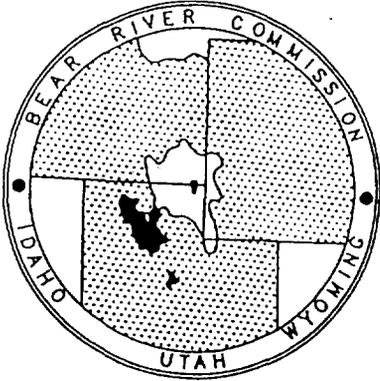


BEAR RIVER COMMISSION



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MINUTES

BEAR RIVER COMMISSION REGULAR MEETING

Utah Department of Natural Resources
Salt Lake City, Utah
November 19, 1996

COMMISSION MEMBERS

Chair

Denice Wheeler

Idaho Members

Karl J. Dreher
Rodney Wallentine
Don W. Gilbert

Utah Members

D. Larry Anderson
Blair Francis
Charles W. Holmgren

Wyoming Members

Gordon W. Fassett
James Crompton
John A. Teichert

ENGINEER-MANAGER

Jack A. Barnett
Suite 101
106 West 500 South
Bountiful, UT 84010

The regular meeting of the Bear River Commission was called to order by Chair Denice Wheeler at 1:00 p.m. on November 19, 1996 at the Utah Department of Natural Resources Building in Salt Lake City, Utah. Chair Wheeler welcomed everyone to the Commission meeting and asked those in attendance to introduce themselves. A copy of the attendance roster is attached as Appendix A.

Chair Wheeler presented the agenda for the meeting. The agenda was approved without change and is attached as Appendix B. The Commission then considered the proposed minutes from the Annual Meeting held on April 16, 1996 in Salt Lake City. The minutes were approved with a minor editorial change proposed by Larry Anderson.

Chair Wheeler then moved to agenda item III, the report of the Secretary/Treasurer by Larry Anderson. Anderson asked Bert Page to present the financial report. Page distributed copies of two Statements of Income and Expenditures. A copy of each of those statements is included as Appendix C. Page also distributed copies of the auditor's Financial Report for the period ended June 30, 1996. As there was nothing extraordinary about the Statement of Income and Expenditures for the period of July 1, 1995 to June 30, 1996, Page moved to the Statement for the period of July 1, 1996 to November 15, 1996 (Appendix C, Page Three). The Commission began the fiscal year with a carry-over of \$84,526.86. The three states have each paid their \$30,000 state assessment. There was \$2,552.15 accrued from the interest on the savings account. As of the date of the Commission meeting, the City of Evanston had not paid their portion of the stream gaging cost. Jack Barnett indicated that Evanston City had already been billed. The current income of the Commission is \$177,079.01.

The expenditures to date total \$16,585.68, most of which have been for the Engineer-Manager's contract. Page indicated that an error was made when a state assessment was received. It was put into the checking account rather than the savings account. Therefore, a check had to be cut to place the money in the savings account (see Appendix C, Page Four, Check #432). There is an in-transit deposit of \$5,000 and an outstanding check for \$3,170. The cash balance totals \$160,493.33. There were no questions for Page.

Larry Anderson indicated that the dues have been fairly constant for the past 8-9 years at \$30,000. The expenses have varied and the carryover has varied also. The amount of carryover has been going up slightly for the past two or three years. There is enough carryover to take care of one year's expenses. It was moved and seconded that the Secretary/Treasurer's report be accepted. The motion was carried.

Chair Wheeler then turned the time to Randy Lowe, Chairman of the Idaho Water Quality Bear River Basin Advisory Group. Mr. Lowe distributed a handout, a copy of which is attached as Appendix D. He indicated that the purpose of his presentation was to explain the Basin Advisory Group (BAG) process and its history. Mr. Lowe recounted the history and evolution of Senate Bill 1284 identified on his handout. He pointed out that of the 962 water bodies identified on Idaho's 303(d) list, 44 water bodies are within the Bear River Basin. Senate Bill 1284 mandates the creation of two groups: Basin Advisory Groups (BAGs) and Watershed Advisory Groups (WAGs) for each major river drainage.

