

MINUTES OF THE  
BEAR RIVER COMMISSION  
SPECIAL MEETING

OCTOBER 13, 1976

BEAR RIVER COMMISSION

Minutes of Special Meeting held in Salt Lake City, Utah

October 13, 1976

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Minutes of a Special Meeting of the BEAR RIVER COMMISSION held in Room 303, State Capitol Building, Salt Lake City, Utah, on Monday, October 13, 1976. The Meeting commenced at 1:30 p.m., with Chairman Wallace N. Jibson presiding.

THOSE PRESENT:

UNITED STATES

Wallace N. Jibson, Chairman and Federal Representative,  
Logan, Utah

COMMISSIONERS

IDAHO

William G. Jenkins, Malad  
Daniel Roberts, Preston  
Clifford J. Skinner, Montpelier

UTAH

Daniel F. Lawrence, Salt Lake City (Secretary-Treasurer)  
Paul Holmgren, Bear River City  
Gordon Peart, Randolph

WYOMING

George Christopulos, Cheyenne  
J. W. Myers, Evanston  
S. Reed Dayton, Cokeville

LEGAL ADVISOR

E. J. Skeen, Salt Lake City

ALTERNATES AND OTHERS IN ATTENDANCE

R. Keith Higginson, Ex officio Member, Boise, Idaho  
Russell Stoker, River Commissioner, Soda Springs, Idaho  
Alan Robertson, IDWR, Boise, Idaho  
Don W. & Dolores Gilbert, Last Chance Canal, Idaho  
Ken & LeOra Tarbet, Last Chance Canal, Idaho

Calvin W. Funk, Alternate Commissioner, Richmond, Utah  
Dee C. Hansen, Utah State Engineer, Salt Lake City  
Mark Page, Utah State Area Engineer Office, Logan  
Roland Robison, Ass't Regional Solicitor, Salt Lake City  
Norman Stauffer, Div. of Water Resources, Utah  
Marion Olsen, Utah, Div. Water Resources  
E. H. Southwick, Bd. Water Resources, Utah  
Owen W. Burnham, Gr. Salt Lake Div., Utah  
Bill Bell, Rich Co., Utah

John A. Teichert, State Bd. of Control, Cokeville  
Marvin Bollschweiler, St. Bd. of Control, Evanston, Wyoming  
Clem Lord, St. Engineer's Office, Wyoming  
Jack Palma, Atty. General's Office, Wyoming

Ted Arnow, U.S. Geological Survey, Salt Lake City, Utah  
Clifford Alldredge, U.S. Bureau of Reclamation, Salt Lake City

Connie Borrowman, Secretary

Roger Pusey, Deseret News  
David Briscoe, Assoc. Press

M I N U T E S

BEAR RIVER COMMISSION MEETING

October 13, 1976

Room 303

State Capitol Building

Salt Lake City, Utah

Verbatim Minutes of Bear River Commission meeting held October 13, 1976, in Room 303, State Capitol Building, Salt Lake City, Utah. The meeting commenced at 1:30 p.m., with Chairman Wallace N. Jibson presiding.

CHAIRMAN JIBSON: It is time to officially call to order this Special Meeting of the Bear River Commission.

As I contemplated this meeting, I glanced back to some of the previous meetings and found that this is the 37th meeting that I have attended over a period of 19 years with this particular Commission. Prior to that, I think we had 15 or 20 meetings through six or eight years with the Negotiating Commission that brought forth the present Compact. I also noted that our retired Chairman, E. O. Larson, did not miss a single meeting in all that period of time.

I was also reminded that I hadn't listened to Mr. Larson in those meetings quite as well as I should have done. Today I find myself in a new and somewhat scary seat. As I thought about my role in this meeting, I realized that I didn't know exactly what the Chairman was doing all that time.

I would hope that you will bear with me and assist me in the calling that I have here. I'm sure you will have to have lots of patience with me.

I think at this time it might be appropriate to make some introductions. We have a few new faces. We are happy to have some of the wives here today. I'd like to start out by introducing a few of the Federal people who are here. We are also happy to have E. J. Skeen back with us after two or three meetings without seeing him, while he was down in Nevada. Ed, as you know, is our Legal Advisor to the Commission.

I'm happy to introduce Roland Robison, over here at the right. He is sitting in for Tom Parker. As you will recall, Tom has been assigned temporarily to Idaho Falls to handle the vast number of claims coming in from the Teton Dam disaster. I don't know whether we'll see Tom back in this area or not; I imagine he has a pretty big job there, that's going to take many months to do. We are very happy to have Roland here in his place. He has been in the Washington office for the Department of Interior for about 11 or 12 years. Tom tells me that he

was the Deputy Assistant Secretary of the Interior. So he is well-versed on some of the legal questions we may have, particularly at this time, when considering the Compact for modification.

I would also like to introduce our District Chief for the Geological Survey in the State of Utah - Ted Arnow. He has been with us before. I notice we have Cliff Alldredge, representing the Bureau of Reclamation.

I believe with that group of Federal people, I'll ask each of the States to introduce the people from their States. We'll start out with Utah; Dan, if you will introduce the Utah group.

MR. LAWRENCE: There may be some who don't know me. I'm Dan Lawrence, Interstate Streams Commissioner for Utah, and as such, serve as Chairman of the Utah delegation on this Commission. Paul Holmgren, Commissioner from the Lower Division in Utah; Gordon Peart, the Commissioner for the Upper Division in Utah. We have Calvin Funk, who is the Alternate Commissioner for the Lower Division in Utah. We have Marion Olsen, who is a member of the Utah Board of Water Resources, and who has been serving as Chairman of the Tri-State Negotiating Committee. We also have the Chairman of the Board of Water Resources for Utah, Ed Southwick, here. We have the State Engineer, Mr. Dee Hansen. We have Dr. Norman Stauffer of my staff, and Mark Page from the State Engineer's office in Logan; and Bill Bell, Sim Weston's son-in-law. He wouldn't admit that he was taking Sim's place - but we are happy to have him with us.

CHAIRMAN JIBSON: Okay. Wyoming?

MR. DAYTON: S. Reed Dayton, Wyoming Commissioner. We Myers, President of the Wyoming Senate, and also a Commissioner from Wyoming. We have John Teichert, and Marv Bollschweiler.

MR. LAWRENCE: I understand that George Christopoulos is coming in on the plane. Bert Page of my staff has gone to the airport to pick him up.

MR. DAYTON: We thought that he was going to be here, but hadn't heard anything from him. Thank you.

CHAIRMAN JIBSON: Okay; we'll have the Idaho group.

MR. JENKINS: I'm Grif Jenkins. With Dan Roberts, and Cliff Skinner. We are the three Commissioners from Idaho. Also helping us is Keith Higginson, Director of the Idaho Department of Water Resources. Alan Robertson from his staff. Russ Stoker, Watermaster on the Bear. Ken Tarbet and Mrs. Tarbet; Don Gilbert and his wife.

CHAIRMAN JIBSON: Do we have anyone else who hasn't been introduced?

CHAIRMAN JIBSON: I forgot to introduce myself. I am Wally Jibson of the U.S.G.S., taking over E. O. Larson's position as Chairman of the Commission and as Federal Representative.

#### READING OF MINUTES OF LAST MEETING

CHAIRMAN JIBSON: It has been customary for me to review the Minutes of the last meeting. Since this was a special meeting, we probably could have waited until November; but rather than review two sets of Minutes, or perhaps more, I think it would be proper that we approve the Minutes of our Annual Meeting. I've mailed out copies to those on the mailing list; I assume that you have all received the Minutes to study them over. If there is any reference we need to make, I have about four copies of the minutes here today - if anyone would like to look at these.

#### Review of Minutes of Annual Meeting April 19, 1976

The Annual Meeting was held in Salt Lake City at 10:00 a.m. Commissioners George Christopoulos, Wyoming, and Gordon Peart, Utah, were absent and were represented by Clement R. Lord, Wyoming, and Simeon Weston, Utah. Daniel Roberts was introduced as a new Commissioner from Idaho, replacing Joe Hedin. Officers of the Commission were present except E. J. Skeen, Legan Advisor, who was represented by his son, Richard.

Minutes of the previous meeting were summarized by the Assistant Secretary and approved as distributed.

Paul Holmgren was re-elected as Vice-Chairman to serve another year; also other officers of the Commission as constituted.

The Chairman reported that his resignation had been submitted to the President and would be processed and notification made when a successor is appointed.

The Secretary-Treasurer gave a report on income and expenditures which showed an unexpended balance of \$57,182, of which \$44,250 was obligated to the Geological Survey as of June 30, 1976.

Report of the Assistant Secretary indicated that expected water supply would be about average in the Upper Division and somewhat better than average in the Central and Lower Divisions.

Three budgets were reported, the first to show a downward revision in 1976 fiscal year, the second for the transitional 3-month quarter July-September, and the third for the 1977 fiscal year. The estimated budgets were approved by the Commission. Also, it was decided that the Commission share of the transitional quarter obligations would be paid from reserve funds.

Considerable discussion followed the Assistant Secretary's report relative to updating abstracts of water filings. It was agreed by Motion that the next abstract would be updated as of December 31, 1977, and presented in the April, 1978 meeting. Thereafter, the abstracts would be updated every two years. The usual summary of new applications will continue to be submitted each six months.

