

BEAR RIVER COMPACT COMMISSION

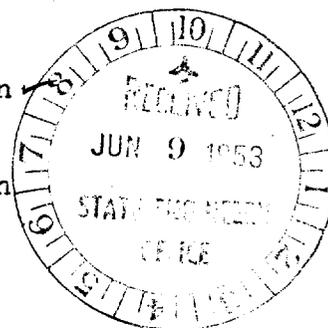
MINUTES OF MEETING, SALT LAKE CITY, UTAH, JANUARY 9, 1953

A meeting of the Bear River Compact Commission was held in the Governor's Board Room, January 9, 1953. The following Compact Commissioners, Assistant Compact Commissioners and Advisors were present:

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

F. B. Myers  
P. W. Spaulding  
E. C. Gradert  
David P. Miller  
H. T. Person  
Melvin Lauridsen  
A. L. Merrill  
Mark R. Kulp  
Robert E. Smylie  
W. N. Jibson  
J. A. Howell  
L. B. Caine ✓

E. K. Thomas  
E. J. Baird  
A. V. Smoot ✓  
O. A. Christensen ✓  
C. R. Nate  
J. W. Serrine  
Wilford M. Burton  
Gerald Irvine  
E. J. Skeen  
E. R. Callister  
E. G. Thorum



Chairman Larson read a letter received from Clinton D. Vernon regarding his resignation, and a motion was made and seconded to write Mr. Vernon a letter thanking him for his valuable assistance to the Commission.

CHAIRMAN LARSON: I will first call on Mr. Skeen to review what we did at the last meeting.

MR. SKEEN: We do not have available the minutes taken at the last Compact Commission meeting. They were transcribed by Mrs. Anderson and Mr. Vernon now has them in his possession. I didn't even take rough minutes on the meeting. No doubt all of

you remember just as much about it as I do. As I recall, a motion was made toward the close of the meeting, after discussion of the upstream storage problem and some discussion of the division of water in the central division, to the effect that Mr. Cooper and Mr. Tracy meet with the representatives of the Utah Power & Light Company and the Utah-Idaho Sugar Company for discussion of the contract arrangements respecting storage water in Bear Lake with the idea, I think, of trying to work out an arrangement for an irrigation reserve in Bear Lake by contract rather than by trying to insert a provision in the Compact. The meetings were held and I assume that the states at the proper time will want to discuss the results of the meetings. I believe that at the last meeting the old controversy of upstream storage above Bear Lake was the principal controversy facing this group and as a continuation of the last meeting, perhaps that problem should be discussed first at this meeting.

Chairman Larson suggested that the three states be called upon in alphabetical order for any comments they had on anything that had transpired since the last meeting.

MR. COOPER - IDAHO: At the last meeting, we made a proposal for our state which provided that we would be willing to recommend to our people that we permit an upstream storage of 29,500 ac. ft. if the people upstream were willing to agree upon that amount; provided that the capacity be limited so that the storage will not be accumulative; provided that the water in the central division

be divided on a basis of 35% to Wyoming and 65% to Idaho; and provided further, that Paragraph A in Article V be deleted, which limited the storage in Bear Lake. After some discussion, the upper people did not accept the 29,500 ac. ft. proposal and we were obliged, under the circumstances, to make a statement that we would go back to the 23,000 ac. ft. until future arrangements could be made. Now Idaho is still willing to negotiate. We are willing to talk the thing over, but for the present that is where we stand.

MR. TRACY - UTAH: At the last meeting, I believe, a resolution was passed recommending that the representative of Utah use his good office to see if he could get the Utah interests together and agree upon amount of storage in the upper basin and also to agree upon the item of fixing the elevation of Bear Lake as <sup>?</sup> between irrigation uses and power uses. Mr. Cooper and I had two meetings with the Utah-Idaho Sugar Company and the Utah Power & Light Company. We had one meeting on December 10th and another on December 29th and I will report at this time that no change in the attitude of the group has been made as to the amount of storage. I can report that the possibility of agreement lies between 30,000 ac. ft. and 36,000 ac. ft. additional storage in the upper basin. We have been unable to arrange for a meeting with Wyoming as to the division between the upstream storage as between Utah and Wyoming. That arrangement will have to be made at a later date. That is all I have to report on at this time.

