolved to enter into a compact for the purposes herein expressed and acting under the Act of Congress of the United States approved August 19, 1921, (42 stat. ) and the respective acts of the legislatures of the said states, have appointed as their Commissioners:" Then naming them.

MR. EMERSON: I move the adoption of this form.

MR. MC CLURE: Seconded.

MR. NORVIEL: I think mine has some things in this should have.

MR. HOOVER: Mr. McKisick had some graceful phrases in his: "Acting by and through the commissioners appointed by the governors of the said states" is a good phrase.

MR. CARPENTER: I think the states appoint is as good as appointed by the Governors.

MR. HOOVER: You knock out the signing at the end and Mr. McKisick has nothing left. I will now entertain the original preamble with the comment setting out the federal representative in his proper person.

MR. NORVIEL: I would like to ask what is the subject of

"have appointed."

MR. EMERSON: Each state appoints their commissioners.

MR. NORVIEL: Doesn't it leave something unfinished to say the state appointed a commissioner.

MR. CARPENTER: When a Governor acts under legislative act it is the same as the state.

MR. HOOVER: All those in favor of this article, which I will not read again, please say Aye.

MESSRS. CARPENTER, NORVIEL, MC CLURE, DAVIS, CALDWELL: Aye.

MR. HOOVER: We now arrive at definitions. "When used in this compact: (a) The term "Colorado River System" means that portion of the Colorado River and all of its tributaries within the United States." Everybody agreed to that?

MESSRS. CARPENTER, NORVIEL, MC CLURE, DAVIS, EMERSON, CALDWELL Aye.

MR. HOOVER: "(b) The term "Colorado River Basin" means all of the drainage area of the Colorado River System and all other territory within the United States to which the waters of the Colorado River may be beneficially applied."

MR. CALDWELL: I suggest "shall be beneficially applied.

MR. HOOVER: I think that's well taken. All those in favor of (b) with this amendment please say Aye.

MESSRS. CARPENTER, NORVIEL, MC CLURE, DAVIS, EMERSON, CALDWELL Aye.

MR. HOOVER: "(c) The term "Lee Ferry" means that point in the main stream of the Colorado River system about one mile below the mouth of the Paria River." Any comment?

MR. CALDWELL: I wonder if this wouldn't do as well and may

be a little more flexible - that point will be located somewhere where there is a measuring station. I wonder if we shouldn't say the term "Lee Ferry" means any point to be hereafter selected on the main stream of the Colorado River within one mile below the mouth of the Paria River."

MR. NORVIEL: How is that going to help?

MR. CALDWELL: I think a point ought to be established some time and there is no necessity in having it a mile, or about that.

MR. NORVIEL: The water gauge will be above the mouth of the Paria anyway - no doubt about that.

MR. CARPENTER: This isn't where the measuring gauge will be but the point of division. As to the clause "about a mile", you can ramble around a lot.

MR. NORVIEL: Why not make it one mile, then you know definitely where the point is.

MR. HOOVER: Some time there may be a gauging station but they would like a little latitude of about 300 feet.

MR. EMERSON: I think it is good the way it stands.

MR. NORVIEL: I think the word 'about' ought to be out.

MR. HOOVER: All in favor of paragraph (c), with 'about' taken out, please say Aye. (Accepted)

MR. HOOVER: "(d) The term "States of the Upper Division" means the states of Colorado, New Mexico, Utah and Wyoming." All those in favor, please say Aye. (Accepted.)

"(e) The term "States of the Lower Division" means the states of Arizona, California and Nevada." All those in favor, please say Aye. (Accepted.)

"(f) The term "Upper Basin" means those parts of the States of Arizona, Colorado, New Mexico, Utah and Wyoming within and from

which waters naturally drain and flow into the Colorado River System above Lee Ferry and also all parts of said states located without the drainage area of the Colorado River System which shall be beneficially served by waters diverted from the river above Lee Ferry." All those in favor, please say Aye. (Accepted.)

"(g) The term "Lower Basin" means those parts of the states of Arizona, California, Nevada, New Mexico and Utah within and from which waters naturally drain and flow into the Colorado River System below Lee Ferry and also all parts of said states located without the drainage area of the Colorado River System which shall be beneficially served by waters diverted from the river below Lee Ferry." All those in favor, please say Aye. (Accepted.)

"(h) The term "apportionment" or "apportioned" mean the division of waters of the Colorado River System for consumptive beneficial use." Any comment? If not, please say Aye.

MR. EMERSON: I don't get it.

MR. NORVIEL: I think 'to' should be changed to the "purpose of".

MR. EMERSON: What is the purpose of that definition?

MR. HOOVER: So you will know what we mean; otherwise you will have to put the whole sentence and phrase in and you use the word 5 times in the compact.

MR. EMERSON: Under the terms of the compact under the equation proposal, a certain amount of water will be allocated to one division or the other, as the case may be, presumably for consumptive beneficial use of the future.

MR. NORVIEL: Not presumably, but for.