Discussion then centered about a request for purchase of industrial water from Bear Lake storage. Evidently, such use would be in violation of Article VB during periods when the Lake is below the Irrigation Reserve.

The Chairman suggested a clarification of Article V of the bylaws relative to designating the Chairman of special committees. It was agreed to, and a request made, for Mr. Skeen to draft the proposed change for approval in the November meeting.

Mr. Higginson mentioned the desires of the three Governors to press for early consideration of amendments to the Compact. He also mentioned Idaho's concern over the present agreement in Woodruff Narrows Reservoir that in effect allows temporary storage of Bear Lake water in the Reservoir for later release as fishery water. Such change, by Article X, should have been applied to and acted upon by the State of Idaho.

Mr. Parker expressed his concern that Federal Agencies were not more involved in the suggested modification of the Compact being considered by the Tri-State negotiating group. It appeared to be the feeling of the Commission that Federal and other interested agencies should not be contacted for response to the proposed amendments until after they are presented to the Bear River Commission.

Members of the Commission and others in the meeting expressed by Motion their appreciation to Chairman Larson for his many years of dedicated service to the Commission.

Meeting adjourned at 11:50 a.m.

## APPROVAL OF MINUTES OF LAST MEETING

CHAIRMAN JIBSON: Do we have any discussion on the Minutes as they were circulated, or summarized here today? If not, I think a Motion is in order to accept the Minutes as they were circulated.

MR. ROBERTS: I so move.

MR. HOLMGREN: Second.

CHAIRMAN JIBSON: It has been moved by Mr. Roberts of Idaho, seconded by Paul Holmgren. Any further discussion? All in favor say "aye". Opposed?

MOTION CARRIED

## REPORT OF CHAIRMAN

CHAIRMAN JIBSON: We didn't make up a regular Agenda for today's meeting. I took our last Agenda so I could catch one or two items that we would like to cover before we go into the business for which this meeting was called. We have approved the Minutes; the Election of Officers does not take place except at the Annual Meeting in April.

For a Report of the Chairman, I think it would be proper that I read into the Minutes my appointment by the President as Federal Representative. This is dated September 9, 1976.

It reads:

Dear Mr. Jibson:

Pursuant to the Act of March 17, 1958, 72 Stat. 32, granting the consent of the Congress to the States of Idaho, Utah and Wyoming to negotiate and enter into a compact for the disposition, allocation, diversion and apportionment of the waters of the Bear River and its tributaries, you are hereby appointed as United States Representative to the Bear River Commission. You shall participate in deliberations of the Commission as the United States Representative and carry out all of the duties and responsibilities of that office.

The Governors of the Compact States have been advised of your appointment, and I am asking the Director of the Office of Management and Budget to notify the affected Federal agencies.

You are requested to report to me through the Director of the Office of Management and Budget.

Sincerely,

Signed Gerald R. Ford

CHAIRMAN JIBSON: A few days later I received copies of the letters sent to the Governors for the official files of the Commission.

I appreciate this opportunity, ladies and gentlemen, to serve in this capacity; to continue to be of service to this Commission. It has been my privilege over the past many years, as I mentioned earlier, of serving in one capacity or another to both the Bear River Commission and the Bear River Negotiating Commission. I am not so naive as to think that these appointments just come naturally; and I would like to, at this time, sincerely thank those among you who have gone out of your way to make this appointment a reality.

I also believe quite strongly that the proposed amendments to the present Compact will be for the benefit of each of the three States. I will stick up for the Compact that we have been working under for the past 19 years. I feel that it has been accomplishing those things that it was intended to accomplish, particularly in the Basin above Bear Lake. The first few years were difficult years in operating under the Compact, because each of the first four years progressively got worse as far as water supply. We started out in 1958, 1959, 1960, and 1961. By the time 1961 rolled around, we were routinely replacing water commissioners in the Cokeville area. I traveled with the Wyoming Commissioner on one occasion (1961) when on June 19 he was cutting the entire water supply from many diversions for the balance of the year. So we had some difficult years. But after that, the water supply picked up; and our people became more accustomed to regulation which, in some areas I'm sure they had not experienced to any extent for 75 or more years.

In the past 15 years no serious problems have come up in the operation of the Compact. Each of the States has complied with the allocations, with a minimum of supervision or 'riding herd' by the Commission. I feel that the present Compact has been operating smoothly.

However, times change; and I have noticed in my 25 or 30 years on the River some very definite changes. I have noted a change in the priority between the various beneficial uses on the River. I think all of you who were in on the earlier negotiations - Reed, Wes, Ed Skeen, and perhaps another one or two - know that considerably more emphasis was given to the beneficial power uses of the River than is given today; simply because most of the power that Utah Power & Light Company was producing was generated from water; and most of the hydroelectric production was in the Bear River system. Today, I understand only 5 or 6 percent of their total power production comes from water. So, we have seen a large change there.

I think it may not be improper for me to say also that I have seen, over the years, a marked change in the Federal-State role - not only in Compact negotiations, but in work toward amendments and other Compact administration. I know that 30 years ago, when a hydrologic study was required by the negotiators, that primarily by necessity they had to come to the Geological Survey and/or the Bureau of Reclamation for such studies. We were happy to cooperate; and I'm sure I speak also for the Bureau of Reclamation that we still stand prepared, and will be happy to cooperate in any areas of study in which our services can be utilized. But, over the years we have seen the respective State agencies increase their facilities; their manpower; their techniques; and today most of this analytical work can be, and is being, done by the respective State agencies. I personally believe that this is the direction that we should be going. I am a firm believer in the more local approach that we can bring to government, at all levels. I am heartily in agreement with the trend that we have taken here with negotiations toward revisions.

Of course, the reason we have met here today, as you all know, is to have a more formal presentation of the suggested amendments that have been worked on for many years by a Negotiating Committee established by the Governors of the respective States. Committee members are now, I think, pretty much in agreement among themselves as to what these amendments should be; and, it's entirely proper that it should be brought before the Commission.

Before we get to that point, I have just a couple of housekeeping items that I would like to present at this time. I have a short report on the budget that needs the approval of of the Commission today - if we can pass a few of these around the table. I did not call in the Budget Committee because we did not change the overall budget for the Bear River Commission that was approved in the April meeting; but it was necessary to do some juggling of budget items - primarily for other purposes; and I would like to present these adjustments at this time.

CHAIRMAN JIBSON: I might mention here that when we approve the budget, in our Annual meetings in April, this is a fairly firm approval on the part of the Commission; however, in many instances our Federal allocation is not firm at that time and it requires some adjusting of the budget at a later date.

What happened - we had so many revisions on that 1976 budget that I can't keep up with them myself - but the last two involve reductions to give a little more carryover in our bank account reserve.

On page 3, the Transitional Quarter Budget, the Federal allocation actually came out showing an increased allocation over what we had first approved; and so I did a little juggling in our Bear River Compact Assistance item, which, incidentally, is a little difficult to arrive at in that 3-month period because of overlapping programs and the items that are set up on an

annual basis. I don't think it is out of line to have reduced that Compact Assistance item so that the Bear River Commission Budget of \$11,780 of which \$20 is by direct expenditure by our Secretary-Treasurer, is the same as originally approved.

Page 4, 1977 Budget, had to be revised in the opposite direction because we had a ceiling put on the Federal contribution of \$78,400 which was a little lower than we had anticipated, and lower than we approved. But here again, the total budget to the Commission did not change for the 15-month period.

If we have any discussion on these revisions or the budget breakdown, we would be happy to hear them at this time. Otherwise, I think a Motion would be in order to approve these budget changes.

MR. LAWRENCE: Mr. Chairman, on the proposed budget for the year ending September 30, 1977, you said there is a ceiling on the Federal participation. Does that have the effect of the entire \$9,900 Bear River Compact Assistance being borne by the Commission; whereas in this current year it is shared 50:50?

MR. JIBSON: No; we adjusted the Compact Assistance item and the stream-gaging (50-50) program to adjust for the revision that we had to make, so the \$49,800 is exactly the amount of budget to the Commission that was approved in the April meeting.

We reduced the stream gaging \$1,300 each side for a total of \$2,600; but increased Compact Assistance \$1,300; and that reduced the total by \$1,300; so, we came out with the same budget as approved for the Commission but \$1,300 less to the Federal side. (Compact Assistance is always budgeted as low as possible because it is not matched with Federal money.)

MR. MYERS: Wally, what you are saying is that the State's contribution is just the same as it was, only the other is reduced; and therefore you reduce stream gaging, et cetera?

MR. JIBSON: Yes. Essentially, what I have had to do is adjust between the stream-gaging item and the assistance to the Bear River Commission which, as you know, is unmatched by the USGS. It is 100% by the Bear River Commission; whereas, the stream-gaging item is paid 50:50 by the Federal government and the Bear River Commission.

Any of you who have your Minutes here can turn back to pages 7 and 8 of my report (which is attached at the end of the Minutes) and see that our Bear River Commission total is \$49,800 on page 8, and on page 7 is \$11,718 - the same as we have in this revised breakdown. So the total budget for 15 months is the same as we have approved.

MR. MYERS: I would move that we adopt the budget changes as outlined by the Chairman.