30 000  
76  
36 000

MR. COOPER: There was one other item that might be well to report on. That was to the effect that the Sugar Company would stand firmly on the contract with the Utah Power & Light Company. They did withdraw their objection as to the minimum level on the lake. They had previously stated that they insisted on a level on the lake of 5,914.5 or more, but in our meeting they decided they would withdraw that requirement.

MR. TRACY: I think Mr. Cooper's statement of the Sugar Company's attitude toward fixing the elevation of Bear Lake as between irrigation and power - Mr. Boyle did make the statement, as I understood it, that he was neutral on that proposition. That was my understanding. I might add this, that the Sugar Company representatives made the statement that the Company had gotten rid of practically all of its water rights to individuals owners in the lower basin and it would be absolutely impossible to get agreement between the contract holders and the Sugar Company as to storage in the upper basin.

MR. BISHOP - WYOMING: We had a meeting day before yesterday with water users in Cokeville and in answering their questions, we gave them information on what would happen to them if a compact were negotiated on a basis of 43-57 in the central division, and of course they asked the question if they take any water away, what are we going to do about it? We said we were providing for storage, the total amount of which would be distributed between the states. Those people expect to be shut down. They are going to have to be recognized as having a right to store some water. We

feel a couple of thousand acre-feet on Smith's Fork unless we do something like that, we would have opposition from those people. In conclusion, they did go on record as saying that they would approve our compact provided that it contained the 43-57 figures which were the figures used for the study that we explained to them. They couldn't see how they could agree to give up any more of their water. We aren't taking any water away from anyone in the long run, We're just trying to get what is fair and equitable.

*Cokeville*

Yesterday, we had a meeting in Evanston and, of course, I got jumped on a bit for going below 100,000. The meeting ended up with a sort of a vote of confidence in the Commissioners that are representing that part of the area and with the understanding that they would go along if we wouldn't go below 36,000 ac. ft., but they couldn't go below that, and that's the situation that we're up against right at the present time. My thought is that if we've got to get a couple of thousand ac. ft. over that. I believe you all realize what we're up against. There's none of us that can come out as individuals and say that we're going to agree to cut those people's water down without their consent. Those figures are based on areas that are irrigated and if we're going to agree at all to have the water shut down, I don't know how you can work out a more equitable basis than those areas we used in determining the percentages.

*Mineral*

MR. TRACY: Mr. Johnson and Mr. Hopkins are on the committee for Utah. They represent the upper basin. I have been unable to get a meeting with those two gentlemen and get statements from

them as to what their present attitude is. So I am in the dark so far as the representation of that upper basin is concerned at this time.

MR. BISHOP: I ~~do not believe that we are in a position to sign any compact.~~ I think we should have studies by the Engineering Committee to see what the needs are in Utah, Wyoming and Smith's Fork, and see what is the reasonable needs of these areas. It seems to me that we have to have some better information on that before we can be in a position to sign the compact. We might be convinced in our own minds that it would be all right to let those studies go, but personally, I believe that it is necessary. We believe that the water is available. \_\_\_\_\_

MR. MERRILL: We have to Recognize prior rights, the priority in Idaho. The Idaho statute definitely says that.

MR. COOPER: We could probably go into a conference and talk the thing over among ourselves and come back with a proposal if that is what you would like. We feel, however, that by granting upstream storage that we're granting a right that hasn't been heretofore enjoyed by the people upstream and we feel, naturally, inasmuch as we have impounded the water for all these years that it has been getting away and a lot of it otherwise would have been wasted. We think they are gaining by reason of the compact rather than losing. However, we're willing to recess and talk it over and make further proposals.

MR. SMYLIE: <sup>att. 9<sup>th</sup></sup> You made some suggestion about further studies. I wonder if you would explain that a little bit.