MR. EMERSON: I will agree to that for the present.

MR. HOOVER: All in favor say Aye. (Accepted.) "(i) The term "appropriation of water" means its actual application to beneficial use."

MR. MC CLURE: Isn't "actual" unnecessary and overworked?

MR. HOOVER: It is only to emphasize the difference between paper appropriations and actual use.

MR. HAMELE: May I suggest that it will be made clearer by adding this clause "without relation to the date of any prior notice or of the construction of works."

MR. EMERSON: Isn't it tied down now to beneficial use so it would eliminate the other considerations?

MR. HAMELE: It should be very clearly stated, it seems to me, and that clause would make it clearer.

MR. HOOVER: I think that rather improves it.

MR. CARPENTER: It is for this compact only.

MR. HOOVER: It only applies between basins here, and I think we ought to have some definition as to what happens, otherwise we have paper appropriations.

MR. NORVIEL: It applies throughout the division.

MR. HOOVER: Only in relation to each other.

MR. NORVIEL: I understand the actual appropriation of water in either basin has no relation particularly to the upper basin, but the same definition applies in both basins.

MR. CALDWELL: The term "Appropriation of water, as between the basins, means, etc." That's the big thing, we want to determine the appropriation between the basins.

MR. HOOVER: We only use it in that sense. We only use it in one paragraph when we come to equate. Are you in favor of that? (addressing Mr. Caldwell and Mr. Norviel) All those in

favor, please say Aye. (Accepted.)

We have now under discussion article 3 and 4. There is one more to be drafted, one that Judge Davis was to draft for us, covering the clause about appeals to the courts. We will leave the discussion of 3 and 4 until tomorrow morning. I have all those marked the whole commission agreed to. Then there is the wild Indian article. "Nothing in this compact shall be construed as effecting the rights of Indian tribes."

MR. SCRUGHAM: Why should such a paragraph be inserted.

MR. HOOVER: To protect the U. S. who have treaties with the Indians. Those treaty rights would probably exceed these rights anyway. We don't want the question raised, that's all. Has anyone any objection to it?

MR. NORVIEL: I never heard of it before.

MR. SCRUGHAM: I can't see any objection to its inclusion.

MR. HOOVER: All those in favor of this, please say Aye.

MESSRS. NORVIEL, CALDWELL, CARPENTER, SCRUGHAM, DAVIS, MC CLU  
Aye.

MR. EMERSON: I will reserve my decision on that. Is there any real necessity for that?

MR. HOOVER: The indian question is always prominent in every question of the west and you always find some congressmen who is endowed with looking after the indian, who will bob up and say, "What is going to happen to the poor indian?" We thought we would settle it while we were at it.

MR. EMERSON: I will withhold my decision.

MR. HOOVER: That leaves Arts. S, 4, 10 and one to be drafted for discussion tomorrow.

ADJOURNMENT TAKEN UNTIL 10 O'CLOCK.

Preamble	C.K.
Article I	O.K.
Article II	O.K.
Article III	In suspense (Apportionment.)
Article IV	In suspense (Second Apportionment.)
Article V	O.K.
Article VI	O.K.
Article VII	O.K.
Article VIII	C.K.
Article IX	O.K.
Article X	In suspense (Indian Rights).
Article XI	In suspense (Courts)
Article XII	In suspense (Ratification and Exchange thereof.)

TITLE

PREAMBLE

The States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, having resolved to enter into a compact for the purposes herein expressed and acting under the Act of the Congress of the United States approved August 19, 1921 (42 Stat. ) and the respective acts of the Legislatures of the said states; and have through their Governors appointed as their Commissioners, respectively:

W. S. Norviel	Commissioner for the State of Arizona
W. F. McClure	Commissioner for the State of California
Delph E. Carpenter	Commissioner for the State of Colorado
J. G. Scrugham	Commissioner for the State of Nevada
Stephen B. Davis, Jr.	Commissioner for the State of New Mexico

R. E. Caldwell            Commissioner for the State of Utah  
 Frank C. Emerson        Commissioner for the State of Wyoming

who have entered into negotiations, participated in by Herbert Hoover, appointed by the President of the United States as the representative of the United States, and have agreed upon the following articles:

ARTICLE I.

PURPOSES.

The major purpose of this compact is to provide for the equitable division and apportionment of the use of the waters of the Colorado River System to establish the relative importance of different beneficial uses of water and make provision for settlement of future controversies among the seven states signatory to this compact in order to promote interstate comity by removing causes of present and future controversies between them, and thus to assure the expeditious agricultural and industrial development of the Colorado River Basin through the storage of its waters and the early protection of lives and property in the lower part of the Basin from floods. To this end the Basin is divided into two divisions and an apportionment of the use of water made to each of them with provision that, at a subsequent time, a further equitable apportionment of the use of the remaining unappropriated waters may be made to correct inequities that cannot now be foreseen.

ARTICLE II.

DEFINITIONS.