MR. DAYTON: I would second the Motion.

BEAR RIVER COMMISSION  
22 East Center  
Logan, Utah

October 13, 1976

Wallace N. Jibson

Budget

A detailed breakdown of three budgets was approved April 19 in Commission meeting. The first budget was a revision of the previously approved 1976 fiscal-year budget, wherein stream gaging was reduced \$2,800 (\$1,400 each side). The remaining two budgets included preliminary estimates for the transitional quarter, July - September, and for the 1977 fiscal year.

Toward the end of the fiscal year, we were able to reduce the 1976 budget an additional \$2,000 which required further revision of the budget presented in April. This revision is shown on page 2 and should be approved for audit purposes.

A Cooperative Agreement was prepared in the total amount approved by the Commission for the 15-month period, July 1, 1976 through September 30, 1977. (Commission share, \$60,060). However, for each of the two periods included in the Agreement, revised allocation of the budget was necessary because of changes in the availability of Federal funds. Revised estimates for the transitional quarter and the 1977 fiscal year are shown on pages 3 and 4. Explanation of the revisions is shown at the bottom of each table. Again, the revised budgets should be approved by the Commission even though the 15-month Commission total is the same as approved in April.

BEAR RIVER PROGRAM

DETAIL OF BUDGET

Fiscal Year ending June 30, 1976

April 28, 1975

Revised July 1, 1975

Revised April 19, 1976\*

Revised May 1, 1976\*\*

<u>Detail of Budget</u>	<u>Allocable for stream Gaging (Coop. Agreement)</u>	<u>Bear River compact Assistance (Coop. Agreement)</u>	<u>Administ. Allocation (Direct Expend.)</u>	<u>Total Budget</u>
Personal Services	\$47,583	\$6,677	\$ 0	\$54,260
Travel & Subsistence	6,306	260	0	6,566
Fiscal & Administ. (SLC)	3,240	371	0	3,611
Washington Office Service	6,480	742	0	7,222
Rental (Office & Storage)	3,488	0	0	3,488
Digital Recorders (Rent & Processing)	2,338	0	0	2,338
Office, Supplies, Misc.	2,565	200	25	2,790
Annual Report	0	0	725	725
Treasurer's Bond & Audit	0	0	300	300
Transcript of Minutes	0	0	100	100
Legal Retainer Fee	<u>0</u>	<u>0</u>	<u>300</u>	<u>300</u>
TOTAL	\$72,000	\$8,250	\$1,450	\$81,700
<u>Allocation of Budget</u>				
Geological Survey	\$36,000	\$ 0	\$ 0	\$36,000
Bear River Commission	<u>36,000</u>	<u>8,250</u>	<u>1,450</u>	<u>45,700</u>
TOTAL	\$72,000	\$8,250	\$1,450	\$81,700

\*Reduced Stream Gaging \$2,800 (\$1,400 each side).

\*\*Reduced Stream Gaging an additional \$2,000 (\$1,000 each side) and increased Annual Report budget from \$650 to \$725.

BEAR RIVER PROGRAM

DETAIL OF BUDGET

Transitional Quarter ending September 30, 1976

April 19, 1976

Revised July 1, 1976\*

<u>Detail of Budget</u>	<u>Allocable for stream gaging (Cooper. Agreement)</u>	<u>Bear River Compact Assistance (Cooper. Agreement)</u>	<u>Administ. Allocation (Direct Expendit.)</u>	<u>Total Budget</u>
Personal Services	\$14,750	\$ 935	\$ 0	\$15,685
Travel & Subsistence	1,148	80	0	1,228
Fiscal & Administ. (SLC)	945	57	0	1,002
Washington Office Service	1,890	113	0	2,003
Rental (Office & Storage)	892	0	0	892
Digital Rec.(Rent, process.)	585	0	0	585
Office, Supplies, Misc.	790	75	20	885
Annual Report	0	0	0	0
Treasurer's Bond & Audit	0	0	0	0
Transcript of Minutes	0	0	0	0
Legal Retainer Fee	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	\$21,000	\$1,260	\$20	\$22,280
<u>Allocation of Budget</u>				
Geological Survey	\$10,500	\$ 0	\$ 0	\$10,500
Bear River Commission	<u>10,500</u>	<u>1,260</u>	<u>20</u>	<u>11,780</u>
TOTAL	\$21,000	\$1,260	\$20	\$22,280

\*Increased Geological Survey allocation \$800; reduced Bear River Compact Assistance \$800 which was added to stream gaging.

BEAR RIVER PROGRAM

DETAIL OF BUDGET

Fiscal Year ending September 30, 1977

April 19, 1976

Revised July 1, 1976\*

<u>Detail of Budget</u>	<u>Allocable for Stream Gaging (Coop. Agreement)</u>	<u>Bear River Compact Assistance (Coop. Agreement)</u>	<u>Administ. Allocation (Direct Expend.)</u>	<u>Total Budget</u>
Personal Services	\$54,765	\$8,146	\$ 0	\$62,911
Travel & Subsistence	4,166	200	0	4,366
Fiscal & Administ. (SLC)	3,457	445	0	3,902
Washington Office Service	6,913	890	0	7,803
Rental (Office & Storage)	3,500	0	0	3,500
Digital Recorders (Rent & Processing)	2,338	0	0	2,338
Office, Supplies, Misc.	1,661	219	40	1,920
Annual Report	0	0	720	720
Treasurer's Bond & Audit	0	0	300	300
Transcript of Minutes	0	0	140	140
Legal Retainer Fee	<u>0</u>	<u>0</u>	<u>300</u>	<u>300</u>
TOTAL	\$76,800	\$9,900	\$1,500	\$88,200
<u>Allocation of Budget</u>				
Geological Survey	\$38,400	\$ 0	\$ 0	\$38,400
Bear River Commission	<u>38,400</u>	<u>9,900</u>	<u>1,500</u>	<u>49,800</u>
TOTAL	\$76,800	\$9,900	\$1,500	\$88,200

\*Reduced stream gaging \$1,300 each side, increased Compact assistance \$1,300, reduced total \$1,300.

CHAIRMAN JIBSON: It has been moved and seconded. Any other discussion? All in favor, say "aye". Opposed?

MOTION CARRIED.

CHAIRMAN JIBSON: On our Agenda we call for a Report of the Secretary-Treasurer. Do you have anything, Mr. Lawrence, that you would like to report?

MR. LAWRENCE: No, sir.

CHAIRMAN JIBSON: I think other items on our usual Agenda, which calls for reports of committees, and unfinished business, and new business, we can skip over. I'm sure that the Finance Committee and the Operations Committee have no reports, as they have not met since our last meeting.

So, at this time we would like to call upon the Chairman of the Tri-State Negotiating Committee, Mr. Marion Olsen, to present to the Commission the suggested revisions to the existing Bear River Compact as they have been discussed and agreed upon within the Negotiating Committee. Now, the proper way to handle this, as far as the Commission is concerned - I discussed this with Mr. Skeen and Mr. Robison - is that we should not ask for a vote from each State on each Article that is presented; this will have to be done at a later date. Going back to the final wrapup meeting of the present Compact, the Chairman did have read each Article of the Compact, call for discussion and call for a vote from each of the States.

Today, it would seem to me with your concurrence, that we should hear the presentation of each suggested revision, call for any discussion from the group, and then perhaps vote to receive the suggested revision rather than to approve them. Following this meeting, it will be necessary to circulate to the interested Federal agencies and to other agencies who are interested, a copy of the suggested revisions. It will also be necessary, in accordance with the provisions of the Compact, to hold public hearings in each of the States; and after than time, to then vote to approve or disapprove the suggested revisions.

I would think that in circulating this information to other Federal agencies, that I should ask for their comments not later than our regular meeting in November. If this group feels that it is urgent, we could perhaps step this up. But this would seem to me to be a logical time to have our final wind-up on the approval of the amendments in this Commission.

Marion, we will turn the time to you, for whatever presentation you would like to make.

MR. OLSEN: Thank you, Chairman Jibson - 'Your Honor'.

We are proud to have Wally fill this position. I'm sure all of us who are associated with him know that Wally is qualified to fill this position; and we all look forward to working with

him, and being part of the whole organization.

Ladies and gentlemen; it is a pleasure today for me, especially, and I'm sure it is for each of the negotiators, to have arrived at this, I hope, milestone in our negotiations. It seems like after many years, and many meetings, and a lot of deliberation and thought, that we have arrived at this point.

Just a little brief background for those who are not acquainted. This Committee was organized some seven years ago; and we have worked, I think quite diligently, with the charge that was given to us to come up with a recommendation for some amendments and changes to the Bear River Compact wherein the waters of the complete Bear River system would be allocated to the several States in a fair and legitimate manner. I'm sure that we've had a lot of expertise; many good people who have worked hard at getting the statistics, the information, necessary to use in the deliberations of what we should do in reference to these waters, furnished to us. We are appreciative of the efforts, the unselfish efforts, that have gone into this. And not only that, but the real expenses that have been incurred by the several States in asking people to attend, and to participate in the charge that was given to us by our several States in these negotiations.

