

Mr. WEINBERG. The upper basin is obligated not to deplete the flow of the river at Lee Ferry below 75 million feet every 10 years.

Mr. SAYLOR. Now, will you explain the difference between the question as I put it and the answer you have given?

Mr. WEINBERG. Yes. An obligation to deliver would connote an obligation to take an affirmative action. An obligation not to deplete the river is an obligation only to hold up diversions so that there will be sufficient natural flow in the river to make up the 75 million acre-feet. The upper basin has no hard-and-fast obligation to make a delivery of water that Nature does not put in the river.

Mr. SAYLOR. Well, let us assume that there is only 7.5 million acre-feet of water in any year or 10 consecutive years in the Colorado. Where must it go?

Mr. WEINBERG. On that assumption, it must be released at Lee Ferry. It can't be withheld upstream.

Mr. ASPINALL. He is only partly right.

Your answer is keeping in mind the decreed rights that were in existence in the upper basin as of 1922.

Mr. WEINBERG. Yes.

Mr. ASPINALL. All right.

Mr. SAYLOR. Now, since the Colorado River Compact was entered into, the Federal Government has entered into a Mexican Treaty with the Republic of Mexico. Is that correct?

Secretary UDALL. That is correct.

Mr. SAYLOR. And this calls upon the delivery of a million and a half acre-feet to the Republic of Mexico at the border. Is this correct?

Secretary UDALL. That is correct.

Mr. SAYLOR. This over and above the 7.5 million acre-feet delivered at Lee Ferry?

Mr. WEINBERG. The compact provides that the Mexican treaty burden shall be made up first out of water that is surplus over and above the III(a) and III(b) quantities, and then if there still remains a deficiency, each basin is required to meet one-half of the deficiency.

Mr. SAYLOR. Well, if the Secretary's story is correct as verified by the Commissioner of Reclamation, the past number of years, there has not been any surplus and the average flow, according to the figures which have just been submitted, indicate that the total flow is only—is less than 15 million acre-feet. Is that not correct?

Mr. DOMINY. That is the projection for the future based on the longest period of record, that is correct.

Mr. SAYLOR. Now, Mr. Secretary, in your statement, you state that the lower basin has an obligation to deliver half of the Mexican treaty water, but you state that there is no such obligation—or that is the impression which I get from your statement—there is no such obligation on the upper basin. Now, is this correct?

Secretary UDALL. Well, your implication is not correct.

Mr. ASPINALL. If my colleague will yield, neither is the answer of Mr. Weinberg correct, because this is an unresolved situation as of the present time.

Mr. WEINBERG. That is a point, Mr. Chairman, that I was about to make. This issue is an unresolved issue and the Secretary's statement points out that it is an unresolved issue.