

MINUTES OF MEETING OF  
BEAR RIVER COMPACT COMMISSION  
Preston, Idaho, December 13-14, 1948

Meeting No. 2

A meeting of the Bear River Compact Commission was held at the County Court House, Preston, Idaho, on December 13 and 14, 1948. The following official representatives of the States and the United States were present:

United States

E. O. Larson, Federal Representative and Chairman of Compact Commission.

Idaho

Mark C. Kulp, Compact Commissioner  
Fred Cooper, Compact Commissioner  
W. J. Hunter, Compact Commissioner  
E. J. Baird, Advisor

Utah

Ed. H. Watson, Compact Commissioner  
Fred C. Cottrell, Advisor  
J. A. Howell, Legal Advisor

Wyoming

L. C. Bishop, Compact Commissioner  
David P. Miller, Assistant Compact Commissioner  
H. T. Person, Advisor  
R. D. Goodrich, Advisor

Federal Agencies

Leshar S. Wing, Federal Power Commission  
W. V. Iorns, U. S. G. S.  
M. T. Wilson, U. S. G. S.  
Thos. R. Newell, U. S. G. S.  
F. M. Bell, U. S. G. S.  
E. K. Thomas, Bureau of Reclamation  
John H. Steele, Bureau of Reclamation  
E. J. Skeen, Bureau of Reclamation  
F. V. Olson, U. S. Fish and Wildlife Service  
V. T. Wilson, U. S. Fish and Wildlife Service

A list of all persons who attended one or more sessions of the Compact Commission meeting is attached.

The meeting convened on December 13, 1948, at 10 a.m.

Chairman Larson stated that the purpose of the meeting was to consider the proposed draft of Compact prepared by Mr. Iorns and Mr. Wing, and any suggested amendments thereto: to discuss the form of letter to be

sent to the Federal Departments and agencies requesting them to submit statements of their water rights, potential developments or other interests in Bear River, and to agree upon a program for further investigations and studies of the river.

The minutes of the previous meeting of the Compact Commission held at Jackson, Wyoming, June 23-24, 1948, were read and were amended to include a statement that Mr. Iorns was requested to make a study of the proposed compact allocations to each state and each section of the river on the basis of 1 second-foot of water to 35 acres of land, and a statement that the allocation to the Chapman Canal should be reduced from 122 second-feet to 112 second-feet. The minutes, as amended, were approved.

Mr. Iorns submitted to the Commission the following documents which he and Mr. Wing had prepared since the Jackson meeting:

Revised tentative draft of Bear River Compact, Idaho, Wyoming and Utah, dated July 29, 1948;

Report to Bear River Compact Commission on Bear River Compact Revisions, dated July 29, 1948, and analysis of Stream Flow Records and Compact Deliveries, October 1948;

Suggested Corrections and Revisions to Revised Tentative Draft of Bear River Compact, dated July 29, 1948, by W. V. Iorns, dated December, 9, 1948.

Mr. Iorns introduced his explanation of the proposed revisions by a discussion of the basic principles of water rights in the three states, pointing out that in Idaho the duty of water established by decree is 1 second-foot to 50 acres of land, in Wyoming it is 1 second-foot to 70 acres of land, with an additional statutory flood right in the same quantity, and in Utah there is no definite duty of water established by statute, but the limitation is beneficial use. The plan for dividing the river into sections for the purpose of allocating water and administering it was explained. Mr. Iorns reviewed the compact definition of "divertable flow", and with the assistance of graphs discussed the allocations of water to the various sections of the river during the years 1934, 1940, 1944, 1946 and 1947, under the terms of the proposed compact. The differences in water deliveries on the basis of a duty of 1 second-foot to 35 acres, and on the basis of 1 second-foot to 50 acres, were explained, for the various sections of the river.

At the conclusion of Mr. Iorns remarks, the question was raised as to the studies of investigations of beneficial storage projects on Bear River. Area Engineer E. K. Thomas of the Bureau of Reclamation explained briefly the projects under investigation, both above and below Bear Lake. Potential projects above Bear Lake, include Hilliard

with a capacity of 10,000 acre-feet, and the Woodruff Narrows with a capacity of 100,000 acre-feet. Below Bear Lake, the projects which appear most feasible are Gentile Valley and the Cutler Reservoir Enlargement. In response to a question as to the relative areas of land in Idaho and Utah which would be benefited by lower river development, Mr. Thomas stated that the estimated acreage to be irrigated in Idaho is 27,000 acres receiving supplemental water, and 31,000 acres of new land. In Utah 13,000 acres would receive supplemental water and 80,000 acres of new land would be irrigated.