We had our Committee organized; and we found that our working committee of the size that we had might become a little bit cumbersome - so we broke ourselves down and formed a Mini-Committee, to which we appointed two members from each State to act in this capacity. We felt that the expertise of the States could be used to a greater advantage by people who were able to sit down regularly and were more knowledgeable, probably, than some of us in the statistical part, or the parts of negotiating that we needed to concern ourselves with.

This Mini-Committee reported back to the main Committee several times, giving us the opportunity to work and deliberate in the regular Negotiating Committee, then, to get together and discuss the recommendations of the Mini-Committee. And we didn't adopt all of the suggestions. We sent them back to do their homework more; and they went back, and they came back with the answers to many of the problems that were brought up in the minds of the individuals who were negotiating.

The Governors, at all times, were very much interested in what was going on; and they showed their interest by assembling themselves together and taking advantage of meeting with the Negotiating team and talking matters over with reference to the charge that was given to us. I think it was at least three or four times that the Governors met together and discussed this very problem.

Then of most recent date, we held a Negotiating meeting - and we had arrived at a point where things were beginning to take shape; and the Governors meeting there in Teton Village in Wyoming very recently with our Mini-group organized to head the deliberations; and at that time received a presentation from the group. And they agreed upon the draft that was given to

them - that it was in fairness to all of the States to the best of their thinking; that they would recommend to the Bear River Commission that the changes be adopted, and they would move forward.

So we had a preliminary draft made of the revised Compact - written out, and so notated that the changes would be clear to read and hopefully we could understand. We have those. They have been made available to all of the Negotiators. We have had an opportunity, each one of us, to review them; but we have not been back together in a negotiating group to review them as a group - but we have reviewed them in the several states.

In talking to Chairman Jibson, we thought that probably it would be well at this time to have these changes in the Compact reviewed and discuss each of the changes - that we might all become in full agreement with the proposals that are there, and clearly understand what the meaning of the changes are; and make any comments that we feel we would like to make in reference to them. I think only can we arrive at a conclusion of such a charge that we have had, only when we have a meeting of the minds, and a complete agreement of what changes are proposed, and what the intent is.

Mr. Dan Lawrence, Director of the Water Resources Board, Utah, who has been representing Utah on the Mini-Committee as well as being one of the Negotiators, has been one of the mainstays in the negotiations for Utah, and is well-acquainted with what the proposals are, and other problems. I think I would like to call on him to lead out in our discussion of the proposed changes to the Compact; and see if we can take some time now and discuss this so that we will arrive at a meeting of the minds in reference to what is contained in the proposal. Dan, would you care to move on?

CHAIRMAN JIBSON: May I just interrupt for a moment? I would like to welcome George Christopulos. Would you like to introduce those with you, George?

MR. CHRISTOPULOS: I have Jack Palma from the Attorney General's office; and this is Clem Lord, who is our Interstate Streams Commissioner.

MR. LAWRENCE: What I thought that I would do, is summarize what I think are the more critical issue changes; then make a Motion concerning the disposition or action by the Commission, and then if it is seconded, that would open it up for detailed discussions to whatever detail it appears required. Immediately following this brief discussion, that's what I thought I would do.

(Mr. Lawrence handed out copies of the "Final Draft of Revised Compact" prepared by Keith Higginson, Idaho Department of Water Resources, and mailed to the Bear River Negotiating Committee on September 30, 1976; and also a "Summary of Proposed Bear River Compact Amendments", prepared by the Utah Division of Water Resources. Both of these items are attached

to, and made a part of, these Minutes.)

MR. LAWRENCE: We did not include every change in this little 2-page review; and it may be, for the record, that we will have to call attention to those. I am not sure that it is necessary. I had in mind making a Motion that we would adopt this document (the "Final Draft of Revised Compact"). Each of the Commission members has received a copy. We'll see how it goes.

With respect to the Lower Division, below Stewart Dam or below Bear Lake, the present Compact does not allocate water as between the States of Utah and Idaho, but does state that water delivery will be based on priority of rights, without regard to State boundary lines, especially in the case of a water-short year; and that paragraph in the Compact which provides for the Commission to deliver water according to this priority has been amended in the proposed new Compact - and it provides that all of those rights, where water has been applied to beneficial use prior to January 1, 1976, will be protected in the same manner as the water rights now are. This Compact does not revise any existing uses; any consumptive-use water rights. It fixes a date certain; and provides that after January 1, 1976, waters over and above those presently used will be allocated on the basis of allocations to States in the Lower Basin. Idaho is granted the first right, or the right to develop the first 125,000 acre-feet of depletion, including groundwater and surface water, in the Lower Division. Utah is granted the right to develop and use 275,000 acre-feet of depletion. Both of these, again, are over and above existing rights as of January 1, 1976. There is further granted to Utah 120,000 acre-feet, which is to be dedicated or used in firming up additional water rights for the Federal Bear River Migratory Bird Refuge.

In some years, especially those years just preceding 1976, there would still be waters available for development, if such development were economically feasible. So Idaho is granted 75,000 acre-feet, and Utah is granted 75,000 acre-feet of the next 150,000 acre-feet of water. This is depletion - not diversion, but depletion.

Then, all water in excess of those amounts, when it occurs - and these occurrences are irregular and undefinable; high flows for short periods in some years, sometimes in a succession of years - Idaho would receive 30% and Utah 70% of those excess waters.

Now in the Upper and Central Divisions, all present rights remain in force as stated in the present Compact; and that specifically includes the storage allocations, some of which have been put to use, and some of which are yet to be developed. For Wyoming and Idaho - those two States have some storage allocation under the existing Compact, storage that has not been fully used; those would remain in force and effect. And in addition to that storage granted by the existing Compact, this new Compact would grant a storage right of 74,500 acre-feet above Bear Lake. It would be divided 4,500 acre-feet of new storage to Idaho; 35,000 acre-feet each to Utah and Wyoming; for a total of 74,500.

There is a provision, though - a qualification in this storage right - that the increase in use of water above Bear Lake is further limited by a depletion amount of 28,000 acre-feet. Idaho was allocated 2,000 -acre-feet of depletion, and Utah and Wyoming 13,000 acre-feet, each.

Now, again, in the Upper Basin, in the extremely wet years, in the short seasons in any one year sometimes, water which ordinarily we have termed as being 'unmanageable', if a State has financial means or other justifications, the right is granted to store additional amounts, unrestricted, above Bear Lake - provided that Bear Lake is spilling. The Compact provides for definitions of when Bear Lake spills; and the intent is that if Beark Lake is spilling to make room for the next year, rather than dump that water into the Great Salt Lake, it is better to store it upstream if the States can find it economically feasible to construct storage for those kinds of opportunities. And the Bear Lake spills are allocated at 6% to Idaho; 47% each to Utah and Wyoming.

Now, without going into all of the other details, I am going to make a Motion that we designate the draft which we received by letter from Keith Higginson, letter dated September 30, 1976, as "The Revised Compact Draft of September 30, 1976", and that it be accepted by the Bear River Compact Commission as the draft which will be used and supported in public hearings to be held November 22, 1976 - for the purpose of detailed review of the revised Compact and for the specific purpose of the Commission adopting that as the revised Compact which would be submitted to the three State legislatures, and to the Congress of the United States. That is my Motion.

CHAIRMAN JIBSON: Do we have a second?

MR. JENKINS: Second the Motion.

MR. MYERS: Is it your idea that after the hearings we will review it and perhaps offer amendments if necessary, et cetera? But not change this at all until after the hearings?

MR. LAWRENCE: That's my Motion. And we certainly, as a matter of principle, would not really expect to hold hearings unless there was probability that we would respond in some way to the testimony given in the hearings. It is my feeling that we have as a group of Negotiators, and the Mini-Committee, and the Governors, come down quite solid; and I feel that it would be my hope that the Bear River Commission members would defend and support this document in its form now, as being the product of the Negotiators and their Governors. But certainly hearings could cause us some reason to consider a change.

CHAIRMAN JIBSON: Then is your Motion to the Committee, or to the Commission?

MR. LAWRENCE: To the Commission. I'm a member of the Commission, and as such, made the Motion.

CHAIRMAN JIBSON: It has been seconded by Mr. Jenkins.

Before we vote on the Motion, I have a question on Sections 2, 3, and 4 at the end of the Compact, which were excluded. I would ask Mr. Skeen to clarify these Sections for us.

MR. SKEEN: The Chairman has referred to Sections 2, 3, and 4 of Public Law 85-348 which is the law that gave the consent of the United States to the adoption of the Compact. I would like to call your attention, particularly, to Section 3 (and that is on page 11 of the blue copy of the Bear River Compact). You will notice in Section 3 it provides, "Any modification of the allocation of storage rights contained in Article V shall become effective only when consented to by the Congress." Now, that has reference to the last sentence in Article V.A., which provides that "...in order to attain the most beneficial use of such additional storage consistent with the requirements of future water development projects, the three Commissioners for Utah and the three Commissioners for Wyoming are hereby authorized, subject to ratification by the legislature of Utah and the legislature of Wyoming, to modify by written agreement the allocations of such additional storage." That provision, when it was read in Washington, nearly defeated the approval of the Compact because of the fact that we didn't include in that language, "consented to by the United States"; and in order to avoid throwing out the Compact, they put this little provision that I read first in the approval act, stating that it shall become effective only when consented to by the Congress.