MR. BISHOP: The water users in Wyoming want to know what their needs are going to be. They feel that they should have a right to build some reservoirs and store some of their water. We should explain to them how much they would be shut off and, of course, they will be disappointed, naturally. That's one of the reasons why we held the meeting. We don't want to "kid" them into believing that they're not going to be shut off. I believe all of you realize that when the water gets to a certain level it wouldn't matter if you shut off all the water in the upper division, you couldn't get two percent of it in the lower division. We're not going to shut people down up above to get more down to the lower division. I am sure that the Commission wouldn't expect to do something like that.

MR. LARSON: Do you three State Commissioners want to get together and talk things over? How do you want to proceed?

MR. COOPER: I would say that the State Commissioners should meet with their advisors before they get together.

Mr. Tracy recommended that the three commissioners representing the three states, Cooper, Idaho; Bishop, Wyoming and Tracy, Utah, should come back with their report and recommendation as to what the state procedure should be.

*did they meet?*

The meeting adjourned until 1 o'clock.

MR. COOPER: Pursuant to your request, we adjourned - Idaho caucused and has some tentative proposals prepared. However, the Commissioners from the other two states feel that there should be some further studies made by the Engineering Committee determining the requirements and the availability of water upstream, and

we thought that inasmuch as they felt that way, there wasn't any use to submit our proposal until they decide what they would like to do.

MR. TRACY: We, the Commissioners from Utah, are ready to report if the other states are, as to the recommendation, but I still think we possibly have not educated the water users as to just what difference upstream storage will make and what it will do to them so far as the water supply is concerned, so I go along with the idea of Mr. Bishop of further studies during the coming summer as to the availability of water and supplemental water, if any, necessary to satisfy the upper users, together with a further study and an enlarged study as to the possibilities of fixing the amount of storage in the upper basin and a division between the states of Wyoming and Utah.

Mr. Tracy

MR. BISHOP: From our study, 36,000 ac. ft. is reasonably available and within what we consider to be equitable. It's as low as we can go on the equitable share of storage water and now we would like to know what the reasonable needs of our people are. I wonder, if it is worthwhile, if there is any chance that that figure can be adopted. But if it were adopted, we would like to know what the needs are in Utah and what the needs are on Smith's Fork and the upper valley of Wyoming. As far as I am concerned and our group is concerned, we are willing to go along with further investigations by the Engineering Committee to find out what the reasonable distribution of that amount of water would be if that amount is acceptable. If it isn't, I wonder whether we ought to continue.

Jibson's Report

MR. LARSON: How do you want to proceed?

MR. BISHOP: We should have a period of a few months to do some more work and get together on this amount. If we can get together on the amount, the distribution can be worked out between Utah and Wyoming. I do not believe Utah wants more than its equitable share. I am sure our group will go along in the same attitude.

MR. LARSON: Is it the opinion of the three groups that there is no hope of reaching a decision to go to the Legislature?

MR. TRACY: I don't feel ready to write a compact at this time.

MR. COOPER: Certainly we're not prepared to compact on 36,000 ac. ft. of upstream storage because we feel that that would dip into the irrigation interests quite seriously and as long as the other two states are insisting that they think that's the equitable share, we don't think that it is, we are not going to decide to compact on something that we feel will be detrimental to our interests and we think 36,000 is too high.

Mr. Person commented that his views hadn't changed.

MR. COOPER: If you look at the report, No. 19, Page 39, December 15, you will find that in 12 years of the 25 that there is less water available from October 1 to April 15 than we were agreeing to have stored upstream. We made a modification in that proposal, a graduated flow there, but we did not get a chance to propose it. We are willing to compromise on that thing, more or less. These people are willing to reason with you gentlemen. We have a fair proposition worked out.

MR. PERSON: I think, Fred, we will be glad to listen to your proposition on that.

MR. COOPER: Because of existing priorities, we propose to recommend a division of water as between Idaho and Wyoming in the Central Division, as follows: When the divertible flow falls to 800 sec. ft. or below, the division shall be, Idaho 57%, Wyoming 43%. When the divertible flow falls to 600 sec. ft. or below, the division shall be Idaho, 61%, Wyoming 39%. When the divertible flow falls to 400 sec. ft. or below, the division shall be Idaho 65%, Wyoming 35%. That was based on the priority of rights that these people have.

Mr. Person asked Mr. Cooper if they would object to adding the 207 sec. ft. clause to that.

Mr. Cooper said that they would not permit the 207 sec. ft. clause to go in it.

MR. PERSON: That 207 sec. ft. clause is a matter of priority. I think you will find that we would accept it quite quickly.

MR. COOPER: We have been using that 207 sec. ft. down on the tail-end there and we have just gotten used to that. We'd like to have it.

MR. TRACY: This division that they have been speaking about now really doesn't have any effect on the amount of storage in the upper basin, does it?

MR. PERSON: No relationship whatsoever.

MR. COOPER: In the first proposal there was some consideration given there. Consequently this graduated proposal is being made. I agree with Mr. Bishop that we should decide this matter

here and not refer it to the Supreme Court. This may be interesting. In our fourth tentative proposal, we say this. This, of course, is a tentative proposal: Idaho suggests that an additional storage of not to exceed 29,000 acre feet be allowed for irrigation in Utah and Wyoming above Pixley Dam in the Upper Division; provided, however, that an additional 2,000 acre feet be allowed for storage on Smith's Fork for use on lands in Wyoming and Idaho located in the Central Division; provided, however, that storage above Border shall never exceed 45,000 acre feet, including the present storage.

45,000  
14,000  
31,000 AF.

MR. TRACY: Then I understand from your figures that that would make additional storage in the upper basin a total of 31,000 acre feet.

MR. COOPER: When you get anything above 23,000, you are taking it out of the irrigation reserve.

MR. LARSON: Does anyone have any compromise suggestion or suggestions for procedure?

MR. MERRILL: It has been the Idaho theory that this is suggested as a compromise.

MR. TRACY: I make a suggestion that we compromise on 33,000 acre feet.

MR. LARSON: With the idea these other things be studied later, including Smith Fork?

MR. TRACY: Including Smiths Fork.

MR. LARSON: Idaho and Wyoming - you heard Mr. Tracy's suggestion?

MR. COOPER: I would like to ask Mr. Tracy a question - if he means that they make the studies based on 33,000.

MR. TRACY: That is the basis to make the study - on the 33,000, and in that study they will restudy the effect on Bear Lake and the lower users' water situation with that figure in mind. I will make a motion. I would like that study to be re-made. I am not too well convinced on some of the figures that are in that study on 23,000 ac. ft. basis. I think they should be restudied along with this figure, and I think if we come up with that answer and just what it means and all the figures, that we will have arrived at some solution and worthwhile facts upon which we can make a division.

MR. COOPER: Mr. Tracy, would you be willing to agree that the studies be made from 20,000 to 33,000 instead of starting at 33,000?

MR. TRACY: I wouldn't object. I would say we should make the study on that basis from 20,000 to 40,000 in five thousand ac. ft. steps.

MR. JIBSON: We have confined these engineering studies pretty much to investigating sites at Hilliard and Woodruff Narrows on the main river. As I gather what you have suggested, you want to extend that to everything above Bear Lake. The available supplies that we have studied have been on the main river. We have mentioned tributary supplies, but never in much detail.

MR. TRACY: The reason I would like that study - the statement has been made that some of those streams never do reach the Bear

River, for instance, Woodruff Creek. That fact has been brought out and I think we ought to bring in these other little streams and find out what the situation is.

MR. BISHOP: If Mr. Tracy will amend that motion to state studies on 20, 25, 30 and 36. I want a study on 36 specifically because our people have gone on record that they can't go below that. I would like a study on that. If you will amend your motion to include that, I will second the motion.

MR. TRACY: I will agree to that change.

MR. BISHOP: I will second it.

MR. COOPER: That's perfectly alright.

MR. LARSON: You have heard Mr. Tracy's motion and Mr. Cooper's suggestion and Mr. Bishop's suggestion, and I think the record will show what it is.

The motion was carried.

MR. JIBSON: It shouldn't entail too much. We don't have an awful lot of information on the tributaries, but we have some pretty fair information on some of their supplies. This requirement is something that may bother us a little bit. I take it that there is no disagreement on the previous studies of Mr. Iorns on consumptive use and head gate requirements.

MR. BISHOP: I am in agreement with it.

MR. JIBSON: The Engineering Committee could take those figures and extend them to the tributaries and then estimate or compute the total supplies on the tributaries.

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MR. LARSON: Any specific question? It is clearly in mind what your committee is to do?

MR. BISHOP: Eliminate the tributaries and let them go unrestricted. It would make them a lot easier to administer. This way it will be tough on Wyoming to administer this water on account of the tributary being included in the divertible flow.

MR. JIBSON: I have another question in connection with that. In the past when we referred to Smiths Fork, Mr. Iorns has made the estimate that at the present time, Smiths Fork is probably not in need of storage in his opinion. My question is this - in the event of regulation up there and Smiths Fork being reduced, they might need storage. In studying this storage proposition, do you want us to study it from that standpoint - from the standpoint that it will be regulated and their needs will be greater than now? To be consistent with previous reports, we might say Smiths Fork does not need storage. Should we make an estimate of how much depletion those people are going to have in there? If they're depleted so much, they may require some storage to make it up. Is that the line of thinking on this study?

MR. BISHOP: On the other river I think they need more than that. I don't think the water there would take care of all the needs of the upper river.

MR. JIBSON: I was thinking specifically of Smiths Fork.

MR. THOMAS: You will need these things, as I understand the study, to determine the irrigated areas by sources of water supply.

I think you will need the water supply now available. I think you will need the supplemental requirements for those same areas; also an estimate on the water supply available for storage physically and what the Engineering Committee considers to be the practical limit of storage. When it comes to Smiths Fork, it would have to be worked up on two or three different conditions.

MR. LARSON: Can the Commissioners agree on those three conditions of Smiths Fork?

MR. BISHOP: How much of a job would it be, based on the assumption that Idaho made of 35-65, 39-61 and 43-57?

MR. JIBSON: It wouldn't entail too much work if certain assumptions were made. For instance, suppose regulation would require an additional 50 sec. ft. at Border. We don't know how much regulation that will require farther up. In just a few days, the effect of decreased return flow would be felt.

MR. MILLER: I make the suggestion that the Engineering Committee make the study on the basis of 35-65 and one on the 39-61 and 43-57 for the purpose of investigation only.

MR. THOMAS: I had a question. Should it be Border or should it be Stewart Dam? I believe it is my understanding that Idaho is not going to ask for any upstream storage.

MR. KULP: Idaho has never asked for any upstream storage.

MR. JIBSON: Thomas Fork would be included if we carried the study to Stewart Dam.

MR. COOPER: It is a matter of getting sites in Idaho. I would say go on to Stewart Dam.

Mr. Tracy mentioned that there was a communication from Mr. L. B. Johnson which was read by Mr. Spaulding, and was placed in the files.

MR. SMYLIE: As far as the Idaho Commission is concerned, it might be well that should additional storage be taken on Bear River, or any of its tributaries, that the other states be first informed. (There was discussion at this point on new reservoir on Woodruff Creek).

MR. JIBSON: I would like a little more time than we had on the last report. I think we need considerable more time than that to get it together.

Mr. Tracy suggested three months and Mr. Jobson said that would be plenty of time.

MR. LARSON: From what your instructions are, as I understand them, you are going to look into what lands are irrigated on the tributaries and the main stem down to the Stewart Dam and look into the available water supplies, and in that you take into consideration the reasonable storage sites on these tributaries in the main stem.

MR. JIBSON: If we come to Stewart Dam, supplies on the main stream would be much greater. We would have to go into some exchange storage or figure it on a basis of where the sites are. We have to keep sites in the study or we will get a picture that will not be true to facts. Three months would be sufficient.

MR. LARSON: You want to meet some time in April then?

There was some discussion and it was decided that the next meeting would be held on April 23 and 24 at Salt Lake City.

The meeting adjourned.