The Bear River Basin Advisory Group members have been nominated and selected by the Department of Environmental Quality Administrator to represent specific interests. Specific representatives are listed on the letterhead of Appendix D. The mission of the BAG is to provide guidance on specific pollution control actions to help restore the beneficial uses to the impaired waters of the Bear River, and to work with the Department of Environmental Quality in the State of Idaho on water quality objectives for each Basin. The group is to work cooperatively to achieve the objectives. The BAG works with the Bear River Commission, irrigation companies, PacifiCorp and all individuals interested in the Bear River. Prior to the Commission meeting, a video entitled "A More Recent Encounter at Bear River" was shown which identified some of the problems with the Bear River. The BAG is trying to help in solving those problems by working with all agencies to maintain areas that are fishable and swimmable. The BAG is not the technical body but the advisory body, and their experience to date has been mostly educational. The BAG has been asked to prioritize the funding from the Federal government on the Bear River projects that come through the State of Idaho.

Chair Wheeler moved to the Operations Committee report and turned the time to Commissioner Cal Funk. Mr. Funk indicated that 1996 was an easy distribution year as there were adequate flows in the Upper Basin so emergency regulation was not required. There was a high enough level of tributary inflow in the Lower Division so that only 55,000 af of storage had to be withdrawn from Bear Lake, even though it was an allocated year of 230,000 af. Funk then called on Lee Summers of the Bear Lake Water Users Association to tell the Commission about allocation. Mr. Summers indicated that it was an excellent water year, and the next water

year looks very good. March 1 is the projection date of the snowpack and what water will be coming in and how the water will be allocated. There are no numbers as to how much water each canal company or irrigator used.

Cal Funk then called on Carly Burton to report on Bear Lake levels and the supply outlook. Mr. Burton distributed a handout, a copy of which is attached as Appendix E. Mr. Burton indicated that it was a great water year. The problems were minimal in terms of regulation and Bear Lake made an excellent recovery. At the present time, the elevation of Bear Lake is 5915.54 and is rising. The handout includes a comparison between 1995 and 1996 conditions, a bar graph showing the net runoff, and the elevation chart of Bear Lake. Storage releases were very minimal. The net rise is from the beginning of the water year to the end of the water year. The high elevation in 1995 was 5912.37 and it peaked at 5916.66 feet in 1996. The low elevation in 1995 was 5910.82 and in 1996 the low elevation was 5915.22. The outflows in 1995 and 1996 were almost identical. Based on the current conditions, Bear Lake will probably exceed the 1996 high of 5916.66 by April 1 when the runoff really begins. It is expected that there will be a full allocation of irrigation water from the lake for 1997. There were no questions for Mr. Burton.

Chair Wheeler then turned to the report from the Compact Review Committee. Before turning the time to Commissioner Funk, Wheeler expressed the appreciation of the Commission to the Committee for their work on a very difficult assignment. Chair Wheeler also thanked those who attended the hearings held concerning the Compact Review. The Commission appreciates the interest shown and the input given at those hearings and through written comments. Cal Funk indicated that a compilation has been made of all testimony given at the hearings, as well as written testimony that was received in the Commission offices. The compilation is available from the Commission at a cost of \$15 per copy. Funk explained that the assignment given covered a lot of area and the concerns were very broad. The Compact was initially written mainly for the distribution of water. The Compact Review Committee report is a brief written report given to the Commission. It is not final and is not ready, at this point in time, to be released to the general public.

Funk did indicate that the recommendations of those wishing to amend the Compact fell into three general categories: 1) water quality issues; 2) multiple use issues of the water in the Bear River system; and 3) make-up of the Bear River Commission. In comparing what was stated with the Compact, the Compact Review Commission found that the Compact, wisely written, allows for water quality issues, for multiple use issues, and for the other concerns to be addressed within the Compact. It was found that there are a lot of misunderstandings, as observed by the written comments. For example, one comment indicated that the lake was drawn down for power. That has not been done for 15 years. Funk mentioned that in the Basin water quality presentation given at this Commission meeting, they mentioned power quite pre-eminently and power generation is only incidental to the water flowing down the channel to be delivered for other uses. That concept exists in the minds of many around the lake. Another example is the concern regarding the beach below the high water line and the ownership of that beach. Can a cabin owner tell people not to trespass on their beach? The Corps of Engineers

is now saying that anyone can go down and pull out weeds from the beach. The Review Committee feels that there are many issues entering into this review that no one fully understands yet.

The Compact Review Committee suggested to the other members of the Commission that "at this point in time, there be no changes made to the Bear River Compact." The Compact can be amended at any time. In 1993, the Commission approved a procedure for depletions and that will be added to the Compact. In the interest of economy, the Commission is waiting to see if there are other changes coming soon before printing new copies of the Compact. It is another misconception that the Compact can only be looked at every 20 years. The wisdom of the Compact and its original drafters permits concerns to be addressed at any time. The Committee feels that the Compact can already accommodate many of the issues. The written report of the Compact Review Committee and the compilation of the written testimony was presented to the Commission for their consideration. Funk indicated that because of the magnitude of all the material and the items to be considered, this may take the Commission some time to assimilate the information.