Now, in the new Draft, on page 15, we have similar language; and we will meet a similar problem - I'm just as sure as I'm sitting here - because of my experience in Washington with the original Compact. I went back and met with the Committee myself; and that doesn't seem too important to us, but it certainly did to them in the Congressional Committee - and we had to handle it in the way indicated.

Now, I would suggest that we not only, in that respect, amend the new provision in the new Draft on page 16 - near the middle of the page - that should be amended to provide for consent by the United States; and while we are at it, I think we also ought to amend the existing language in Paragraph V.A., which is again incorporated into the Draft, on page 15.

CHAIRMAN JIBSON: Are you suggesting, Ed, that this wording be moved up into the Article where it belongs, and left out where it is?

MR. SKEEN: Well, we won't have to say anything about the particular language. This is the language in Public Law 85-348. We won't have anything to do with amending that; that's a law of the United States. But what we want to do is avoid the import of that by amending the Revised Draft to meet that suggestion.

CHAIRMAN JIBSON: In answer to my other question - Would it be necessary, then, to include this, inasmuch as we have included the entire Compact? Will it be necessary to include these three, then, on the last page?

MR. SKEEN: Well, I think No. 3 should be - the thought in No. 3 should be incorporated into the Revised Draft in those two provisions. Now, Section 2 is just simply a little assertion that the United States will cooperate and assist in furthering the purposes of the Compact, and so on; and Section 4 merely reserves the right to alter, amend, or repeal this Act. We won't have anything to do with 2 and 4, as I see it; but we should incorporate into the Revised Draft of the Compact the intent in Section 3.

MR. JENKINS: It is on page 25 as it is in the original Compact, verbatim. What you're saying - it might be clearer if it were also put in on page 15?

MR. SKEEN: Yes. Well, we should incorporate the intent in the existing language - amend that to provide for consent by the United States; and also on page 16, where it refers to the right of the three Commissioners for Utah and the three Commissioners for Wyoming to, subject to ratification by the legislatures of Utah and Wyoming, modify by written agreement, the allocations of such additional storage. Now, that provision will be condemned back in Washington just like the language in the original Compact was. It should be "subject to ratification by the legislature of Utah and the legislature of Wyoming and the legislature of Idaho, with the consent of the Congress of the United States", or some wording with that input. In other words, we can't do anything to amend the Compact without having a provision relating to consent by the United States.

MR. JENKINS: What are you saying, in effect, is you have got to amend it from scratch, if you start.

MR. SKEEN: Yes. We will have to amend - they are rather minor amendments, as far as drafting is concerned - anything we put in here that will result in a modification of the Compact will have to be consented to by the United States.

MR. LAWRENCE: Mr. Chairman - Well, now, the present Article V doesn't have that there; and that was ratified.

MR. SKEEN: Well, that was what I pointed out in the beginning, Dan. That failure to put it in there nearly caused them to throw it out. And that is why they put in the approval Act - this Section 3.

MR. LAWRENCE: Right; and you're asking us to put it at the end, and - ?

MR. SKEEN: I'm asking you to write it in so they won't have to put it in the approving Act.

MR. LAWRENCE: Why should the Congress - if the two States can agree after the Compact has been agreed on by the government, and each State is allocated, why shouldn't the States be able to do as they now have the same authority to do?

MR. SKEEN: Because any Compact has to have the consent of the United States; and they construe that provision of the Constitution to mean that includes any modification of the Compact has to have the consent of the United States.

MR. LAWRENCE: Well, it wouldn't be a modification. It would be just as in the Compact.

MR. SKEEN: Well, all of the modification of the allocation -

MR. LAWRENCE: Which specifically gave permission for the two States to agree among themselves.

MR. SKEEN: Well, that's what I spent hours in Washington arguing with them; and they took care of it by putting this Section 3 in - "Any modification of the allocation of storage rights contained in Article V shall become effective only when consented to by the Congress." Based on experience, I'm merely suggesting that we avoid that kind of an argument again by writing in there that it has to be consented to by the United States.

MR. JENKINS: Mr. Skeen; in view of the fact this was pretty close to 20 years ago when this was done, and this kind of flexibility I think Dan is searching for, I feel is needed in here. Is there any precedent in other compacts that will allow some agreement between the States within a framework of agreement which the Congress had approved in advance? Or have you got to take care of every period, comma, and quotation mark, and then go from scratch on any amendment?

MR. SKEEN: That's 20 years ago; but I can sit here and tell you right now that, if anything, they have tightened things in Washington rather than liberalized them; and I think Mr. Robison will agree with me. I've worked not only on this, but on the Upper Colorado River Compact, and on the Nevada-California draft of a compact. That sort of language, giving two States the right to agree to anything after the compact is written, without the consent of the United States, was avoided. I don't know of any legal decisions on the question, but we aren't in a court - we are back before the committee of Congress; and I think they are going to view the precedent, and especially when they pick this up and see what they did before on this very Compact.

MR. PEART: Was there any determinant that they put that in there? I can't see one.

MR. LAWRENCE: I don't see any problem. I don't have any objection to letting the Federal government tell us in hearings and in their processes that they have to have it back; but I would just as lief not voluntarily put it in until they tell us to.

CHAIRMAN JIBSON: If they don't put it in, Ed, I would understand then that they probably will put Section 3 back in?

MR. SKEEN: Well, that, or they will throw it out. I personally strongly concur with what Dan said; and I can state right now that I wrote the language in that last sentence in Paragraph V. I wanted it there to make some flexibility; and I thought that the United States had no business getting into it. And I had exactly the same thinking 20 years ago that Dan has now. I went back there, and as I say, we had a hard time getting it approved; and they finally agreed to put it in the approving act. I don't see any reason for just putting in something as a 'trial balloon' that may cause trouble back in Washington. If they decide to put it back in like they did before, the consent is going to be required anyway; and I don't see any reason, personally, for again raising the issue. Maybe if the Commission feels strongly enough about it, they want to try it; but it will be their responsibility.

MR. MYERS: If you do put it in, it would be simpler to just strike the thing, because that has the same effect. If you have to have the complete approval of all the legislatures and the Federal government by the Congress, there's no use putting it in in the first place - because we can do anything we want with that approval; not only this section, but any other section.

MR. SKEEN: Well, if we kind of spelled it out, and restricted the area where consent of Congress might be necessary. I agree with you, Wes; it requires a new amendment, a new Compact in effect, and all this procedure. I personally rather see it stricken out than left without that consent of Congress provision, after my previous experience.

MR. HIGGINSON: Mr. Chairman, could I make a comment? I can't feature, after all this effort, any State agreeing to give part of its allocation to any other State, anyhow. I would suggest, rather than add the language that Mr. Skeen is talking about, we strike the whole provision out of both paragraphs. That would be a lot more to my thinking.

CHAIRMAN JIBSON: Any discussion on that?

MR. HIGGINSON: Mr. Chairman, I would suggest that nothing be done with this Draft until after the hearings - that are included in Dan's Motion. I think we ought to go forward with this Draft; let those matters be surfaced as we hold the hearings; and then this Commission take action on this Draft.

MR. MYERS: I kind of like Dan's idea of trying again. I agree that we shouldn't do anything until after the hearings anyway.

MR. SKEEN: I don't think you need to do anything now; but the Chairman's suggestion I thought I should call it to your attention, and tell you what my experience had been.

CHAIRMAN JIBSON: Mr. Higginson, in your suggestion would you strike it in both places?

MR. HIGGINSON: I think that is preferable to writing in that provision consenting for the government to tell us what to do with our water.

CHAIRMAN JIBSON: I mean - you'd strike it in both places?

MR. HIGGINSON: Right.

CHAIRMAN JIBSON: There's still a little storage to be developed under the existing storage rights; so technically this provision could still apply to existing storage. So if we strike it, it would have to be stricken in both places.

Do we have any further discussion on this, or other items? We have a Motion before the body to submit this to the Bear River Commission as written; subject to changes in hearings and possibly some comments from other affected agencies. Are we ready for the question?

MR. LAWRENCE: Let me just make one additional comment. I speak in favor of the Motion, and Mr. Higginson's suggestion that we not make modifications at this time; and maybe following the action on this Motion we might ask our Legal Counsel to make a detailed review, during the interim, and pick up all of these kinds of points which should be considered in our formal meeting of the Commission in November.

CHAIRMAN JIBSON: You want that as a part of your Motion?

MR. LAWRENCE: No; I was just saying that we might do that later. I don't want to change my Motion at all.

MR. TEICHERT: Who would hold the hearings? The Commission? Or legislatures of the various States? Or - ?

CHAIRMAN JIBSON: I think we need to discuss that following action on this Motion.

MR. LAWRENCE: But as part of the Motion, it was my intent that the Bear River Commission would preside at three hearings - one in each of the States. And they would be held sometime between now and the 15th of November, or thereabouts -- in the next 30 days, in other words. And we would fix those dates as a part of this meeting. But it would be the Commission holding the hearings, as a response to our action today to consider this document.

CHAIRMAN JIBSON: Question on the Motion. All in favor, say 'aye'. Opposed?

MOTION CARRIED

CHAIRMAN JIBSON: Now, in view of Dan's statement, we would like to turn some time over to our Legal Counsel and Mr. Robison for discussion of our procedures for the next few weeks.