When used in this compact,-

(a) The term "Colorado River System" means that portion of the Colorado River and all of its tributaries within the United States

(b) The term "Colorado River Basin" means all of the drainage area of the Colorado River System and all other territory within the United States to which the waters of the Colorado River System shall be beneficially applied.

(c) The term "Lee Ferry" means that point in the main stream of the Colorado River one mile below the mouth of the Paria River.

(d) The term "States of the Upper Division" means the States of Colorado, New Mexico, Utah and Wyoming.

(e) The term "States of the Lower Division" means the States of Arizona, California and Nevada.

(f) The term "Upper Basin" means those parts of the States of Arizona, Colorado, New Mexico, Utah and Wyoming within and from which waters naturally drain and flow into the Colorado River System above Lee Ferry and also all parts of said States located without the drainage area of the Colorado River System which shall be beneficially served by waters diverted from the river above Lee Ferry.

(g) The term "Lower Basin" means those parts of the States of Arizona, California, Nevada, New Mexico and Utah within and from which waters naturally drain and flow into the Colorado River System below Lee Ferry and also all parts of said States located without the drainage area of the Colorado River System which shall be beneficially served by waters diverted from the river below Lee Ferry.

(h) The terms "apportionment" or "apportioned" mean the division of waters of the Colorado River System for consumptive beneficial use.

(i) The term "Appropriation of water" means its actual application to beneficial use without relation to the date of any prior notice or of the construction of works.

## ARTICLE V.

PREFERENCE IN USE OF WATER.

(a) The uses of the waters of the Colorado River System for purposes of navigation shall be subservient to the uses and necessary consumption of such waters for domestic, municipal, agricultural, industrial and power purposes.

(b) The uses of the waters of the Colorado River System for purposes of generating electrical power shall be subservient to the uses and necessary consumption of such waters for domestic, municipal, agricultural, mining and milling and other industrial purposes and shall not interfere with or prevent the use of said waters for said dominant purposes. The terms municipal, mining, milling and industrial, shall not be taken to include generation of electrical power.

(c) The provisions of this article shall not apply to, or interfere with the regulation and control by any state of the appropriation, use and distribution of water within its limits.

## ARTICLE VI.

COLLATION AND PUBLICATION OF DATA.

The official of each State charged with the administration of water rights, together with an official from each the United States Reclamation Service and the United States Geological Survey, shall co-operate, ex-officio:

(a) To promote the systematic determination and co-ordination of the facts as to flow, appropriation, consumption and use of water in the Colorado River Basin, and the interchange of available information in such matters.

(b) To secure the determination and publication of the annual flow of water in the Colorado River System at Lee Ferry.

(c) To perform such other duties as may be assigned by this compact or by mutual consent of the signatories from time to time.

## ARTICLE VII.

INTERNATIONAL RELATIONS.

The burden of supplying water of the Colorado River System from the United States of America to the United States of Mexico in fulfillment of obligations, if any, which may be established (?), shall be equally apportioned between and equally borne by the Upper Basin and Lower Basin and the States of the Upper Basin shall deliver at Lee Ferry a quantity of water over and above that provided in Article III which will enable the fulfillment of one-half of the amount required to satisfy such obligation.

## ARTICLE VIII.

INTERSTATE ADJUSTMENTS.

Should any claim or controversy arise between any two or more States (a) with respect to the waters of the Colorado River System not covered by the terms of this compact; (b) over the meaning or performance of any of the terms of this compact; (c) as to the allocation of the burdens incident to the performance of any article of this compact or the delivery of waters as herein provided; or (d) as to the construction and operation of works to be situated in two or more States or to be constructed in one State for the benefit of another State, the Governors of the States affected, upon request of the Governor of one such State, shall forthwith appoint commissioners who shall consider and adjust such claim or controversy, subject to ratification by the legislatures of the States so affected.

Nothing herein contained shall prevent the adjustment of any such claim or controversy by any present method or by direct future legislative action of the interested states.

ARTICLE IX.

TERMINATION.

This compact may be terminated at any time by the unanimous agreement of the signatory states and the United States, but at such termination all rights then established under this compact are hereby confirmed.

ARTICLE X.

INDIAN RIGHTS.

Nothing in this compact shall be construed as affecting the rights of Indian tribes.

• IN SUSPENSE.

ARTICLE XII.

APPROVAL AND CONSENT.

This compact shall become operative when it shall have received the approval of the legislatures of each of the signatory states and the consent of the Congress of the United States. As soon as may be convenient thereafter notice of the approval by the legislatures of each state shall be given by the Governor of such state to the Governors of the other signatory states and to the President of the United States and the President of the United States is requested to give notice to the Governors of the signatory states of the consent of the Congress of the United States to this compact.

IN WITNESS WHEREOF, the respective commissioners have signed this compact in a single original, which shall be deposited in the archives of the Department of State of the United States of America and of which a duly certified copy shall be forwarded to the Governor of each of the signatory States.

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APPROVED: