

BEAR RIVER COMPACT COMMISSION

MINUTES OF MEETING, SALT LAKE CITY, UTAH, OCTOBER 15-16, 1952

A meeting of the Bear River Compact Commission was held in the Supreme Court Chambers, October 15, 1952. The following Compact Commissioners Assistant Compact Commissioners and Advisors were present:

E. O. Larson, Chairman and Federal Representative
Joseph M. Tracy, Utah Compact Commissioner
Fred M. Cooper, Idaho Compact Commissioner

Robert E. Smylie
A. L. Merrill
Mark R. Kulp
E. J. Skeen
David P. Miller
H. T. Person
E. J. Baird
Gerald Irvine
J. L. Weidman ✓
Emil Gradert
M. T. Wilson
W. N. Jibson
Albert Harris

E. G. Thorum
E. K. Thomas
F. V. Olson
O. A. Christensen
Thomas W. Jensen
E. M. Van Orden ✓
Hubert C. Lambert
Alden S. Ross
P. W. Spaulding
A. V. Smoot ✓
L. B. Caine ✓
Melvin Lauridsen
C. S. Barker



Morning session convened at 10:00 a.m.

Chairman E. O. Larson suggested having Mr. E. J. Skeen review what had happened since the last meeting. Thereupon Mr. Skeen read the minutes of the last meeting, as per his notes. The Chairman said they would not be approved at this time but will wait for approval until they have Mr. Vernon's minutes.

The Chairman outlined the procedure of the meeting stating he would call on the states alphabetically.

MR. COOPER: Mr. Chairman, the Idaho Commission and counsel and representatives have discussed this matter rather thoroughly with water users within the state, and made an analysis of the assessed valuation which is existing between

Stewart Dam and the lower end of Box Elder County. We find that there is about \$75,000,000 assessed valuation. This whole economy is dependent upon the uses of the waters of Bear River. We find in making a study of the engineering data here that on the requirements upstream, the available storage upstream, according to the engineers' figures would not justify more than the statement that we made at our last meeting. In view of the situation we feel that as you stated there are some changes that would be necessary in the present compact as it is now written and we are willing to negotiate on a basis of 23,000 additional storage upstream and allow the present storage which is approximately 14,000 acre feet. We have not changed, and we have gone over the problem with our users; the commissioners have studied it, we have conferred with our Attorney General and our counsel Mr. Merrill, our State Engineer, the boys in and around Bear Lake, the boys in Box Elder County, and the boys around Preston, the water users and they admonish us that it would not be sound, reasonable or sensible for us to make any commitment above 23,000 additional upstream storage.

CHAIRMAN LARSON: Any other comments?

MR. SMYLTIE: I might add to that statement that the water users in the area have admonished us to such an extent that anything else would not be adopted by the legislature.

MR. MERRILL: We consider that as being a crucial matter, and there are other matters in the compact, in the wording as mentioned before, that we feel has to be adjusted in some way, and there is still the question of the 43-57.

CHAIRMAN LARSON: Utah?

MR. TRACY: We only have one representative of Utah here outside of myself, Mr. Van Orden from the middle basin, and at this time the representative of Utah will maintain his original suggestion of 36,000 acre feet additional

storage in the Upper Basin together with the approximately 14,000 acre feet now existing, making a total of 50,000 acre feet the distribution or apportionment of the 36,000 acre feet to be subject to further negotiation between the States of Utah and Wyoming as to its distribution according to states. I don't know at this time whether we should discuss the reasons for these particular amounts that each state is given. I don't know whether we should discuss that at this time. I would say that 50,000 acre feet or 36,000 anybody. It would not hurt Idaho nor acre feet of storage would not hurt/the power company. About 15% of the surplus water in Bear Lake. It is my judgment that it is questionable whether you can measure water closer than that, even our stream measurements, and to be arguing over that amount of water, I really don't see the angle. As a practical matter I don't think it would amount to any appreciable hurt or damage to anybody downstream.

CHAIRMAN LARSON: Any other comments?

MR. VAN ORDEN: I talked with several lawyers and they think there could be some sort of compromise. They think the same as Mr. Tracy that there must be something in the case of a dry year that they could all do something about, and that is the way our people feel. Members of the Board of Education, irrigation companies, they are all very anxious about this. Their thought seems to be there should be some chance for arbitration - that is their attitude

WYOMING?

MR. MILLER: Well, after considering the matter and listening to Mr. Tracy's comment, Wyoming will be willing to consider at this time the 36,000 acre feet additional storage with a division to be worked out later between Utah and Wyoming - that is 36,000 acre feet additional to the 14,000 acre feet now in existence. We feel that the need for supplemental supply in the Upper Basin is very important. It will be necessary for us to take this back to our people

to get an expression from them. We are willing at this time to make the recommendation that the figure be 36,000 acre feet.

MR. COOPER: May I ask a question? Heretofore in making your statements, Utah has made its statement for Utah and Wyoming has made its specifically for Wyoming. Now in your statement as I understand what you state, you are making this and you expect to collaborate with Utah and divide the additional storage between you two.

MR. MILLER: That is correct.

MR. COOPER: Thank you, sir.

CHAIRMAN LARSON: Any other comments? While we are down to the point on this one problem, Idaho 23,000 acre feet and Utah and Wyoming 36,000 acre feet, you are only 13,000 acre feet apart. Down in Box Elder County the flow of the river is so great that seems a small amount of water. I don't know how to proceed unless I throw out the suggestion to ask each of the commissioners would you adjourn? Is there any chance of accomplishing anything by talking among yourselves, say to 2:00 o'clock because we are right at the same place as last meeting.

MR. PERSON: I think the record should be clear that we are only speaking for us two. We would certainly have to take that back to our people.

MR. MILLER: I would like to make a further comment. After all that 13,000 acre feet is a very minute part of the annual flow of the Bear River and it really gets down to where the technique of measuring the water could make the difference. It is not too much of a factor to be considered. Of course, 13,000 acre feet is actually usable up in our country, but down in the lower basin it is a very negligible part, and I don't think we are so far apart.

MR. SMYLIE: That dependable supply is the key to your problem. I would like to reiterate the fact that we have struggled pretty hard with these people in attempting an upward limit of some kind but I don't think there would be any merit

to carry it above 23,000 acre feet. I don't think the 1953 Legislature would adopt it.

MR. TRACY: Have you analyzed what 13,000 acre feet means to that river for everyone below Bear Lake?

MR. SMYLLIE: I know it has been discussed and I would say that very close to a majority of our people in the area think we are going too far with 23,000 acre feet.

MR. LARSON: May I ask Mr. Thorum or Mr. Irvine if they have a comment they wish to make.

MR. IRVINE: We have been in constant communication - very close to the water users, and we have endeavored to work out a solution to this thing but it is a most difficult problem. As you know the water users are just as anxious to get this worked out as all of us are. But this was originally developed by them for their own use and they are using it to irrigate very valuable lands. The water users are represented by the sugar company and we have an obligation to the sugar company and they cannot release that obligation. Mr. Boyle has told you many times before that they are duty bound to protect the water users in the area, so that it has come down to this sort of a situation. Mr. Boyle, and rightly, has concluded that if he makes any expression here which gives away water which belongs to others, that his farmers in the area would have a right to come back and ask him why he should give away their water and to recover their water back. These folks, Mr. Van Orden, Mr. Weidmann and that group, are people who are using it just as the folks in the upper basin. They are growing crops, and when we say let us talk to the water users, we have the whole area in Utah to talk to. You cannot speak for that group. He can only give you what he thinks is the sentiment of that group. The only way we can get to that group is to go down individually

one after the other. And when you say are you willing to give up some storage he stops and says what effect is that going to have on my own use? So he has to assume his own responsibility and they are reluctant to act. This is a very difficult problem. This contract problem between the sugar company and ourselves is a secondary problem. But the one we all face is this - for a long period of time, even before the power company was in there, the people below Bear River have spent great sums of money to develop storage water which is used to irrigate lands and they are now using that water beneficially and it is a question of how much water they are willing to give up to the upper basin; and when you talk with people who are making their living from it you will find it a most difficult problem. And that is the situation we find ourselves in. I know Mr. Boyle and myself have been working diligently to try to work out a solution but we are not able to do it. And you have been struggling and have not been able to do so. I think everyone of us are working cooperatively but I cannot say that we have arrived at any more of a solution than we did when we met last December.

MR. TRACY: May I ask Mr. Iorns how many acres of land is irrigated below Bear Lake? Could you even approximate - just how much does 36,000 acre feet mean? How much water to spread over the area below Bear Lake would 36,000 acre feet mean to each irrigator?

MR. IORNS: The users and the rights are entirely separate from

the upper part of the river. There is about 52,000 in the lower area. The Last Chance Canal is 29,000; that is 81,000. There are the Budge interests, they have about 5,000. There is the _____ Valley Canal, 4,500; there is the West Cache Canal, they probably irrigate somewhere from six or eight thousand to 14,000. The Bear River pumps about 28,000 and the other miscellaneous small supplies around Riverdale would probably add another

5,000, I guess. The total average would be about 141,000.

MR. TRACY: Mr. Weidmann is 52,000 about the acreage in Box Elder County?

MR. WEIDMANN: No, about 60,000.

MR. IORNS: I think we used a figure around 52,000 for your area.

MR. MERRILL: May I ask Mr. Tracy a question? This 36,000 acre feet would not be chargeable to all of the lands, nor spread out over all of the lands. It would be the junior users that would be hurt and some would lose it all. There is where the trouble comes. We cannot spread it out over that entire section of 100,000 acres.

MR. PERSON: 36,000 acre feet of storage upstream can be so regulated that it won't affect any consumptive users.

MR. IORNS: If the upstream storage were released, it could be released at the time of year in which it would have the minimum effect, that is as the high water drops down. If the storage was released to maintain the river flows at a relative high level - didn't cut the river system and didn't cut the stream so it would be run out of reservoirs by the 15 or 20 of July - it would have a minimum effect but it would return to the systems; the water table is up and as a result a good portion of that water would be carried on down stream and available for use.

MR. TRACY: Well Mr. Iorns, then of the 36,000 acre feet that is stored up there would you venture to say that fifty per cent would return to the river?

MR. IORNS: If it was all put down the river by the 20th of July - 1st of August, I think you could count on a 50% return flow. If it were released in a different manner, in other words after the water tables had receded a great deal of it would be held in the soil.

MR. MERRILL: That would hit the power company. Who would pay them?

MR. TRACY: Well, on that basis of 141,000 acres of land, and assuming that the return flow is about 50%, that would mean about 1/10 of an acre foot per acre that would be affected down stream.

MR. MERRILL: How do you think we could spread that over all of that land? As a general proposition that storage water if it were released, would not be spread equally over all. The prior users would get theirs first so therefore it is the junior users who would be hurt by this.

MR. TRACY: Mr. Weidmann has arrived who represents the lower part of the basin. Each one of the states are holding to about the same storage allowed in the upper basin as before. Do you wish to make a comment, or have you contacted your people, or know how your folks feel down there?

MR. WEIDMANN: I don't think the sentiment has changed. I think they are firmer than they were before. As I said in the last meeting, the general feeling is that we would like to see a compact so that this thing would be settled and we would have regulation on the river. And naturally I think other water users would like to see a compact so we could have it common on the river. Now how badly do we want a compact and how much are we willing to pay for it? It is a basis of proportion. It seems to resolve itself to a proposition how much water would the fellow who already has some give to the fellow who has not.

MR. LARSON: I thought this commission was trying to write into the compact that the direct flow users would not be cut, and you were regulating dams so that the lower users would not be cut. In other words it would be water that would go into Great Salt Lake every year. But now I do not know what you are getting into. (Reads Article V) That does not take any water from them.

MR. MERRILL: But the Thomas plan has never been adopted.

MR. LARSON: That is right, but it is clear it would protect direct flow rights, however.

MR. COOPER: We have not any compact. It is an oral arrangement in which we state our potential requirement. We never have refused to consider any proposition but we have no compact.

MR. SMYLLIE: The simple fundamental fact as far as we are concerned is that we cannot sit down and agree with you because it will be a sham. We could agree, and that is all it would amount to. It probably would not even get past a committee in the legislature. It has to pass unanimously.

MR. MILLER: We are wasting our time equally as much. Because it won't go.

MR. PERSON: Storage in the upper basin can be provided without affecting a single user in the lower basin. Of course, it will affect the power company. And there is such a thing as an equitable share in this river. When you say that any storage in the upper basin will affect the irrigators down below, it is not true. And I think we should recognize that point.

MR. COOPER: Furthermore, it looks like the whole setup is that the waters of Bear River are overappropriated, have been for quite some time, and by granting upstream storage that would be a right that has not been previously enjoyed, and it will be taking a right that has been enjoyed downstream previously, so it looks to me like if this proposition were accepted you people would still be the gainers.

MR. MERRILL: I don't think it makes any difference as to whether Wyoming granted it or not. It has been used during all these years and it is an established right.

MR. PERSON: I know the people of Wyoming would rather gamble on a lawsuit than say 23,000 acre feet unless Utah would grant Wyoming 23,000 acre feet but I don't think Wyoming would go for that.

MR. MILLER: We have a realistic view and I cannot see that we have done any better.

The first meeting was in 1943 in Mr. Watson's office and I think we are saying the same things as in that morning of 1943. But we are taking a more realistic approach but we don't think frankly that we could get it. But we do have to return to our people with some figure that would be workable and we consider that 36,000 acre feet to be the figure.

MR. LARSON: Anyone else have any remarks? Any of the three states have a suggestion of where to go from here?

MR. KULP: Do you think, Mr. Irvine, there is any chance between the lower water users and the power company and the sugar company?

MR. IRVINE: I am not in a position to answer that question and there is no one here that is. The water users developed that storage long before we were a party to it and then we came into the picture and purchased it and in the contract of purchase we were obligated to maintain that storage at all times, and if we were to violate that contract we would be liable. We have approached the water users as to how far they can go and they find the sugar company has sold the water to the users and the sugar company has not had opportunity to exercise any prerogative which it might have had had this come up before any water was sold, so the sugar company finds itself helpless in the situation. Now when you say can we deal with the water users down the river there is no one here that can say to this group that he can tell you what the water users in upper Utah would do. It seems to me it is almost an impossible task for us to get that group together and endeavor to get some kind of an agreement. Now without an agreement the sugar company is in a position where they cannot possibly release the power company from its obligation to release that storage, and we are not permitted to say that we can give up any water and the sugar company is not in a position to say that they can give up any water and there is no water user here who can say it. You

all know that situation as well in Wyoming as in Idaho, so I don't see how a person can possibly say that we can work out an agreement with these users.

MR. SMYLIE: I take it you would add to that it would be impossible ever to say.

A. It is almost so, yes.

MR. SMYLIE: I suppose if one could go down the river with a contract in hand and get them to sign it and get it up to the sugar company, it is like putting an egg back in the shell - you scramble an egg and try to unscramble it. You are just about as helpless. Let me say this to you, Mr. Christensen, Mr. Van Orden, Mr. Weidmann and others have made honest attempts to do the very things you have suggested over a period of three years or five years and they have found it just an impossible situation.

MR. PERSON: I agree. It seems to me that each commissioner will have to decide and then take it to the legislatures and see.

MR. TRACY: A compact on the Bear River is almost necessary if we are going to develop the Bear River Basin. I don't think there is anyone here who would think we are going to go along in the same old way. It seems to me that the three commissioners could sit down and arrive at what they think is equitable and put it in the compact and submit it to the legislatures.

MR. MERRILL: Now see what you are asking Idaho to do. The only possible advantage that Idaho can get from it is additional ability to prevent upstream users from taking more of their water. Now you are asking them in addition to go ahead and to give upstream users 36,000 additional acre feet, admitting that it will seriously affect one of its principal taxpayers in the state, and asking your commission to thus cut in on the rights of that taxpayer. Now I don't see how a commission can honorably do it. Now there were doubtless 23,000 acre feet and we felt it would not injure, except for certain years, and that figure is a

decided compromise agreement with the members that have been working on it, and how in the world you can expect the Idaho people to go further than that --

MR. TRACY: It means in the State of Idaho a possible 40,000 acres of new irrigation land. The potential irrigation development for the Bear River project which is based upon studies made by the Bureau of Reclamation for Idaho; there was contemplated a total of 40,300 acres of new irrigated land and a supplemental acreage of 35,200 acres which would make a total of 75,500 acres of land that would be given a firm water supply and a supplemental supply. The above irrigation would be in proposed canals as follows: Oneida Canal, Portage Canal, Cherry Creek Canal, Curlew Canal and East Cache Canal. It means 35,000 acre feet supplemental irrigation to the State of Idaho.

MR. MERRILL: Where are they going to get that?

MR. TRACY: Without a compact you won't get it; with a compact there is a possibility of getting such development. Unless you have a compact you cannot go ahead and make any development.

MR. MERRILL: That may be true but you are asking us to give, give, give for a development that might come in the future but with no assurance.

MR. TRACY: I am right across the river from you Mr. Merrill, and I don't think it would harm anyone the least bit and it sure would be a fine development for that area. Would the agricultural development to that extent mean more in dollars and cents than the minor amount of power we would use in that development? Which would mean more to the country, the agricultural development or the amount of power?

MR. MERRILL: To the State of Idaho, the situation as it exists today would be better. You name a lot of streams and they are nearly all of them down in Cache Valley.

MR. TRACY: Mr. Chairman, I make a motion that we adjourn for ten minutes.

CHAIRMAN LARSON: It is nearly 12:00 o'clock. Maybe you would like to adjourn until 1:00.

MR. COOPER: I move that we adjourn to 1:30.

The motion was amended to adjourn to 1:00 o'clock, seconded and carried.

Reconvened at 1:25 p.m.

CHAIRMAN LARSON: Have you anything to add, Idaho?

MR. COOPER: We are in exactly the same position as we were. Unless these other men have some other ideas, but as near as I can gather the quantity is the same.

MR. TRACY: Same as before noon?

MR. COOPER: We stand just exactly where we were, Mr. Tracy.

CHAIRMAN LARSON: Utah?

MR. TRACY: I think we will pass at this time. We are in a compromising position.

CHAIRMAN LARSON: Wyoming?

MR. MILLER: We have already been compromised. We are in the same position as at the time of our previous statement.

MR. LARSON: All right, the Chair is open to suggestions as to how to proceed.

MR. TRACY: Mr. Chairman. We are about 13,000 ac. ft. apart.

CHAIRMAN LARSON: If anyone has any suggestions I will be glad to have them, or if there are any more statements.

MR. PERSON: Mr. Chairman. Would having this explained again by Mr. Iorns or Mr. Thomas of the engineering facts - would that help any? For it seems to me that the Idaho group completely lost sight of the facts as explained by Mr. Thomas or Mr. Iorns.

MR. COOPER: We thought we were straight but if Wyoming feels they would like a reiteration we will concur.

MR. TRACY: What is your idea, to explain just what effect the 36,000 ac. ft. would have?

MR. PERSON: Yes, it would have no effect on irrigators down below. It would have an effect on power. I thought maybe Idaho would like to be reassured. But if they are convinced it won't, then--

MR. TRACY: Mr. Cooper, let me ask a question. You are basing your 23,000 on the tables prepared by Mr. Iorns - that anything over 23,000 would be harmful to the folks in the lower basin, is that right?

MR. COOPER: That is right. I would not mind having Mr. Iorns explain that again as far as I am concerned,

MR. IORNS: I think there is a little feature on this figure of 23,000 ac. ft. that should be explained somewhat. I wondered recently why the figure 23,000 was used. I find that the figure of 23,000 ac. ft. is based entirely on the apparent requirement or needs of the land that would be dependent on a reservoir at Woodruff Narrows or flats. For detail turn to my report No. 19, dated August 9, 1951. If upstream storage was being considered entirely for the lands that would be benefited by these two reservoirs located at these two sites, 23,000 would be the figure that is necessary for all in the upper valley, however, as pointed out in that report, it didn't cover lands on tributaries. It didn't cover lands that were located above the mouth of Sulphur Creek in upper Wyoming, and consequently the 23,000 does not, I believe, present quite a complete picture. Following the meeting - I think it was in May, or at that meeting - I outlined what I thought would be an amount or figure in addition for these two reservoir sites in other years. That total figure amounted to about 33,000 ac. ft., and the upper people were not too satisfied with that. Later on, a study of the needs up there set the figure at I think 3,000 higher or 36,000 ac. ft. additional storage. Now if we take a look at the condition of that water this is what I think would be quite fair to

everyone. That is 75% and 25% - that is literally the ratio. In that much Utah - - and the Randolph section would be benefited and the only Wyoming benefit would be from some 8,000 acres above Smith's Fork and down from Sulphur Creek in Wyoming. So that puts it in an area where you could not say we could divide this 23,000 ac. ft. on a 50-50 basis except by resulting in an assignment for the Woodruff-Randolph section that would be far short of the recommended amount for that area in my report No. 19. So considering the other areas and possible division of the water between the two states, I worked up some figures yesterday with Mr. Tracy that might be used as a division of upstream storage between Wyoming and Utah. Unless you want it, I won't put this on the board. The upper Utah section in the upper division that needs storage is about 480 acres. The upper Wyoming section 4,300 acres, and that land includes the lands in the Chapman Canal which are adequately served and lands in the Lee Canal and Bear River Canal which would be served from a reservoir located at Woodruff Narrows. So, if we subtract the Lee lands etc., 39,108 I have here, then if we take the lower Utah section and add to that its acreage of 33,806, the Lee Canal lands and the Bear River canal lands we get a total of 36,307. And in the lower Wyoming section 8,457 acres. Now if we use that as a base figure and work out the percentages we find that there is 6/10 of the total area in the upper Utah and 4/10 in Wyoming. One means of testing **that** to see whether or not that division with 36,000 ac. ft., if that was divided in same proportion as indicated by acreage in Utah and Wyoming, would that give the Randolph section sufficient water and using 36,000 as a base, upper Utah would be entitled to 200 ac. ft., upper Wyoming 14,900 ac. ft., lower Utah to 16,900 ac. ft. and lower Wyoming to 4,000 ac. ft. If we put it on a basis of Wyoming 45% and Utah 55% and use the 36,000 ac. ft. figure, we would get a figure that

is practically "on the nose." It would give sufficient to Wyoming for a 5,400 ft. reservoir. I think the 7,200 which is my estimation would be adequate for the upper Wyoming needs. We have along with it the division between Wyoming and Utah and if the 23,000 ac. ft. on which Idaho's figure is gaged, unless these two states would agree to utilize on the Hilliard Flat and Woodruff Narrows the figure doesn't mean anything. It would be an insufficient amount for the lands that would be served by supplemental storage at Woodruff Narrows. It would require somewhere in the neighborhood of 36,000 ac. ft. It does not consider all the lands up there that need water.

MR. SMYLLIE: How many years could you have stored there?

MR. IORNS: All years except in 1931, 1934, 1939 and 1940. The figure for Wyoming lands based on Woodruff Narrows was based on what I found in Report 19. The figure for Woodruff lands, Utah lands, that would be 18,000 plus 2,000 or 20,000 ac. ft. for Woodruff Narrows.

MR. TRACY: There is water every year flowing from above Stewart Dam that goes into Great Salt Lake.

MR. MERRILL: Is that through Bear Lake or around it? What are you talking about?

MR. TRACY: Which way does the water flow from the Upper Basin to the Great Salt Lake? How does it flow?

MR. COOPER: It flows for the most part South. Do you think there is water being wasted above Bear Lake that is not being stored in reservoirs that are now available.

MR. TRACY: No, we contend that a large amount of that water that gets into Salt Lake is the inflow in Bear River below Bear Lake.

MR. TRACY: Yes, the great proportion. But there is some water, and I think the record will show there is water that flows from above the Stewart Dam through the Bear River down into Bear Lake and on down the river that gets into Great Salt Lake every year.

MR. COOPER: I move Mr. Thorum be asked to make a statement explaining the large flows of water into Great Salt Lake.

MR. THORUM: I would like to make a statement in regard to Mr. Tracy's point. There is some water that flows into Great Salt Lake. There was a 12-year period when there was a very small amount of water.

MR. COOPER: Explain the reason that we stand on this 23,000 ac. ft.

MR. THORUM: Well, you will note that 23,000 ac. ft. is a firm storage right. There would be that much every year. Anytime you give a greater amount than that, you have years when you cannot fill that. So that is the maximum firm storage right that we could give. I looked over Mr. Iorns' #24 report and, as I read it, he came to the conclusion that there were two reservoir sites at the Woodruff Narrows and the Hilliard, and there was so much land that could be supplied, and that the supplementary requirements would be 25,000 ac. ft. annually. I took that as about right, and I don't see where there is any need for any greater allowance. That is pretty much just about the limits of their needs for the present area. When they go beyond that they are going to run into the problem of constructing a reservoir of large capacity and it will eat up all your returns. It is pretty close to what the supplemental requirements are, - would fill them.

MR. TRACY: You say it would be eaten up by evaporation?

MR. THOMAS: I don't know how you are going to reduce the evaporation.

Q. It is the Hilliard and the Narrows reservoir that you base your figure on.

A. Yes, sir.

MR. THOMAS: The Narrows 20,000, the Hilliard 5,000 ac. ft. Mr. Iorns in his #24 report shows that in a dry year you would need holdover. You are going to need a tremendous amount of holdover storage to supply such a demand.

CHAIRMAN LARSON: Utah or Wyoming have questions to ask?

MR. TRACY: Mr. Thomas, you may not be able to answer this. Just how much power would the power company be deprived of by an annual storage of 36,000 ac. ft. in the Upper Basin?

MR. THOMAS: The only way I can say that is 100 per cent.

MR. TRACY: Could we measure that 18,000 ac. ft. all the way up and down the streams? How close can we measure those dam streams anyway? Ten per cent a good figure?

MR. THOMAS: The annual runoff is about 250,000. Probably be 14% of it. That is a pretty good slice.

Someone asked for a brief review of the Thomas plan.

CHAIRMAN LARSON: Mr. Thomas, will you review briefly the plan you submitted to the Engineering Committee? Is there any difference?

MR. THOMAS: Same thing. Engineering Report #25 covers that plan. That is Report No. 25 of the Engineering Commission. Prior to preparation of that report No. 25, the Engineering Committee had studied several storage plans above Bear Lake and I think what all of them amounted to is expressed in a sentence that I will read out of Report No. 24, at page 5. "Any additional storage development above Stewart Dam naturally would decrease the water supply available for storage in Bear Lake and used below Stewart Dam. Additional storage development, however, including as much as 50,000 ac. ft. would not necessarily result in any decrease in irrigation use in the lower area. So

when we finished up with report 24, that is about all we had. What that plan does it places full protection on downstream irrigators. So what it does, it places the full responsibility on the power.

MR. MERRILL: How would you maintain that?

MR. THOMAS: It would be maintained by the operation of the river. When the lake contained more, the water could be used for power. There is one other thing that might be of interest. This report shows the effect on power, the loss of water supply. (That is on page 6 of Report #25.) The irrigation reserve would be kept higher and it would be held closer to that amount specified by compact and there would be more water available for power and the loss would not be as great as given in this table. There could be a large amount of storage without causing any loss in power. There would be no loss in irrigation. And there is a good possibility that there would not be much of a loss in power, if any.

MR. MERRILL: If you would fix the level of the lake at a certain elevation, and if the water got below that level, or reached that level, there could be none pumped out for power purposes.

MR. THOMAS: No, you would have a condition similar to this 12-year period when there was little or no water pumped out of Bear Lake for power.

MR. COOPER: Do you base the reduction in the amount on the return flow?

MR. THOMAS: Yes. We have to make an estimate on the amount of return flow. Another thing. As you get above 23,000 ac. ft. these upstream reservoirs just would not fill. So that also entered into these estimates. These are not exact answers. They are based on estimates - the best that the engineering committee felt that they could make. But I think they are reasonably close. While these figures in Table 3 are based on arithmetic, I don't think the loss would be as great as here estimated.

MR. COOPER: I would like to hear Mr. Baird's idea on the return flow.

MR. BLAND: I think it is better to be conservative than otherwise, but as to the amount returning to Bear Lake, if this is the late summer season it would probably go to the Last Chance Canal. It would not go to the lake because no water is going to the Lake unless there is more water going to the Lake than is going out. All the water that enters Rainbow Canal down to certain amount is going to the lower river.

Q. You mean Stewart Dam is tight all the time?

A. Except at some specific time when they wish to turn it down for some reason into the river instead of the lake. But it is measured either way.

MR. TRACY: How does it flow down to get there?

MR. BLAND: It goes into Mud Lake and is pumped out into the canal. The amount that goes into Rainbow is credited to the lower river flow.

MR. COOPER: Very little of return flow is available for storage in Bear Lake.

CHAIRMAN LARSON: Any other question?

MR. SPAULDING: One of my first impressions was Mr. Iorns giving us some figures on Bear River where it was dry and yet there was considerable flow in the river below.

MR. IORNS: In my report No. 8 to the Engineering Committee appears an analysis of where return flow occurs. The return flows that would occur, I think would depend entirely on the manner in which the water is applied. If the pattern of the requirements are as set out for this 23,000 ac. ft. we speak of and is based on the application of this storage water to the lands as the river recedes (from the middle of June to the 1st of July) why water would be released from storage and the river flow maintained until about the middle of July, and then that would be the end of it. The water would be shut off. That water would

have to be applied in the early part of the summer and in a large amount. That much application to the land while the water tables are still high, would result in a measurable return flow to the river system. In working with the depletion figures, or the probable return flows, as Mr. Thomas has pointed out, the engineering committee there used the extreme case as our measurement against what would be the extreme. When you are dealing with water you have to take the extreme case and use that as what might be the fact.

Recessed.

Reconvened at 3:20 p.m.

MR. THACY: Mr. Chairman. I would like to hear Mr. Wilson give a statement on the accuracy of water measurements, from ordinary practice. Mr. Wilson is District Engineer of the U.S.G.S.

MR. WILSON: I think it is possible for someone on the outside to pick up some information that you may not see on the inside. The man in the forest may not be able to see the forest for the trees. When you started these negotiations, and I have been in on practically all of them, there was some contention. Of course, there was contention in the upper basin. They needed 100,000 ac. ft. In the lower basin there was no water available for storage above Bear Lake, but now at least there has been some compromising so they are talking about figures which the irrigators in the upper basin above Bear Lake - are willing to consider or take to their irrigators - 36,000 ac. ft. of storage, and the lower basin is thinking about a figure of 23,000 ac. ft. Now the difference between these two is 13,000 ac. ft. Now if it was possible to compromise these two figures that would be 6,500 ac. ft. difference between the compromise figure and the figure that either the upper basin or the lower basin is thinking about and that would be three and one-half per cent of the storable water above

Bear Lake - not the total supply, a much smaller percentage of the total supply. And you are basing your negotiations on stream flow records which we cannot measure with any degree of accuracy and so the difference there is something that you do not know actually exists. And so the difference between the two figures that you are talking about is very very small in percentage, and in reality you do not know for sure that it actually exists. From another angle, even though you compact on that basis, it is impossible and I think and some others will agree, it is impossible to make distribution of irrigation water within that fine degree of accuracy. Even though it may be law in the upper basin in distributing and measuring the water out of the river, you would not be within $3\frac{1}{2}\%$ of the water that was being delivered and as the record showed.

Again, you are talking about a very, very small quantity in percentage of water.

MR. LARSON: What are the desires of the commissions at this point? Do you have any suggestions?

MR. SPAULDING: I might ask Mr. Wilson a question - If this three per cent is too small to measure I see no good reason why Idaho should not yield to the 36,000 for Wyoming.

MR. MERRILL: It is just the reverse.

MR. COOPER: I don't think there is any chance that Mr. Wilson could be wrong. It may be just as well for us to get together and talk this over and for the Idaho group to make sure that their people are willing to stand for this 23,000 ac. ft. additional storage and the Wyoming group and Utah to be sure they can come down just a little bit and may be tomorrow we can get along better. We would like to consult our users to be sure that they feel that they are safe in granting that much or agreeing to that much. And the Wyoming people could discuss with their folks and may arrive at a compromise figure.

MR. MILLER: We honestly think we know it. We are not arbitrary about this, we really think we know it.

MR. PEARSON: Wyoming is making quite a concession. This 36,000 ac. ft. Mr. Wilson just told about you could not measure, and all the water you have certainly this little part would not be measurable. I want to make one suggestion that we accept this 36,000 ac. ft, and then let Utah and Wyoming see what they can do with it.

CHAIRMAN LARSON: I promised myself that I would not try to stop anyone from saying what he wanted to. I think I have kept that promise.

MR. PEARSON: There was one thing you were going to consider. The budget for this--

CHAIRMAN LARSON: Well there were two: The matter of the stream gaging program and the compact work. I was going to leave them until later but take them up now if you want. What is the pleasure of the commission?

MR. MILLER: I suggest a recess until tomorrow morning and see what agreement we can have.

CHAIRMAN LARSON: Will you make that a motion?

A. Yes.

Motion seconded by Mr. Cooper and carried

Adjourned until tomorrow morning

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CHAIRMAN LARSON: The only thing I can see to do is to keep going for comments on the states. Wyoming? Utah?

MR. TRACY: I have not contacted my delegations this morning yet. I will pass for a little bit until I can talk with them.

CHAIRMAN LARSON: Idaho?

MR. COOPER: We have discussed it between our users and our delegation quite considerably and we are willing to make certain concessions provided that there are certain provisions written into the compact. There were about three propositions that we would want incorporated into the compact provided we made the concession. We will make our suggestions when the time comes. Of course, if the others are fixed in their position there would be no point in giving in. But we have been working on it and doing our level best to do something about it.

MR. MILLER: Are you prepared to indicate what your position would be? We are rather groping in the dark. If you will indicate precisely what you have in mind we might consider the matter.

CHAIRMAN LARSON: I would like to say that at any time you commissioners want to talk anything over informally in a recess, just indicate - or here, whichever you choose. I was making that remark from observing meetings of other compact commissions.

MR. COOPER: Inasmuch as the Wyoming representatives have taken the position they have, and inasmuch as Utah delegation have not had an opportunity to confer one with another, I move that we recess half an hour and give these gentlemen time to consider their positions among themselves. And we will do the same and at such time we may be able to arrive and be able to state our reservations and stipulations in case we do change.

MR. SPAULDING: Second the motion.

Carried.

CHAIRMAN LARSON: The last time around Mr. Tracy passed so he would like to make a statement.

MR. TRACY: Mr. Chairman, I have consulted with my advisors on the lower portion of the river, the representatives in the upper portion of the basin - that is some are not present and I have not had the privilege of their consultation - but Utah suggests additional storage in the upper basin of 36,000 ac. ft. This is based upon the proposition that we will go to our people and try - to the best of our ability - to have an agreement upon that basis. As you know, the upper basin represented in Utah has been demanding considerable more than that storage. They feel that the development of their area will be materially reduced if they cannot go ahead and build storage reservoirs and develop their area. The folks down in the lower basin feel that they have had all this water all these years, they have a firm right to the river as it has been in the past and they do not feel that they should give up their rights, and so this proposition of what Utah makes is based on going to our people and attempting to get an agreement on the basis of additional storage of 36,000 ac. ft. in the upper basin for Utah. That is the grand total for Utah and Wyoming. That is additional storage only and that is further based upon an agreement between Utah and Wyoming.

MR. MILLER: Then that is the same as that you made yesterday. For new and additional land?

MR. TRACY: No, I did not say that. It is for additional storage; it is for additional storage for the supplemental irrigation of the lands that are now irrigated. And I take it, that has been the proposition all the way through

that the folks down the river are not figuring on additional lands to be put under irrigation except those developments that would accrue after a compact is consummated, in which we have a million ac. ft. of water going into Great Salt Lake which is a potential development in the lower part of the river and not in the upper part. In making this proposition, we are saying to the folks upstairs, this is the limit to which you can develop; that is as far as you can go while down below we have a million acre feet to play with. Their only recourse would be to transfer from the lower basin. I do not think that will hurt the lower irrigators in any way, shape or form. I don't think over the years that it will hurt the power company. We have new plants, atomic energy and steam plants which would be possible for the power company to develop along other lines and not depend entirely upon the water resources of the Bear River. It will mean development in the upper basin to a certain extent which the lower folk should consider very carefully. As I have said before, unless we have a compact our development in that basin is stymied right now. Further, if we do not have a compact there is nothing but law suits staring us in the face for a long time to come. That is the statement from Utah.

CHAIRMAN LARSON: Idaho?

MR. COOPER: We have discussed this at some length with our representative irrigators, their water users, and we are willing to recommend to our people without anything binding upon us at the present time until after we get their consent, that we permit upstream storage to the amount of 29,500 acre feet, or, dividing the difference between the two figures as they are now set at 23,000 and 36,000 ac. ft. provided; first, that the capacities of the upstream reservoirs be limited so that the storage may not be cumulative; secondly, that the division of the water in the central division--

MR. TRACY: Pardon me. You mean limited to that amount each year?

MR. COOPER: No reservoir capacity be any greater than 29,500.

MR. TRACY: You mean the capacity of the new reservoirs would not exceed 29,500 ac. ft.?

MR. COOPER: Yes. And provided that the water in the central division be divided on a basis of 35% to Wyoming and 65% to Idaho, which makes just allowance for the priority base; and third, that provided paragraph (a) in Article V be deleted and 4th that water be stored during the nonirrigation season or between the dates of October 1st and April 15th.

MR. SPAULDING: Is that in the upstream?

MR. COOPER: That is in the upstream.

MR. COOPER: These are the four provisions. That is our proposal, and we will talk it over with our people and see if they will go along. Maybe some of these other gentlemen have something to say.

MR. MERRILL: One thing is that we are taking the water away from one of the principal users which is the power company. It seems to us that these modifications or restrictions here would probably offer them some sense of security that might be possible for us to come to an agreement on this.

CHAIRMAN LARSON: Utah again? Wyoming?

MR. PERSON: I have some doubt that by April 15 our winters are over.

MR. MILLER: I suggest Mr. Iorns give us some information as to what effect that would have on storage in the upper basin.

MR. IORNS: Report No. 18, dated July 6, 1951, Available Water Supplies, on Potential Reservoirs - the study in that report covered two periods of time. It shows storage that could be created during two periods of time, October 15 to April 15, and October 1st to April 30th. At page 14 is a table. Then on the

following page 15 it shows a graphical presentation of that. It indicates that there would possibly be 20,000 ac. ft. available in all years at and above Woodruff Narrows except for 1934, 1935, 1936 and 1939; at 29,500 ac. ft. would be short in eight years out of the 25 years and of that period there would be about six of those years the shortage would be close to 10,000 ac. ft.

MR. COOPER: If the time were advanced to April 30th then what would happen?

MR. IORNS: It presents a better looking picture. You are beginning to get some spring runoff then. There would be five years that shortage would occur and the maximum shortage would be about 7,000 ac. ft., the average shortage would be about 4,000 ac. ft. I believe in that period.

MR. MILLER: At what date would it be that there would be a firm storage of 29,500 ac. ft., at what date in the spring would it be necessary to go to have a firm storage?

MR. IORNS: I don't believe you could have stored any in 1934 and 1935 or 1940. It would have made no difference in these years anyway. This study is for storage at and above Woodruff Narrows. There would be no available storage on the other creeks to speak of. Following on down the river in the Utah section there would be a fair storable supply on Big Creek. There would be adequate storable supplies in the winter on Otter Creek. No storage on Twin Peak; limited to reservoirs at Woodruff Narrows or above Woodruff Narrows with source of supply from Bear River. You could store all they would need during period from October 1st to April 30th.

MR. COOPER: Well, downstream for instance, the Dietrich Decree provides that the Last Chance Canal Company is permitted to take 40% of its water after April 20, and the seasons vary, of course, and frequently it is that we do not take any water whatever after the 1st of May. But, however, if we happen to have an

early spring and a short water year, that water would be very important to us early in the spring when it came down. However, we could consider this date in face of the facts and Mr. Merrill, you amend the date of the 15th and make some adjustment if our people are willing to do it.

MR. MILLER: Would you be prepared at this time to present an alternate date, Mr. Cooper.

MR. COOPER: Well, I would rather if agreeable with you, I would rather talk it over with our people.

MR. MILLER: You mean here or back in Idaho?

MR. COOPER: Back in Idaho.

MR. IORNS: If it is a case of an early spring, any day you would be demanding that water, why in such a type of year the runoff would occur so you might say that the storable supplies in the river would come down about that date.

MR. COOPER: We could alternate between the 15th of April and April 30, if that arrangement could be provided in there. If that could be provided we would be willing to do that.

MR. MILLER: Mr. Chairman, I would like a ten minute recess to confer about this. I think we should consider both possibilities.

Reconvened at 1:15 p.m.

CHAIRMAN LARSON: Before we recessed, Wyoming asked for time out -

MR. MILLER: We have another alternate proposal, but before mentioning I would like to ask Mr. Iorns a question about one proposal that Idaho submitted for the central area. He said 35% for Wyoming and 65% for Idaho. I would like to ask Mr. Iorns the probable effect that would have on the central division.

MR. IORNS: I would like to make this comment, in comparison, if that division went into effect in the Central Division as we have it now provided in the

compact. The Idaho rights would receive one cubic foot per second for each 40 acres approximately. That release would keep up until it dropped down to where total divertible flow dropped below 700.

MR. MERRILL: What would it be if handled on a priority basis?

MR. IORNS: If you put it on the same plane of equity, you would each one be getting one second foot for 50 acres. Idaho has about 200 sec. ft. prior to any Wyoming rights.

MR. MERRILL: This 65-35 is a suggested compromise in order to get over the hump.

MR. MILLER: I don't think we would be justified to take the time at this time to go into this question because it is purely in a preliminary stage so I think we will pass that at this time. We are not authorized to make any proposition at this time and the suggestion that I would make would be that we refer this matter to the Engineering Committee and perhaps to the Drafting Committee to convene within a 30-day period and submit a recommendation back on the proposition of Idaho. But in the meantime Mr. Tracy and I were discussing another matter and I wondered if you would like to present the other alternative.

MR. TRACY: I would state that Mr. Cooper's suggestion that paragraph (a) of Article V be deleted - I don't see quite the object of that deletion. I don't find any place in this compact whatsoever wherein folks down in the lower basin are protected in any way, shape or form. It seems to me we should have something in this compact for their protection. And I am informed that the power company has objected to fixing the elevation of Bear Lake. And why anyone would object to putting that in the compact, I don't see. It is the way they have been operating all these years. It protects these folks downstairs and it is in writing. And to me, I don't think we should eliminate that Article V paragraph

(a). Now it is possible that in the other matter of the amount of storage in the Upper Basin - I throw this item out as a suggestion - and I will read it:

That there be allocated, allowed to be stored only above Bear Lake, 36,000 ac. ft. of which not to exceed 30,000 ac. ft. would be stored between October 1st and April 30th and the balance after April 30th whenever the flow of Bear River at border exceeds 700 sec. ft.

MR. COOPER: Of course you realize in the beginning of the statement that I made this morning I said that it was tentative and subject to correction and so on, and discussion followed during the recess. We conferred with our friends in Box Elder County, Bear River water users people and we made a change or two in the language in connection with paragraph (a) in Article V. This, of course, is also subject to study, but we recommend that it read as follows:

The water of Bear Lake below 5,914.50 ft. above sea level as established by present Utah Power & Light Company bench marks shall constitute a reserve for irrigation. The water of such reserve shall, except in emergencies, not be released solely for generation of power but after release for irrigation it may be used in generating power if not inconsistent with its use for irrigation. The water of Bear Lake above said elevation may be released solely for generation of power or for other beneficial uses.

Now in place of deleting it we propose that paragraph (a) of article V be retained in that manner - so that we will make that concession.

MR. TRACY: Would you care Mr. Cooper to define emergency as you construe it. I guess that could be elaborated later on.

MR. SKEEN: I think we could work that out.

MR. LARSON: Just the same as this except for the emergency.

MR. COOPER: Substantially.

MR. TRACY: The water above is irrigation and the water below is power water.

MR. WEIDMAN: Am I right - the definition to emergency is to be considered and defined, is that right?

CHAIRMAN: That is right. Mr. Miller, you made a suggestion that this whole thing go back to the engineering committee?

MR. MILLER: I would like to modify it to this extent that this be submitted to Mr. Bishop - but I am certain that it would be agreeable to him. If there is any suggestion before making formal motion I would be glad to hear it.

MR. JORNS: As Chairman of the engineering committee I certainly would not want it to be assigned to the committee. Whether it should be 35 - 65 or 43 - 57 should be decided by the Commission. If there is a question there as to what effect it will have I don't think it is necessary to refer that.

MR. TRACY: Mr. Chairman, I don't see any use of submitting this matter to the engineering committee or to any other committee. It should be submitted to this Commission. It is for this Commission to decide and all we want is the information. I think it has to be brought right to this commission here and decided here.

MR. MILLER: You are probably right in that, Mr. Tracy, and I am certainly willing to abide by the agreement of the majority as to procedure. I think we should be informed as to the effect of these proposed modifications in the respective states.