MR. SKEEN: The provision of the Compact pertaining to this is very short. It's on page 10, Article XIII. "At intervals not exceeding twenty years, the Commission shall review the provisions hereof, and after notice and public hearing, may propose amendments to any such provision, provided, however, that the provisions contained herein shall remain in full force and effect until such proposed amendments have been ratified by the legislatures of the signatory States and consented to by Congress." That is the end of quote. It is noted that there is no time given for the notice to run or method of giving notice; and I think in view of the absence of that sort of language, it would be a reasonable notice given in a reasonable way; and it is my opinion that it probably should be about 30 days prior to the hearings.

Now, the notice should be given in writing; and I think it should be published in a newspaper of general circulation in the area involved in each State; and probably published at least twice. I believe it would be advisable to make the whole procedure reasonable, to have a hearing in Wyoming, a hearing in Idaho, and a hearing in Utah. They could be set on successive dates and in the areas. On the original Compact, as I recall, we had a hearing in Evanston, one in Montpelier, and I believe the other one was in Brigham City. I think they probably are the areas where there would be full opportunity to be heard. The Upper Utah section would be conveniently handled in Evanston. These are simply suggestions. I'm not doing any more than making suggestions on reasonable notice, and so on.

CHAIRMAN JIBSON: This notice in the paper, Ed, as I understand it, would be an official legal notice?

MR. SKEEN: Yes; that's right. I think it should be an official legal notice.

MR. STOKER: Wally, Mr. Skeen made mention that they may want to hold a hearing in Idaho up in Montpelier. I think this new Compact is going to affect more people below Bear Lake than it is above. You will find more interest, probably, below Bear Lake. So it may be centered somewhere else.

CHAIRMAN JIBSON: Soda Springs may be better. I understand that Idaho has set some public information meetings now in the various counties up there; and your dates are just a few days away. Is that right?

MR. JENKINS: Monday, Tuesday, and Wednesday of next week at 8:00 p.m. Monday at Preston; Tuesday at Soda Springs; Wednesday at Montpelier.

CHAIRMAN JIBSON: Would you concur, then that in addition to those informational meetings, that we should have a formal public hearing?

MR. JENKINS: Absolutely.

CHAIRMAN JIBSON: And would you like that in one location, preferably, rather than in each of the counties?

MR. LAWRENCE: I personally don't have any objection to having more than one in each State. It is just a matter of being able to do it. You could hold more than one in a day; you could have one in the morning, and one in the evening.

MR. SKEEN: It seems to me that with the ease of transportation, you could have one meeting in each State, without repeating three times. I think the States ought to decide that pretty much - each State.

MR. JENKINS: I'm wondering if we couldn't leave it up to the States to hold at least one meeting; and leave it that way?

MR. SKEEN: Well, the Commission, I think, should be present at the meeting - in view of the language of the Compact. I am inclined to think the Commission ought to be present. It says the Commission shall review the provisions hereof, and after notice of public hearings. I am inclined to think the Commission should attend.

CHAIRMAN JIBSON: My thought would be even though it is a formal hearing, conducted by the Commission, that we would turn over the discussion to the member from that State to present it to their people. But it would be in the form of a hearing.

This suggestion of Mr. Skeen's to have a 30 day notice bothers me just a little bit. We are at the 13th now; that means we are right into the next Commission meeting. Maybe this would still be alright if we get these notices out within the next few days. We wouldn't have very many days to get the notices out, and still have 30 days before our Annual Commission meeting.

MR. LAWRENCE: We might have a week or two slippage in the Commission meeting.

CHAIRMAN JIBSON: I think that's possible; we have done it before.

MR. LAWRENCE: I would think also, though, if Idaho is having these informational meetings, we ought to follow up fairly soon - to keep the continuity and the interest alive.

MR. HIGGINSON: You won't have any trouble keeping the interest alive.

CHAIRMAN JIBSON: That's why I suggested that the Commission merely conduct the hearings, and the explanation and kickback will be left up to the States.

It would be my intent, following this meeting today, to get copies of the proposed amendments and to circulate them to the interested Federal agencies as soon as possible, and ask

them to make their comments prior to the November meeting. And I'm wondering if there's anything else, now, that we need to do - other than the public hearings in each of the States, and soliciting comments from interested agencies - prior to the time that would be officially approved by the Commission, and ready for the state legislatures?

MR. SKEEN: I think any legal examination, or editing, ought to be going on during this interim; without, of course, disturbing the intent of submitting it 'as is'.

CHAIRMAN JIBSON: We could still submit it to other Federal agencies as it is worded here? Any editing would not change -

MR. SKEEN: Would be going on behind the scenes and a report made at the next Commission meeting.

MR. JENKINS: Mr. Chairman, let's bring it to a head. I move you that we hold hearings on Monday night, the 15th of November, at 8:00 p.m., in Evanston, Wyoming; on Tuesday night at 8:00 p.m., the 16th of November, in Soda Springs; and on Wednesday night, the 17th of November, at 8:00 p.m. in Logan.

MR. PEART: Second.

CHAIRMAN JIBSON: Do we have any discussion on these dates? This would be possible, and still give them 30 days' notice if we got right at it.

MR. CHRISTOPULOS: I think you'd have a hard time giving 30 days' notice in Wyoming - because of the fact that you are dealing with weekly newspapers. Any publication date would probably need a week.

I have a problem with those dates, also; because I have a Board of Control meeting during that week.

MR. JENKINS: Mr. Chairman, then I would move you that we recess this meeting for five minutes while representatives of Utah, Wyoming, and Idaho get together and come up with a mutually agreeable set of dates. I think it will save us time; rather than jockeying back and forth on the record.

MR. LAWRENCE: Second.

CHAIRMAN JIBSON: All those in favor say 'aye'.

MOTION CARRIED.

This meeting is recessed for approximately five minutes.

R E C E S S

CHAIRMAN JIBSON: We've had a ten-minute recess, gentlemen. I wonder if you have been able to reach a mutually satisfactory date?

MR. JENKINS: Mr. Chairman, I'd like to withdraw my Motion, with the consent of the Second, and try again.

I would move you that the Commission hold hearings at 1:00 p.m. each day - on November 22 at Logan; November 23 at Preston; and November 24 at Evanston; and that the Commission meeting be held on Monday, November 29.

MR. PEART: Second.

MR. LAWRENCE: Mr. Chairman, may I ask a question? What is necessary, following the hearings, before the Commission is prepared to meet? Can we just sit right down and take a working copy that we've had, and just work on it? We don't have to have any staff effort or anything?

CHAIRMAN JIBSON: The only thing I can think of at the present time is getting the comments back in from the interested Federal agencies. We can give them a deadline to get their comments in; but I don't know that we would have to do anything with those comments until the Commission meets.

MR. SKEEN: I think that is correct. I think we should get them in, and it is my idea that we should review those reports of the various agencies and what we've heard at the public meetings and take the Articles up, one by one, and review them, and come up with a decision and have something ready to submit to the legislatures. It may be more than a one-day meeting; it may go to two days.

MR. LAWRENCE: I speak in favor of the Motion.

CHAIRMAN JIBSON: Do we have any other discussion on the Motion? All in favor say 'aye'. Opposed?

MOTION CARRIED

MR. HOLMGREN: Could I ask - who is going to notify the newspapers? And what newspapers are going to be notified?

CHAIRMAN JIBSON: I think that's a good question, Paul. Again, I will turn to our Legal Advisor.

MR. SKEEN: I think while we are here today we ought to get an expression from each State as to what newspapers to publish it in; and if possible, if they know, the dates of publication. In some areas, they may be published once a week.

MR. CHRISTOPULOS: Wyoming would be the Uintah County Herald at Evanston; the Kemmerer Gazette at Kemmerer. Those are both weeklies; and they probably have a deadline. The deadline of the Herald is Wednesday; and it is Tuesday for the Gazette.

CHAIRMAN JIBSON: During the recess I had a little discussion with Mr. Robison and Mr. Skeen about what might be in the notice. They wondered if the summary that was given on page 2 of your summary of amendments could perhaps be worked over; or included just as it is, in the actual legal notice. What is your feeling on that? Or do we need to get into any details at all in that notice?

MR. DAYTON: I think the simpler the better.

MR. MYERS: This is a very simple deal here, the way it is written up. It is just plain language, and it doesn't go into a lot of detail. It just states what you are talking about.

CHAIRMAN JIBSON: Well, it wouldn't be hard to slip into the notice.

MR. MYERS: I wouldn't be afraid to publish that.

MR. JENKINS: Mr. Chairman, I am wondering if we shouldn't confine this to a very small notice, from the point of view of the bare legal requirements - date, time, and place. Otherwise, we are interpreting this thing. Date, time, place, and subject - 'to consider proposed amendments to the Bear River Compact as required by law under the provisions of Article XIII of the Bear River Compact' - that says every 20 years we will hold hearings.

MR. SKEEN: And state a place where the document may be inspected.

CHAIRMAN JIBSON: We should post something besides the legal notice. We should post this Draft some place where they can inspect it.

MR. HANSEN: They ought to be able to get copies.

MR. LAWRENCE: By calling, or writing.

CHAIRMAN JIBSON: Just so they can get a copy of it before the meeting.