Chair Wheeler then asked for comments from the other Commissioners. Rod Wallentine indicated that the Commission appreciates the high amount of interest in the hearings which were held. Jeff Fassett expressed his appreciation to the Committee and his thanks to the public for their participation. Fassett moved that the Commission accept the recommendations of the Committee and further analyze the issue of the Compact review. The motion was seconded and carried. Larry Anderson indicated his support to Fassett's comments and further indicated that it is the responsibility of the Commission as a whole to make a decision regarding the recommendations which have been received. It is the desire of the Commission to provide some feedback to the general public at the next Commission meeting. Karl Dreher raised the question of what the process would be and how the Commission will take the recommendations under advisement. It was moved that an assignment be given to the TAC to review the issue of the Compact review and make a recommendation at the next Commission meeting. The motion was seconded and carried.

Wheeler then asked for the State Leads report concerning the Lower Division procedures. Larry Anderson indicated that the Management Committee had worked for the past year on tri-state agreed-upon Lower Division procedures for allocation of water across the state line between Utah and Idaho. This is a provision that was included in the original Compact, but all it did was talk about it. There is an item in the Compact that describes an event that could take place and an indication that the Commission would develop the procedures. The Management Committee initially asked one of the committees to take the assignment. That committee worked on it for a year and came back with their best effort. It was a very difficult process and the assignment was given back to the Management Committee. The Management Committee committed to meet monthly until procedures for the Lower Division were agreed upon. They met about 10 times this past year, with the last meeting being held on Monday, November 18. A draft was agreed upon and the Management Committee is prepared to provide to the public

draft procedures for Lower Division water delivery. These draft procedures were distributed to all in attendance.

The Management Committee has agreed to schedule public hearings to be held in January. The tentative date is January 8. The first meeting will be held in Logan at 1:30 p.m., and the second meeting will be held in Soda Springs at 7:00 p.m. Public notice will be provided in the newspapers and at various locations. At the hearings, the Commission will accept written and oral comments on the draft procedures. The Commission will not defend what has been drafted, the Commission is there only to listen. After the public hearings and the deadline for the written comments to be received has passed, the Management Committee will meet and make appropriate changes to the draft procedures. Anderson indicated that the handout identifies the procedures, as well as a petition request and a list of the water rights in the Bear River by priority date. Appendix B, an accounting procedure, is yet to be added.

Jeff Fassett indicated that there are still some open questions and the document needs to be considered a draft. It is the desire of the Management Committee to receive comments and suggestions from the other Commission members and the general public. Commissioner Funk moved to accept the first draft of the procedures and move forward with the public hearings. The motion was seconded and carried.

Chair Wheeler turned the time to Jack Barnett for the Technical Advisory Committee report. Barnett indicated that the TAC has had a long-standing assignment to monitor the need for and the opportunity for stream gaging on the river system. At the last Commission meeting, there was a discussion concerning the USGS costs for stream gaging. An assignment was given to the TAC to look at opportunities to contain the USGS costs and still have the Commission gain the hydrologic information necessary. At the TAC meeting held on Monday, November 18, 1996, there were seven items which were reported or considered. The first is an action that has already occurred. The TAC previously concluded that it would be appropriate to drop the gage on the Woodruff Narrows Reservoir as operated by the USGS and the USGS was so notified. The contract for this year was reduced per the authorization of the Commission. The costs for the current fiscal year were inflated about 11%. The dropping of one gage will keep the Commission costs under \$50,000.

The TAC also discussed the possibility of contracting with someone else or having the Commission operate its own gages. It became apparent to the TAC that the 50% Federal contribution must be overcome to save money and put the Commission on the positive side of the ledger if the Commission were to operate the gages itself. The three states are involved in early experimentation as to how to gather their own records. The TAC looked at specific gages. The Corrine gage is one gage that the Commission does not use directly for operations, and the TAC has had discussion with others who might have an interest in that gage, namely, the Fish and Wildlife Service. The Pescadero gage was also considered but the TAC noted that Pete Peterson uses that gage and so more information regarding the Pescadero gage needs to be obtained. It was decided that the TAC needs to look at the computer model to determine which of the gages are used to operate the computer models.

The TAC had some questions about what might be needed by the City of Evanston. Evanston City is now cost sharing with the Commission for the Sulphur Creek gage. A meeting is being planned with Evanston City to discuss this issue. The TAC further noted that the NAWQA study has begun and NAWQA will be spending dollars on the stream gaging program. It might be that NAWQA could possibly cost share with the Commission. Barnett indicated that the State of Utah has started to operate 4 gages through the State Engineer's office, partly by contracting with a retired USGS employee. The TAC did observe that the Commission's total stream gaging program is under \$50,000. The effort is a \$100,000 effort because the USGS cost shares with the Commission. If the Commission were to hire an individual full-time to operate the gages, the expenses could well be \$30,000 to \$40,000. There is also the issue of who owns the gaging equipment. If the Commission did not have ownership of the gage equipment, it could be looking at \$60,000 to buy the equipment. The immediate cost saving was not apparent. The cost of stream gaging continues to go up faster than the rate of inflation. Barnett indicated that the TAC will report further findings at the April meeting.

Barnett then turned the time to Hal Anderson and Norm Stauffer to report the efforts to determine ground water depletions. Hal Anderson indicated that the Commission divided the issue of interstate delivery in the Lower Division into two major segregated areas, one of them being the procedures. The second part of that activity has been the development and working towards a methodology for accounting for flows in the Lower Division if and when a water emergency is declared. The TAC has been working diligently on the issues of interstate delivery accounting. The methodology, a computerized accounting system, is being developed to allocate natural flow and storage in the lower part of the Bear River Basin. Idaho has had an operational accounting program since 1990 and Utah has had a program going for about that same amount of time. There are some technical differences between the two state procedures. The TAC has been working towards minimizing those differences and that task is nearly completed.

The last and most difficult issue with regards to the accounting procedure is that of ground water depletions. Due to the amount of time needed to work on the procedures, not much has been done on an accounting procedure for ground water depletions. A process has been agreed to and the first phase of that process is completed. Idaho has a water right data base that is very antiquated, but programs have been written to extract information from that data base. Idaho will determine what ground water uses have been permitted, write it for the Basin, and assign them to a reach in the river for accounting purposes. Anderson indicated that it is anticipated that that work will be done prior to the next Commission meeting. There were no questions for Hal Anderson.

The time was turned to Norm Stauffer for his report. Stauffer indicated that since the 1960's, Utah has had a program with the USGS where they gather state-wide information on ground water pumpage. It is done in four categories: irrigation, industry, public supply and private domestic and stock uses. There is a historical record from 1967 forward. Utah proposes to, in order to estimate ground water depletion, take the actual withdrawal and come up with a depletion factor for each of the four categories. Utah has a good handle on what is withdrawn but does not have a good handle on how much is depleted. From a depletion study done a few

years ago, Utah has a good handle on irrigation depletions, as well as industrial depletions. In the past, Utah has estimated the public supply but has two studies under contract with Utah State University to help in this area. One of those studies is an M & I depletion study to determine exactly how much is depleted from the public water supplies. That report was received a few weeks ago and they were made available to the other states.

The other USU study was a water demand/supply model for each of the communities in Cache County. From that model it is known how much is springs, how much is ground water, and what percentage of the connections use irrigation water for outside water vs. the culinary public supply. Utah will probably use the data for the last 10 years, which has both wet and dry years. The Utah State Engineer's office is developing a ground water management plan for Cache Valley. Jeff Fassett asked if the chart that Stauffer displayed showed just Cache Valley or if it showed all of the Bear River Basin within Utah. Stauffer indicated that it was just the Cache County portion. He further indicated that the ground water in Box Elder County is very limited, is salty, and is below all the major diversions other than the bird refuge. Fassett asked if the program Stauffer discussed was state-wide and Stauffer indicated that it was state-wide. Karl Dreher asked if any studies have been done or are planned for the timing of depletions. Stauffer indicated that 3 or 4 years ago the USGS cooperated with the State of Utah Departments of Water Resources and Water Rights in developing a ground water model for Cache Valley (including the Idaho portion). The State Engineer has since taken that model which ran on a 1-year time step increment and now runs on a 1-month increment and is based on a USGS model.

Chair Wheel turned the time to Jack Barnett for the Engineer-Manager report. Barnett indicated that the NAWQA study was shelved for 3 years due to lack of funding. Jim Kolva of the USGS indicated that the start date for the NAWQA study is scheduled for 1997. During 1997, the study will focus on an analysis of data, 1998 will focus on data collection, and then the next three years will involve intensive data collection on water quality in the Great Salt Lake Basin. Barnett indicated that he has served on a liaison committee and is assuming that he will continue on that committee. This year is a planning year. The NAWQA people will be seen on the river in the fiscal year 1998. Some of their sampling requires understanding the flow, so the Commission will cross paths with NAWQA people as flow data is collected.

Barnett then indicated that as he reviewed the minutes from the April Commission meeting, he noted that the Commission has passed a resolution that the Commission should write to the Army Corps of Engineers and discuss the concerns about correlation. There was no specific assignment given as to when the letter was to be written and who should draft the letter. Barnett took the liberty of sending out Memorandum 96-77 to present a draft letter to the Commission. Barnett did some investigative work and found that all of the Bear River, with the exception of permitting, is directed out of the Sacramento Region of the San Francisco Division of the Corps. There are two individuals stationed in Salt Lake City who work on flood issues, general hydrology, and dam safety.

When it comes to permitting, such as 404 permits, the Corps is organized in such a way that they have divided responsibilities by states. The general feeling is that it is better to

correlate with state administrators who have water quality responsibilities than with hydrologic boundaries. This is where the Commission has the bifurcation because Omaha, Walla Walla and Sacramento all have responsibilities for permitting. The Commission could write the letter to the highest level individual who has control over the three divisions, or negotiations could be discussed at a more local level, which is what the Corps representative located in Salt Lake City suggested. Barnett requested the desires of the Commission. Chair Wheeler discussed the contents of the letter, which included a suggestion that the Corps of Engineers be reorganized in such a way as to allow all contacts concerning matters of the Bear River to be coordinated and administrated through one office. The letter is addressed to Lt. General Joe Ballard with copies being sent to several other Corps officials. Chair Wheeler asked for the feelings of Commission members. Commissioner Fassett indicated that he had not yet read the memorandum and proposed letter. It was determined that the discussion should be tabled and Barnett is to receive comments from commissioners who would like to comment in one month. Barnett indicated that he would review the comments and possibly send another memo and revised letter back to the Commission if it was felt this issue should be pursued.

Chair Wheeler then turned to the report of the Records Committee. Commissioner Blair Francis indicated that the Ninth Biennial Report is basically completed for the 1995-1996 water years. A draft proposed report will be handed out to the Commission prior to the April 1997 meeting. The final published report will be sent out approximately June 30, 1997. The Records Committee discussed the cover for the biennial report. The direction was given to the Engineer-Manager, due to the historic nature of the water agreement between the water users and PacifiCorp, that perhaps something dealing with that event should be on the report cover.

The second item discussed by the Records Committee related to the assignment given to the Engineer-Manager to compile Commission minutes. The Engineer-Manager has completed that assignment and the various original meeting minutes have been spiral bound and entered into the Bear River Commission library. Those minutes include meetings held prior to the Compact (1942-1958). There are minutes of the Legal & Engineering Committee, the Negotiating Committee, as well as the regular Commission meeting minutes. The issue of binding the stream gaging reports that come from the watermasters was discussed by the Records Committee. It was determined that since the stream gaging reports are received via disk and are filed with the three states, it is not necessary to keep the watermaster reports in the library.

Francis indicated that the report on the stream gaging program has already been discussed. However, with regards to the Woodruff Narrows Reservoir gage, the Records Committee recommends that when Ron Hoffman notes the elevation on the staff gage, he call that elevation in to the Engineer-Manager. Hoffman was also to be asked to keep a record of the reservoir elevations as a part of his formal yearly report to the Utah State Engineer.

Chair Wheeler asked for the report of the Management Committee. Larry Anderson summarized the assignments which have been given to the TAC. They are as follows: 1) review the Compact Review Committee's recommendations and testimonies and report back to the Commission how to accommodate the concerns raised; 2) review stream gaging alternatives to

keep the cost down; 3) develop the accounting process for the Lower Division Procedures to be included in the document which will be handed out at the public meetings in January; 4) identify the impacts of ground water depletions in the Lower Division and have the report from each state for the April Commission meeting; and 5) Jack Barnett is to set up public meeting locations and send public meeting notices.

Karl Dreher reiterated that it is the responsibility of all the Commission members to look at the input received during the Compact Review public hearings. The assignment made to the TAC regarding the Compact Review was not to come to a conclusion as to whether the Compact should be amended. The assignment focuses on what the role of the Commission could be in addressing the issues. Amending the Compact is only one way of addressing the issues, but perhaps not the best way. Dreher cited an example of a troubled watershed in Idaho called Henry's Fork. It has been a success story because of the formation of a Henry's Fork Watershed Council. Watershed councils are not the panacea or solution to all water problems, but in this instance it was the solution. It was a solution without the involvement of government. One of the mechanisms that the Western Water Policy Review Advisory Commission is focusing on is these watershed commissions. Perhaps watershed commissions or councils are successful because there is not a tie-in with the Federal government. Amending the Compact may or may not address or provide any solution to the problems that exist. The charge to the TAC is to look at ways the Commission can solve the problems that have been raised. The Commission proceeding cautiously in amending the Compact is not a reflection that the issues raised are not being taken seriously by the Commission. There were no questions for the Management Committee.

Chair Wheeler turned the time to Randall M. Weiner, the senior attorney for the Land & Water Fund out of Boulder, Colorado, as he had requested time on the Commission agenda. Mr. Weiner asked that Gary Burgener, a property owner on Bear Lake, share his thoughts with the Commission. Mr. Burgener shared a little of his history. He was initially involved with Bear Lake Watch. The approach was taken by Bear Lake Watch that they wanted to become informed and understand the water users, the environmental issues, and the power company use. The property owners want to be a little more involved and be able to express their opinions on how the decisions that are made by water users and the power company will affect property owners. We need to learn from the past and move forward. Chair Wheeler indicated her hope that the various groups feel a part of the work. The Commission takes very seriously the presentations made at Commission meetings.

Wheeler then turned to agenda item XIII, other items for the Commission. There were no additional items. Wheeler then announced that the next Commission meeting is traditionally held on the third Monday of April. It was recommended that the Commission meeting be held on Tuesday, April 22 to allow the TAC committee to meet the day before the Commission meeting. The recommendation was moved, seconded and carried. The question was raised about the time of the meeting. Barnett indicated that the Commission meeting has been held in the afternoon so that the various committee meetings could be held during the morning. It was moved, seconded and carried that the meeting continue to be held in the afternoon.

Chair Wheeler moved to the state reports and asked Commissioner Dreher to give the Idaho report. Dreher indicated that Idaho is evaluating the effects of the causeway failure and continuing to look at the issue. During the summer of 1996, the Bureau of Reclamation and the Idaho Department of Environmental Quality did conduct a sampling investigation at the north end of Bear Lake to ascertain the make-up of the materials that remain at the north end following the causeway failure. The field investigation has been complete for some time but Idaho is still awaiting the results of the mapping and the evaluation. When that is received, it will be made available to the Commission and the Bear Lake interests. Dreher reported that Norm Young from the Idaho Department of Water Resources had open heart surgery on November 7 and is doing fine.

Commissioner Funk asked Dreher a question regarding the bird refuge. At a public hearing meeting, it was suggested that the bird refuge could be used in a different manner to change the silt and the sediment loading that went into Bear Lake. Funk asked if Idaho's investigation may look at that suggestion. Dreher indicated that Idaho had not planned on broadening their investigation to that effect because the bird refuge (actually the wildlife refuge) is managed by the U.S. Fish and Wildlife service. The Fish & Wildlife Service are very protective of what goes on there and have not solicited any input from Idaho. Idaho does hear reports that they are considering different methods for dividing the Mud Lake complex into different basins or pieces. Their focus is on habitat improvements. Idaho's investigations are more focused on the operations at the north end in terms of how water comes in, when it comes in, and its effect on the north end of Bear Lake.

Chair Wheeler suggested that the Commission send a letter or card to Norm Young. The Commissioners felt that that should be done.

An issue was raised by Frank Nishiguichi. He indicated that, to his knowledge, no protest was made when the lake was originally used as storage for the irrigation projects. The people who buy property should be obligated to study the use of the lake before buying property. They also should investigate if they can make a change without disrupting the present ecology. Nishiguichi made a comparison to someone buying property near an airport and then wanting to shut the airport down because of the noise. The property owner should investigate and understand the obligations and use of that property before they get too excited about changing the use of that property, and they should live in compliance with the historic use. There should be some common understanding between the long-time users and the newcomers that come in.

Wheeler then turned the time to Commissioner Anderson for the Utah report. Anderson indicated that the State of Utah continues to investigate the possibility of additional development on the Bear River. A number of studies have been made over the years, and the Department of Water Resources is now in the process of meeting with the Salt Lake County Water Conservancy District, the Weber Basin Water Conservancy District, the Bear River Water Conservancy District, and representatives of Cache County to look at a draft contract for the purchase of any water that would come from a development on the Bear River. This is a requirement before anything can be done to move towards construction of any type of water

development project. The law requires that 70% of the water be sold prior to beginning water development on the Bear River. This does not mean that Utah will start building anything in the foreseeable future. One of the questions being asked of the entities that were identified in a State law as entities that would purchase water is when they want the water and how much water they would want. From that information, a decision will be made as to when a project may be feasible on the Bear River.

Anderson indicated that this may be Cal Funk's last Commission meeting. There is a possibility that Commissioner Funk may serve a mission for his church in the near future. Anderson pointed out that Commissioner Funk has not resigned and nothing is certain, but he wanted to express his appreciation to Cal just in case. Commissioner Funk was appointed to the Commission in 1967.

Commissioner Dreher asked Commissioner Anderson about the contracts he discussed. Dreher indicated that most water using entities don't enter into a contract without some idea of the kind of project that they may be looking at. Dreher asked what sort of project is contemplated. Anderson indicated that the contract that goes out, which has a cost estimate associated with it, assumes a dam on the Bear River. The law itself outlines who is responsible for which costs. Those costs have been allocated based on current estimates. It assumes there is a dam on the river and a canal to Willard Bay. Determinate on who signs a contract and when they want the water, a fairly large block of water cannot be delivered to the Wasatch Front without a dam on the Bear River, and the cost would be significantly lower. Water cannot be delivered to Cache and Box Elder Counties without the dam on the Bear River, so timing is dependent upon what the users in Cache and Box Elder Counties decide they want to do, when they want the water, and if they want any water. Utah may end up with a project that would include a dam or perhaps a project that may not include a dam at the present time. Anderson indicated that they are using the estimate on Honeyville Dam.

Chair Wheeler then asked Commissioner Fassett for the Wyoming report. Fassett indicated that Wyoming has been developing, with a great deal of information obtained from Idaho and Utah, a new state-wide water planning process. The last major initiative in purely the field of water planning was 25 years ago. The legislature asked Fassett's agency and the water development agency to look at what other states do and come back with a recommendation for a program that would best fit the needs of Wyoming. That report has been submitted to the legislative committees and the governor. The program would include the portions of the Bear River that are in Wyoming and would look to a process that not only links the water right and the water development issues but would bring in the expertise of the Water Quality agency, the Fish and Game agency, and the various State and Federal agencies.

Fassett then indicated that Commissioner Dayton has offered his resignation from the Bear River Commission. Commissioner Dayton started working on Bear River issues before the first published minutes. Fassett read a resolution honoring Commissioner Dayton. A copy of that resolution is attached as Appendix F. The resolution was moved, seconded and carried. Many Commissioners, Chair Wheeler and Engineer-Manager Barnett expressed their

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appreciation to Commissioner Dayton and wished him well in his future endeavors. Many recounted memories of Reed Dayton. Commissioner Dayton received a standing ovation. Mr. Dayton responded and expressed his gratefulness for the opportunity to serve the Commission. He introduced members of his family who had joined the Commission meeting to honor him, and recounted many memories he had of the Commission and its members.

Chair Wheeler adjourned the meeting at 3:10 p.m.

ATTENDANCE ROSTER

**BEAR RIVER COMMISSION
REGULAR MEETING**

Utah Department of Natural Resources Building
Salt Lake City, Utah
November 19, 1996

IDAHO COMMISSIONERS

Karl J. Dreher
Don W. Gilbert
Rodney Wallentine

WYOMING COMMISSIONERS

Gordon W. Fassett
S. Reed Dayton
James L. Crompton
John Teichert

FEDERAL CHAIR

Denice Wheeler

UTAH COMMISSIONERS

D. Larry Anderson
Blair R. Francis
Calvin Funk
Lee Summers (Alternate)

ENGINEER-MANAGER & STAFF

Jack A. Barnett
Don A. Barnett
Nola Peterson

OTHERS IN ATTENDANCE

IDAHO

Pete Peterson, River Commissioner
Hal Anderson, Division of Water Resources

UTAH

Robert M. Fotheringham, Division of Water Rights
Norman Stauffer, Division of Water Resources
Bert Page, Division of Water Resources
Bob Morgan, Division of Water Rights
Bryce Nielson, Division of Water Resources

WYOMING

Sue Lowry, State Engineer's Office
Kevin Wilde, State Engineer's Office
Jade Henderson, State Engineer's Office