MR. COOPER: Mr. Chairman, I wonder if the assignment could not be made here, and the engineering committee made a study of the relationship between the two amounts and then report at the next commission meeting rather than to have a separate meeting and get out a report.

MR. KULP: If your office makes the computations, the engineering committee can tell within five or ten minutes whether they have been made properly.

MR. IORNS: How would it be for the Logan office to prepare a report or paper and distribute it as it has in the past and then when you meet again bring it up for consideration.

MR. MILLER: I believe it should be made plain what the effect of the two alternate proposals will be as to storage and the comment of Mr. Tracy should also be considered.

CHAIRMAN LARSON: Any other comments?

MR. TRACY: It looks to me as if this means another meeting unless we can do it right here today.

CHAIRMAN LARSON: We might ask Mr. Iorns how much time he thinks this task will take.

MR. IORNS: I think it would not involve too extensive work. In regard to the alteration proposals on storage, I think we have most of that task worked. It would be applying these various limiting quantities as outlined to the water supplies that are available and preparing from that tabulations and graphs showing whether or not that would be filled and also making an estimate of what effect that would have on downstream use.

MR. COOPER: How long would it take you to do that?

MR. IORNS: Can you do that in a month, Wallie?

MR. JIBSON: Yes - I want to be sure that we are clear on Mr. Tracy's proposal. That was 30,000 and at border 36,000 regardless of dates?

MR. IORNS: I think we should have a transcript of some of the notes. There are two studies.

MR. MERRILL: Mr. Tracy on your matter why not take that fundamental of 23,000 and then 36,000?

MR. TRACY: Today there is a million ac. ft. of storage in the Bear Lake and we are quibbling and it is a bagatelle. We are dealing with such a small amount.

MR. MILLER: I cannot get your philosophy on this deal and why the change. I think we have gone a long ways and if we stick to these figures and make these calculations we may accomplish something but if we change we will run into more difficulty and nothing will be accomplished. Speaking for Wyoming, one of the reasons is the shortage. As far as the 23,000 there is a shortage eight years in 25 - that would affect us very vitally as to that storage right and we would like a little more firm supply if we can possibly have it.

MR. COOPER: You would like a change in the dates so as to firm up the storage. The Judge and I agreed to have an alternating date and make it up to April 30th.

MR. MILLER: The 23,000 just does not meet the requirements and if the 36,000 could be attained in years when water supply was otherwise generally plentiful. That amount of storage could be accomplished without too much of detriment.

MR. TRACY: Mr. Iorns, may I ask a question? You had a table here where it shows that certain amount of storage could be put in the Upper Basin which would not interfere with anybody. What was that figure?

MR. IORNS: I don't think there was any that would not interfere with anyone.

MR. TRACY: Then there were some tables where you had primary storage and secondary storage.

MR. IORNS: Where it did offer various amounts? Water could be stored between Oct. 30 and April 30th. The 30,000 figure is already available. The 23,000 figure would have to be applied. The effect would be hard to state right now. That stipulation is a little different than the one on which we prepared the previous study. The previous study was prepared so that they would be able to store a certain amount, total storage between October 15 and April 15th and then there are two different conditions so our former figures while being approximate would not show the results of this new suggestion.

MR. COOPER: We are trying to arrive at a figure where the people above Bear Lake will have a firm dependable storage and that is the reason why we are willing to compromise on this date, making it two weeks later in order that they will have that chance.

MR. TRACY: Of course, Mr. Chairman, we could go back to the original proposition. In the flush years let them store and in the lean years let them be cut down. That does not give any firm right and leaves everyone up in the air.

MR. IORNS: I might say without consideration of making a study, that on the basis of studies in the past, there would be very little usable water that could be stored upstream after April 3rd when it is contingent on the flow above border being at 700 sec. ft.

MR. MERRILL: In other words this prime storage of which they speak could not economically be handled after April 3rd?

MR. IORNS: If we take one of my reports here for the total requirements I believe I can give you that answer quite close here at the present time. In Report No. 18 figures of storable water supply April 30th. If you have Report No. 18 turn to page 22 in that report. Turn rather to page 21 instead of page 22. If you look down the 2nd column on the page you will see quantity of water storable Oct. 30 to April. If you look over in the column titled storage period Oct. to April 30 natural reservoir contents to May 1st. The next column shows deficiency. 1935, 1940, 1941 show shortages. Storage upstream in any quantitative amount will have to come principally from winter runoff. There is not enough times when the high water runoff is above 700 sec. ft. at border and storage at that time would not interfere with downstream.

MR. MILLER: Could this proposal of Mr. Tracy and that say for a firm storage of 30,000 be provided, with a provision of additional storage up to 36,000 when border is above 750.

MR. IORNS: You will notice in table 15 that that would have been available because border was above 750 ft.

MR. TRACY: It appears to me that there is not much difference between the '30 or '35 storage excepting in those lean years. As I have said before the principal purpose that would be effected would be the June storage which would affect the possible use of power. It would not affect the users downstream at all.

MR. COOPER: I will have to beg to differ because if we keep taking this other amount from storage downstream it will accumulate into quite a considerable amount of water. And the amount of water in Bear Lake now represents judicious, careful handling of the water over a number of years. The lesson was learned in 1934 that there must be judicious handling of that water in order to preserve the economy of this country and if you start taking it away and continue to take it away it is going to accumulate into quite a good deal of water over a period. There is no use in arguing. It is going to make a difference to an Idaho user. Now the irrigators are not the only users. We consider the power company an Idaho user as well as we do an irrigator and we consider that their interest is of just as much importance to Idaho. We have people who own stock of the power company and they have an interest in that way. We feel that we are obligated to protect their interest. They have handled the water frugally and generated electrical energy through coal and oil and used the water judiciously and therefore the accumulation which is a protection to the economy of the downstream user.

MR. TRACY: I agree, Mr. Cooper, substantially with what you say there. I think the power company has handled that situation very well and they are just as much of a user as the farmer downstream. I think all of us will admit these facts, but I still maintain that that little thing - that big dab of water - won't make

any material difference in the power uses over the years. You spread it out over and with return flow getting into Bear Lake and on downstream, I feel is not going to hurt the folks down there at all. Sure it is a concession. If you went into court and showed you have been using it continuously from 1912, that is all true. But are we going to sit idly by and not develop, or are we going to give the boys upstairs a little chance? We have been restricting them, that is as far as they can go while those below have a million acre feet of water to play with. I think that should be considered.

MR. COOPER: We are considering your people along with our own. You recognize the rights in Box Elder County. I think just as valid, don't you?

MR. TRACY: I certainly do.

MR. COOPER: All right, when we protect Bear Lake we are protecting those people. We have a natural flow right. Of course, they do also, just the same as we do so that our rights and our interests are parallel. We are at a higher elevation, consequently we operate under a few more difficulties but our interests are the same and there are Utah people and we are considering their rights, and we are considering the power company an Idaho user. And we want to try to insist that the rights of these people be protected and at the same time we are making concessions and considerations for the people up above. We have come quite a ways, I think.

CHAIRMAN LARSON: Any comments?

MR. MILLER: Well, I think that probably we should adhere to our original idea. If we wait for the comments of the Logan office on these alternate proposals and then Wyoming wish to confer with their people at least to see how these proposals will go, while the Logan office is working we will also have time to have our conference up in our country and perhaps we can schedule another meeting with the commission at a relatively early date.

MR. MERRILL: That is all right but I think Idaho has gone, I am confident, the limit. This 29,500 ac. ft. we struck right in between as a compromise proposal. That 65-35 was a compromise proposal in order to satisfy the people and then on this other matter of limitation if that emergency clause can be in there we think we can get that by, but we think that is a matter of necessity and they can't be in a position where the lights would go out. It seems to me that if our proposal appeals to you people and you have another hearing and the drafting of it will be left to the drafting commission we might get over the border. There are other minor matters that the drafting committee will have to consider, of course. These are the major ones.