MR. LAWRENCE: We could file it in the County Commission offices of each county.

MR. JENKINS: Each of the affected counties. Or write to your office.

MR. PALMA: Excuse me, Mr. Chairman. I would just like to raise the point that in Wyoming I don't think that would be quite enough. It would require at least some written subject matter to be discussed at that hearing. I feel a little uncomfortable from my standpoint and position, if you just included the time and place, and so forth.

CHAIRMAN JIBSON: Well, in answer to your question, I wonder if we have to have exactly the same notice in each State? If Idaho thinks this would suffice and would prefer it that way, is there any reason why Wyoming couldn't include a brief summary of the suggested amendments?

MR. PEART: Wally, he said this summary here would suffice.

MR. JENKINS: Mr. Chairman, why don't we have our Counsel prepare an appropriate legal notice? Let him do it.

CHAIRMAN JIBSON: For each State?

MR. JENKINS: Yes; Counsel for the Compact Commission prepare an appropriate legal notice, to be published in each State?

CHAIRMAN JIBSON: What type of notice would Utah prefer - as between the bare minimum and a brief summary?

MR. OLSEN: I think a copy of this little resume that we have on this document would be fine.

CHAIRMAN JIBSON: Okay; then as I understand it, for information of our Legal Counsel - Idaho would have just the bare essentials in yours? Wyoming would -

MR. LAWRENCE: When you say the resume, Marion - originally we were talking about the summary on page 2.

CHAIRMAN JIBSON: This is the summary that I'm talking about.

MR. LAWRENCE: But you are talking about both pages, Marion?

MR. PEART: You meant the whole thing?

MR. OLSEN: Yes.

MR. PEART: I did, too.

MR. LAWRENCE: Newspapers have said this, substantially, anyway.

MR. OLSEN: I think both pages ought to be included. I think the more informed we can make our people, the easier it is to talk with them.

MR. MYERS: So they know what you are talking about.

CHAIRMAN JIBSON: Is it still agreed, then, that each State would like our Legal Counsel to prepare this notice?

MR. LAWRENCE: I wonder if Ed's workload is such that he can get this out tomorrow?

MR. SKEEN: Oh, I could get it out tomorrow.

MR. LAWRENCE: It seems to me we've got to comply. If we're moving the meeting back, we need to get it right out.

MR. SKEEN: I can get it out tomorrow and mail it tomorrow to Wally; or to you; or to -- I can hand-deliver it to you.

MR. LAWRENCE: Could you mail it to the newspapers?

CHAIRMAN JIBSON: If we had a list of the newspapers, could you mail it to them directly? Now, who would pay for these notices?

SEVERAL: The Commission.

MR. SKEEN: Well, the Commission.

MR. CHRISTOPULOS: I have another newspaper I think I should offer for Wyoming. That would give us some State coverage; and that would be The Casper Star, a daily.

CHAIRMAN JIBSON: We have, then, the Uintah County Herald at Evanston, the Kemmerer Gazette, and Casper Star, for Wyoming.

Idaho?

MR. JENKINS: Preston Citizen at Preston; Caribou County Sun at Soda Springs; News Examiner, Montpelier; Idaho Enterprise, Malad.

CHAIRMAN JIBSON: Okay. Utah?

MR. HOLMGREN: We have two papers in Box Elder County I think the news should be in. One is the Box Elder News & Journal at Brigham City; and the Bear River Valley Leader at Tremonton.

MR. OLSEN: What about the Standard Examiner? Don't your people subscribe to that quite thoroughly?

MR. HOLMGREN: Yes, I suppose some do. I don't.

(Laughter)

CHAIRMAN JIBSON: Okay, then Marion, we have the Herald Journal at Logan?

MR. OLSEN: I think it ought to go in the Deseret News and the Tribune, too. Those are quite widely spread throughout the State.

MR. CHRISTOPULOS: Something else you are going to need is a location for each of these meetings.

MR. OLSEN: I'll arrange the meeting place up there.

CHAIRMAN JIBSON: If it has to go in the notice, you are going to have to get back with Ed Skeen shortly.

MR. OLSEN: I don't think you will put it in the notice, will you?

CHAIRMAN JIBSON: Yes; I think it must be.

MR. OLSEN: I suppose the Hall of Justice in Logan.

MR. MYERS: I suppose we could use the County Court Room at Evanston. If we change it, we'll put it on the door.

CHAIRMAN JIBSON: Will you arrange that, Wes?

MR. ROBERTS: Robinson Building, Franklin County Fairgrounds at Preston. I'll arrange for the building.

CHAIRMAN JIBSON: Any further discussion, or business today?

If we have no further business -

MR. JENKINS: Mr. Chairman, I think there are a couple or three procedural matters that we ought to examine and discuss before we get there. One is - who is going to preside at these meetings? Who is going to attend from the Commission, each of these meetings? Will there be a tape recorder; will there be a court reporter; what about the logistics of this question? Who will be entitled to question witnesses? Certainly anyone is allowed to come up and make his statement, or turn something in; but then - how much discussion is going to be permitted? What are the ground rules for these hearings? I think we need to decide on that before we get to the first one.

CHAIRMAN JIBSON: Well, my thoughts, as I expressed here a few minutes ago - I would think all members of the Commission who could attend, should be there. This would be my idea. If it is a Commission hearing, I would think the Commission should preside; but it would also be my idea that the discussions would be turned over to one of the delegates from the State. You could decide yourselves who you wanted to lead the discussion. It would be my feeling that anyone who attended the hearing could make a formal statement; but it would be more or less of a formal hearing. We would have to have someone there to take Minutes, word for word; to take any statement that was made from the floor. I haven't given any thought as to the Secretary. Is there a chance, Dan and Connie, that we could use our regular Secretary?

MR. LAWRENCE: I think we would have to give that some thought.

MRS. BORROWMAN: It is a poor time for me.

CHAIRMAN JIBSON: Would it be advisable for each of the States, the local groups, to arrange for a stenographer to take the Minutes?

MR. SKEEN: It would have to be a court reporter.

MR. OLSEN: Either a court reporter, or Connie; I don't know which. They're both good.

CHAIRMAN JIBSON: We are running into quite a lot of expense, aren't we, Ed, if we have to have a court reporter?

MR. SKEEN: Well, we are making a record, really.

CHAIRMAN JIBSON: A tape recorder wouldn't suffice?

MR. SKEEN: Well, certainly if it's a meeting, and they are talking -

MR. LAWRENCE: Tape recorders are no good unless you have a competent Secretary that knows who's talking, and so forth; it seems to me.

MR. ROBERTS: You could ask them to come up and take the mike and speak into the mike.

CHAIRMAN JIBSON: I don't think a lot of your people would want to do that.

MR. ROBERTS: Wally, I think we ought to make a concerted effort to use the same Secretary at all the meetings; not one from each State. You get too much different interpretation if you don't.

CHAIRMAN JIBSON: Well, we used a regular court reporter in our windup meetings for the present Compact. That was before inflation, and it cost us \$100 a meeting to pay for her; so I would guess that you are talking about maybe double that, or triple it - or, as he (Keith) says, \$500 a meeting. I'm afraid we're going to have to have another revision of the budget.

MR. OLSEN: Did you get an answer, Mr. Chairman, to your question about who would field the questions in these meetings?

CHAIRMAN JIBSON: Well, I felt that the individual from the State who was delegated to lead the discussion would field the questions.

MR. HIGGINSON: Mr. Chairman; I think you make a mistake if you open the formal hearing up to a question and answer session. The formal session in the hearing ought to be a presentation of testimony from individuals as to their comments or as to their recommendations with regard to the Compact Draft. The person presiding should not field questions. The only questions should be of panel members or members of this Commission to the witness - if they don't understand what he has told them with regard to his recommendation or his objection, or his proposed amendment. But there should be no -- you should not put any kind of a presiding officer in a position where he is trying to field questions at a hearing. You're not there for the purpose of fielding questions. That should be all taken care of ahead of

time. That is one of the reasons Idaho is holding public information meetings. Hopefully, we can answer the questions so that the people from Idaho will come prepared to make a definite statement.

MR. DAYTON: Would you accept written testimony?

MR. HIGGINSON: I think written testimony is fine; but I certainly don't think you should put your presiding officer in a position of fielding questions.

CHAIRMAN JIBSON: I can see that if you hold public informational meetings in Idaho, that there wouldn't have to be questions; but I am still concerned about a public hearing, if someone does have a bona fide question. Your statement is that you would not accept a question?

MR. HIGGINSON: In my opinion, that isn't a hearing. You're giving information; and the information ought to be provided ahead of the hearing. They ought to come to the hearing prepared to testify and make a statement. The questions should all come from the Commission members back to the witness.

MR. LAWRENCE: I agree. No one except the panel - the Commission members who are present, would sit at a table and be the panel - and they would be permitted to interrogate the witness; but only they. That would be my view.

CHAIRMAN JIBSON: Do you agree with that, Wyoming?

MR. CHRISTOPULOS: I think a lot depends on whether we hold informational-type meetings.