Inquiry was made as to the average inflow to Bear Lake from the main stem, and the annual carry-over in Bear Lake. The information supplied by Mr. Iorns is summarized as follows:

Average flow at Stewart Dam about .....	230,000	acre-feet
approximate increase in carry-over..... 1944.....	72,000	acre-feet
.....1946.....	273,000	acre-feet
.....1947.....	145,000	acre-feet
Run-off at Border since .....	1923 ... averages	259,000
		acre-feet
The flow in .....	1946 was..	345,000
.....	1947 was..	381,000
.....	1948 was..	317,000
		acre-feet

Mr. Bishop made the comment that a study should be made of the needs for storage above Bear Lake, and he said that consideration should be given to a compact provision allocating a definite quantity of water, say 100,000 acre-feet, for storage above Bear Lake.

Mr. L. B. Johnson said that the upper river should have an allocation of 3 acre-feet of water per acre to be diverted when needed and available. He said the proposed compact is unfair to the upper river because it requires rights with priorities earlier than the Bear Lake storage rights to release water for storage in Bear Lake. Speaking for the Rich County Water Users, Mr. Johnson said that they would be satisfied if they are allocated 3 acre-feet per acre of irrigated land and are permitted to store one-half of their allocation.

Mr. Watson raised the question as to whether the compact as written will permit the conversion of direct flow rights to storage rights. The question was discussed, but was not answered.

The meeting adjourned until 7 p.m.

When the meeting reconvened, Mr. Watson suggested that a procedure be outlined for future negotiations similar to the procedure adopted in the Upper Colorado River Compact negotiations. He called upon J. A. Howell who stated his suggestion in more detail.

Mr. Howell briefly reviewed the procedure followed in the Upper Colorado River Compact negotiations, and suggested that the Compact Commission appoint an engineering committee and a legal committee to work with the data supplied by Mr. Iorns and Mr. Wing in an effort to work out a compact which would be fair to all of the states and would be acceptable to the water users. He stated some of the points in controversy on the river, and said there are only two ways to settle them, one by compact, and two, by litigation. Litigation would probably be the least satisfactory. He said that, in his opinion, there would be more likelihood of a compact if a representative committee actively works on the problems and with the people concerned than if a draft of compact is prepared and presented to the water users.

Mr. Bishop concurred in the suggestion, but stated that he thought a study should be made of the needs on the upper river.

After discussion of Mr. Howell's suggestion, the following motion was made by Mr. Watson:

"It is moved that an engineering committee, consisting of one engineer and an alternate from each state, and one engineer and one or more alternates from the Bureau of Reclamation be appointed to assist Mr. Iorns and Mr. Wing in the study of such engineering problems as may from time to time be referred to the committee by the compact commission."

The motion was seconded by Mr. Bishop, and unanimously adopted.

The compact commission submitted the following problems to the engineering committee for study:

- (1) Determination of supplemental water supply needed by water users, both above and below Bear Lake;
- (2) Investigation of the effect on existing water rights of future storage projects on the main stem of Bear River and its tributaries, both above and below Bear Lake;
- (3) Study of potential irrigation of new land, both above and below Bear Lake;
- (4) Determination for compact purposes of the nature and extent of existing water rights;
- (5) Study of the question as to whether the scope of the compact should be enlarged to include the main stem of Bear River to Great Salt Lake and the Malad River.

The personnel of the engineering committee was tentatively appointed as follows:

W. V. Iorns, Chairman  
Mark C. Kulp, Idaho  
Fred Cottrell, Utah  
R. D. Goodrich, Wyoming  
E. K. Thomas, Bureau of Reclamation.

It was moved by Mr. Watson that a legal committee to consist of the legal advisor of the Federal representative who shall act as Chairman, and the Attorney General of each of the three compacting states, or his appointee, be appointed to analyze water decrees and to make such other legal studies as may be requested by the commission.

The motion was seconded by Mr. Kulp, and unanimously adopted.

The personnel of the legal committee tentatively agreed upon at the meeting was as follows:

E. J. Skeen, Chairman  
Robert Smyley, Attorney General of Idaho (A. L. Merrill Appointee)  
Clinton Vernon, Attorney General of Utah  
Norman Gray, Attorney General of Wyoming.

It was suggested by the compact commissioners that the legal committee prepare an analysis of existing water rights on Bear River and cooperate with engineering committee in a study of the question as to whether the scope of the compact should be enlarged to include the main stem to Great Salt Lake and the Malad River.

The meeting adjourned to reconvene on December 14, 1948, at 8:30 a.m.

The Chairman read to the compact commission a draft of letter he had prepared for transmittal to the departments of the United States Government, and various interested Federal Agencies requesting them to make known their interests in Bear River. The draft of letter was informally approved by the commission and it was suggested that the Departments and Agencies be given three months within which to submit statements of water rights and interests in the development of the river.

Representatives of the Fish and Wildlife Service were invited to make a statement regarding the water rights of the Service in Bear River and as to the desirability of enlarging the scope of the compact to include the main stem of the river to Great Salt Lake. Mr. V. T. Wilson stated that the Service has extensive interests in the river consisting of rights to the use of water for the bird refuge in Box Elder County, Utah, and that although the question of enlarging the scope of the compact to include all of Bear River has not been referred