MR. LARSON: Any other comment? Mr. Tracy.

MR. TRACY: I have no objection to having another meeting. I think we should within thirty days.

MR. MERRILL: After election.

MR. TRACY: Yes and then go back to our people and have a proposition from Wyo. and a proposition from Idaho and a proposition from Utah.

MR. JONES: I would like to ask Mr. Cooper a question: Was there a suggestion from you that this study by the Logan office shall also include a study of what would be the effect on storable waters upstream if 23,000 ac. ft. was used in the place of the 30,000 and 16,000 as the additional amount that could be stored when the border is above 750. Did you want that study made?

MR. COOPER: I thought you had that in these figures here.

MR. MILLER: I take it, Mr. Cooper, the last offer is upon the 29,500. The limitation as we have it embodied here that is the proposal. And there is no thought on your part to entertain any other additional storage?

MR. COOPER: Not at the present.

MR. MILLER: In other words, what we have is your proposal of 29,500 ac. ft. plus the limitations as you set forth?

MR. COOPER: And modified to the extent of allowing storage to April 30th. Yes. The figures on that are already shown as essentially prepared.

MR. THOMAS: I would like to say to Mr. Tracy the suggestion that you made on this 30,000 plus the additional 6,000 to make the total 36,000, the answers to any study are already available in Report No. 25. The procedures would come out of the same answers as are in Report No. 25. See Plate No. 6 in the back.

MR. TRACY: That answers our question but it does not mean anything. I wonder if we are clear now on this information that Mr. Iorns' office is going to furnish us? I think there is some question on it.

MR. IORNS: The only thing left now would be this relative draft of 35-65 as compared with 43-57.

MR. TRACY: May I summarize Utah's situation. The lower companies would not object to reducing to 30,000 ac. ft. so far as the lower basins are concerned with Utah. The Upper Basin, which is similar to that of Wyoming, will determine its attitude on the question. So it limits that factor down to that proposition.

MR. PERSON: Mr. Chairman, I think it is necessary that we have a meeting among ourselves in Wyoming to consider this proposal and that you as the Federal representative will be notified in due time as to what Wyoming's position will be.

MR. TRACY: We will have a little problem between Utah and Wyoming as to the division in either case. Would it be well for us to meet?

MR. MILLER: Perhaps it would, Mr. Tracy. We will arrive at a decision and you will be notified. The problems of the two areas are very much in common and we will consider it and let you know. Of course, there are two factors, whether we want to consider the flow and whether we want to consider the offer jointly.

But we will get in touch directly with Mr. Bishop and I think it will be a relatively short time before a decision can be reached as far as our position is concerned.

CHAIRMAN LARSON: Well, if you have clear what the Logan office is to do.

MR. IOHNS: It does not appear that there is anything.

MR. MILLER: I do move then that the Logan office be requested to prepare a study showing the effect of the proposal of Idaho that the water in the central division be divided upon basis of 35% to Wyoming and 65% to Idaho.

MR. McMILL: We would like three columns, one on a priority basis and also on the 43-57 basis.

MR. IOHNS: In Report No. 14 I discussed and outlined from affidavits that I have noted in connection with the study of the Mountpelier-Preston Irrigation Company, and applying these to the acreages or lands described in the decree, I worked out what appeared to me might have been an adjustment. I will admit that it is not a perfect summation but I think it does show the maximum flow in that direction.

MR. TRACY: Which are they using the stipulations or the decrees?

MR. IOHNS: It will be indicated the publication as outlined in my Report No. 23. I believe it is Report No. 16. I do not have it here.

MR. MILLER: Restate motion - copy motion as stated and add:

And also upon the basis of 43% to Wyoming, 57% to Idaho;
and upon the basis of priority of rights within the
boundaries of the two States in the Central Division.

Motion seconded by Mr. Cooper and carried.

MR. TRACY: I move that the Logan office make a report based upon storage in the Upper Basin of 29,500 ac. ft. showing the storage available at the Woodruff Narrows by each year from 1924 to 1948, from the period October 1st to April

30th; also what effect such storage will have on the water users below Bear Lake and also what effect it will have on power water segregated between irrigation use and power use, based upon the stipulation proposed by Idaho fixing the elevation of Bear Lake at 5,914.5 feet; also the amount of such storage of 29,500 ac. ft. with a proposed reservoir at Woodruff Narrows with the acre ft. and acres of land that would be irrigated under such reservoir changed between the States of Utah and Wyoming; also the amount of exchange water that can be provided for watering land above said reservoir in Wyoming in connection with the Bear River Canal and the Francis Lee Canal, also a table showing the possible storage at the Hilliard Reservoir site and the lands that would be irrigated in acres and amount of water that would be distributed in acre feet in the States of Wyoming and Utah. That a duplicate report be made upon the basis of 36,000 ac. ft. storage above Bear Lake.

CHAIRMAN LARSON: Is there a second?

MR. MILLER: I will second it.

CHAIRMAN LARSON: You have heard the motion made by Mr. Tracy, seconded by Mr. Miller, anyone wish to speak to the motion?

MR. THOMAS: I would like to call attention to one thing. It seems to me it is quite a lot of work that Mr. Tracy has outlined, and it would be very easy to get that work in after - If you will round off this 29,500 figure to 30,000 because these figures are already available, - for the purpose of this study.

MR. TRACY: I am certainly agreeable to Mr. Thomas' suggestion.

MR. COOPER: It is perfectly agreeable for study purposes.

MR. TRACY: I suggest we substitute 30,000 instead of 29,500.

Motion carried.

CHAIRMAN LARSON: I assume with that assignment there will be no further discussion on the compact. Idaho? Utah? We will hear from Mr. Iorns as to two problems he has and how he thinks they should be handled.

Mr. IORNS: I had a meeting at noon with Mr. Kulp, Mr. Tracy and Mr. Miller, in which we went over the program, and I would like to report the recommendations of that group that came out of that meeting as a recommendation of a committee appointed for that purpose. Here is the report. And Mr. Kulp, if this is not as we had it lined up, I hope it is all right.

A committee composed of Mark Kulp, Joseph Tracy and David Miller met with W. V. Iorns during the noon hour to consider the stream gaging program for the 1953-54 biennium. The committee also considered possible needs of the commission for said states and for compact assistance as may be required in preparation with the Geological Survey. The committee recommends the following:

1- The continuation of the Stream Gaging program as outlined in the following listing of stream gaging stations.

2- That the estimated cost of \$51,200.00 for continuation of the stream gaging program for the biennium beginning July 1, 1953, and ending June 30, 1955, be divided equally among the three States in cooperative programs with the Geological Survey.

3- That an office be maintained by the Geological Survey in the Bear River Basin to carry out the stream gaging program.

4- That the States and Geological Survey provide in their budgets for the biennium an additional \$20,000.00 for such special studies as may be needed by the commission in its compact negotiations to carry out the above program.

5- The States each include in their State budget requests \$11,866.68 for the biennium beginning July 1st, 1953, and ending June 30, 1955, for stream gaging and compact assistance.

MR. SPAULDING: I move the approval of the recommendations.

MR. TRACY: I second it.

Unanimously carried.

MR. IORNS: That does not include, Mr. Tracy, the operation of that group of canals in the Woodruff-Randolph section.

I think it would be well to list the stations included in this program.

MR. IORNS: They will be listed.

CHAIRMAN: The only order of business is to set date for the next meeting.

It was agreed that the next meeting will be held November 6 and 7th, 1952, at Salt Lake City.

Adjourned.