MR. MYERS: Mr. Chairman, Wyoming has agreed that we're not going to have too big a crowd, or too much discussion on this thing; and we would like to suggest that in our case we have an informative meeting first, for a certain definite set time, where the people there can ask questions and the Commission would try to give them the answers; and then have a formal hearing where they deliver anything they have, either oral or written - the same meeting; two parts to the meeting. If we were going to have a lot of people or a big crowd, you would have to limit it to a formal hearing. But I don't think we're in any trouble. Let them ask questions for maybe an hour; and then take another hour and have the hearing. I don't look for that big a crowd in our area.

CHAIRMAN JIBSON: Okay. Mr. Skeen, our Legal Counsel, has a suggestion or two I'd like you to hear at this time, concerning these hearings.

MR. SKEEN: I am inclined to agree with what Wes says. I think, really, the separate States should take the responsibility of presiding over, and arranging their own hearing as seems most appropriate in their area - with the Commission there to hear what's said and participate to the extent possible. I think

probably the thing could be conducted a lot better if the States would take some responsibility in arranging what they want, and possibly selecting people to testify and presenting various areas. You can't shut them out; but you could have someone testify to present some views that would bring out the whole purport of the revised Compact. I really think, rather than try to stereotype it by this Commission, it ought to be the responsibility of the States. If you think, in Idaho for example, that you should call witnesses and then give everybody an opportunity in the audience to stand and say what he thinks about it, I don't think this Commission ought to chop that off at all. Leave this up to a State pretty much to conduct their own meeting. If you would go along with that. We may have a different setup in each State; but that's what hearings are for.

One other thing I ought to mention before I forget it -- This is just headed, "Final Draft, Bear River Compact". I think the word, "Revised", should be written in above here, before it is printed. Otherwise, it may be misleading.

MR. LAWRENCE: My Motion said that it would be labeled, "Revised Compact Draft of September 30, 1976". I don't know if that's appropriate or not.

MR. SKEEN: Well, someone may say, "Is there a later draft?" I think we ought to call it either "Proposed Revised Bear River Compact", or something of that sort.

MR. JENKINS: Mr. Chairman, in view of the fact that no doubt we will have another one, I think it essential that we preserve this one with the date, as was contained in Dan's original Motion. This is the Draft as of September 30, 1976.

MR. SKEEN: Well, would you include in that, that we put the words, "Proposed Revised Draft"? - or something of that sort; so it isn't -- There ought to be something that -

MR. LAWRENCE: "Proposed Revision - Draft of September 30, 1976"? Why don't you read the Motion and see what it says?

MR. SKEEN: It really ought to be "Proposed Revised Draft".

CHAIRMAN JIBSON: While Connie is looking for the Motion, Mr. Skeen has suggested that we type this up with this addition - in the upper right-hand corner we might put, "Draft, September 30, 1976", and then in the center, "Revised Bear River Compact". Does this sound okay?

MR. CHRISTOPULOS: Would you repeat that, please?

CHAIRMAN JIBSON: In the upper right-hand corner we would put, "Draft, September 30, 1976"; and we would delete "Final Draft", and below that put, "Revised Bear River Compact".

MR. SKEEN: Was there any action taken regarding this notice?

CHAIRMAN JIBSON: Well, two States wanted at least a summary. Now, did I understand Wyoming to say that they wanted more than this four-point summary in their notice? They want two pages.

MR. ROBERTSON: I would add that Legal Counsel see fit to add anything. In other words, this doesn't cover all the subjects - just the major issues - and if Legal Counsel feels the others should be included, include those as well.

MR. SKEEN: I'll take the responsibility of checking that.

CHAIRMAN JIBSON: Idaho wants just the bare minimum in their notice. Utah, as I understand it, wanted the four items in the summary.

MR. OLSEN: No; Utah wants the two pages.

MR. LAWRENCE: Okay, just for the record, who don't we have Connie read that Motion to Grif and I?

MRS. BORROWMAN: I'm going to make a Motion that we designate the draft which we received by letter from Keith Higginson, dated September 30, to be designated as the "Revised Compace Draft of September 30, 1976", and that it be accepted by the Bear River Compact Commission as the draft which will be used and supported in public hearings to be set in the very near future".....

MR. LAWRENCE: Any reason to supersede that Motion?

MR. SKEEN: Well, the only thing is the preparation of the first page. Do you have any objection to putting, "Draft, September 30, 1976", and then have the title say, "Revised Bear River Compact"? If you do, I'll put whatever heading you want -

MR. CHRISTOPULOS: The notice should also include wherever the draft is available.

MR. SKEEN: Yes.

MR. LAWRENCE: It could be at the Bear River Commission office in Logan; Box Elder County Courthouse; -

CHAIRMAN JIBSON: It would be more convenient if we could use any one of two or three places. For instance, in Wyoming - if you want to use the Courthouse, and the Bear River Commission office at Logan, that would be satisfactory.

MR. SKEEN: And Idaho - just County Courthouse in each of the counties involved?

MR. HIGGINSON: Four counties. Yes.

MR. DAYTON: Mr. Chairman, has Utah Power & Light been informed of the latest Draft? It seems like they certainly should be involved, or be informed about all of this.

CHAIRMAN JIBSON: I notified them of the meeting today; and I fully expected them to be here, and probably with a statement. They contacted me concerning the Draft that was given to the last Negotiating meeting, and said that they would like to make a statement to the Commission. But I don't see any of them here today. I guess their statement will be forthcoming.

MR. LAWRENCE: May I respond to that? I think in the first place, they got a draft; but I'm not positive of that. They met with me yesterday and presented some real concerns that they have regarding the loss of power if we reduce the flow of the River by 150,000 acre-feet at State line. They called me again today and decided that they would not appear today with a statement. There may be a press release in today's paper, or tomorrow's paper, or something, They are struggling with themselves as to how they will handle it. We discussed that probably they will testify at the hearings.

We called this to the attention of our Governor. I suppose they are torn between protecting themselves legally by making some formal statements so that in the future, when the time comes that the development does take place and they are, in fact, deprived of the opportunity to make power with some of this water, that they will be able to assert damages. They have talked to Norm also, and it could be possible that they might ask for some water allocations. They are concerned; and they had a rather high figure as the maximum potential loss that occurred to the Company because of loss of power. But they decided that they had testified before the Negotiators on September 1, and probably would wait until the formal hearings.

MR. MYERS: Were they too concerned about what we're doing above Bear Lake?

MR. LAWRENCE: Well, I think they were thinking of their chain of power plants; and if we deplete the River by 25,000 above Bear Lake and another 125,000 above the Utah-Idaho line, of course conceivably that is 150,000 acre-feet; and they have translated that to some loss of power to hydro.

Surely, I think that we ought to deliberately make sure; and unless there is objection, I would personally see that they get a copy of this Draft. We are going to make it available to the public anyway; and I think as a courtesy I would hand-carry this to them. I think they already have a copy, but I -- Norm, does the Power Company have a copy of this?

DR. STAUFFER: Wally, did you mail them one?

CHAIRMAN JIBSON: They have a copy that was given to them during the meeting, here. I don't believe they have a new one.

Dan, in view of your Motion, if you will agree or disagree with this heading, we will prepare these drafts. If you would like to change it -

MR. LAWRENCE: It is substantially the same, I suppose. I don't think it's any better, or worse, than that which was in my Motion.

CHAIRMAN JIBSON: Well, the thought was that we include everything that was in the Motion in this wording.

Alright; do we have anything else to discuss here?

MR. CHRISTOPULOS: Did we get cleared up on the court reporting business? Or how is that supposed to be handled?

CHAIRMAN JIBSON: I think this is going to require a little thought. We will take the responsibility of having one by the time these meetings roll around.

MR. LAWRENCE: Let me speak as to the availability of Connie. She has some personal responsibilities in Idaho with her mother. Her mother is very ill; and she's not sure, but there is certainly a possibility that she will be on leave at that time. We will have to try to check that out, and see whether she can be available. If she isn't, it seems to me that we have to get a court reporter. Is that alright?

MR. CHRISTOPULOS: I guess we also agreed that the hearings would be in accordance with the wishes of each State?

CHAIRMAN JIBSON: As far as the actual handling of them; yes. We would like all of the Bear River Commissioners that can be there, to be at each hearing; and we will leave it up to the States how you actually want to handle the discussion. The Commission should chair the meetings.

MR. SKEEN: Well, whatever. It may be that the local party ought to take charge.

MR. LAWRENCE: It seems to me that's why we brought it back to the Commission, after the Negotiating people had done their work. We felt that it was the responsibility of the Commission.

MR. SKEEN: To receive it. Whether you should chair it -- The Commission should recognize the people and take care of the State meetings, but whether they need to chair it it -

CHAIRMAN JIBSON: Was it your thought, then, that the Commission should chair the meetings?

MR. LAWRENCE: Yes; I think Wally should be there as the Chairman and conduct it, don't you?

SEVERAL: Yes; yes.

MR. JENKINS: I think he should act as Chairman of the Commission and conduct the hearings.

MR. CHRISTOPULOS: Yes.

CHAIRMAN JIBSON: If we have no further discussion or business, a Motion would be in order that we adjourn.

MR. CHRISTOPULOS: I so move.

MR. ROBERTS: Second.

CHAIRMAN JIBSON: It has been moved and seconded. All in favor? Opposed?

MEETING ADJOURNED.

Meeting adjourned at 4:10 p.m.