OTHERS

Jim Kolva, U.S. Geological Survey
Jody Williams, PacifiCorp (Utah Power)
Carly Burton, PacifiCorp (Utah Power)

APPENDIX A
PAGE TWO

Craig Thomas, Bear Lake Regional Commission
David Styer, Bear River Canal Co.
Eulalie Langford, Love Bear Lake, Inc.
Jerry Wilde, Bear River Canal Co.
Jim Kimbal, Bear Lake Preservation Advisory Committee
Hight Proffit, Wyoming Board of Ag.
Ralph Stahley, Western Wyoming RC&D
Lee Baxter, Bureau of Reclamation
Scott Johnson, PacifiCorp
Golden B. Keetch, Preston-Montpelier Irrigation Co.
Randy Lowe, Idaho Bear River Basin Advisory Group
Charles Holmgren, Bear River Canal Co.
Sam McMurdie, Bear River Canal Co.
Darwin Allen, Bear River Canal Co.
Kelly Holt, PacifiCorp
Gary Burgener, Bear Lake Watch
Lanny Weston, Dingle Irrigation Company
Carl Rasmussen, Last Chance Canal Co.
Randy Budge, Bear River Water User's Association
Marc Gibbs, Last Chance Canal Co.
Randy Weiner, Water & Land Fund
Brent Rose, Bear River Water Users Association
Frank Nishiguchi, Bear River Water Conservancy District
Bruce King, Larwest Engineering

AGENDA

Bear River Commission Regular Meeting
November 19, 1996

Utah Department of Natural Resources
Auditorium
1594 West North Temple
Salt Lake City, Utah

COMMISSION AND ASSOCIATED MEETINGS

November 18

11:00 a.m. Technical Advisory Committee Meeting, Room 314

November 19

| | | |
|------------|---|-------------------------|
| 8:30 a.m. | Operations Committee Meeting, Room 314 | Funk |
| 9:30 a.m. | Records Committee Meeting, Room 314 | Francis |
| 10:30 a.m. | Informal Meeting of Commission, Room 314 | Barnett |
| 10:45 a.m. | State Caucuses and Lunch | Dreher/Fassett/Anderson |
| 12:45 p.m. | Video - A More Recent Encounter at Bear River | Thomas |
| 1:00 p.m. | Commission Meeting, Auditorium | Wheeler |

REGULAR COMMISSION MEETING

November 19, 1996

Convene Meeting: 1:00 p.m., Chair Denice Wheeler

- | | | |
|-----|--|---------|
| I. | Call to order | Wheeler |
| | A. Welcome of guests and overview of meeting | |
| | B. Approval of agenda | |
| II. | Approval of minutes of last Commission Meeting (April 16, 1996) | Wheeler |

**APPENDIX B
PAGE TWO**

- III. Report of Secretary/Treasurer Anderson
- IV. Presentation of the Idaho Bear River Basin Advisory Group BAG Representative
- V. Report of the Operations Committee Funk
 - A. 1996 Water Deliveries and Water Supply
 - B. Bear Lake Storage Deliveries - Allocations to users
 - C. Bear Lake Levels and Water Supply Outlook
- VI. Report from the Compact Review Committee Wallentine/Funk/Crompton
 - A. Committee Report
 - B. Commission Action
- VII. Report from the Three State Leads Anderson/Fassett/Dreher
 - A. Lower Division Procedures
 - B. Action Item
- VIII. Report of TAC Barnett
 - A. Stream Gaging Program
 - B. Report on ground water impacts H. Anderson/Stauffer
 - C. Other
- IX. Engineer-Manager Report Barnett
 - A. NAWQA
 - B. Other
- X. Report of the Records Committee Francis
 - A. Biennial Report
 - B. Assemblage of Commission Records
 - C. Stream Gaging Records
- XI. Items from the Management Committee Anderson
- XII. State Reports
 - A. Wyoming Fassett
 - B. Idaho Dreher
 - C. Utah Anderson
- XIII. Other Items
- XIV. Next Commission Meeting April __, 1997
(Annual Meeting, third Monday of April,
as set forth in Bylaws, is April 21, 1997)

Anticipated adjournment: 4:00 p.m.

BEAR RIVER COMMISSION

STATEMENT OF INCOME AND EXPENDITURES

FOR THE PERIOD OF JULY 1, 1995 TO JUNE 30, 1996

| INCOME | CASH ON HAND | OTHER INCOME | FROM STATES | TOTAL REVENUE |
|--------------------------------------|-----------------|-----------------|-----------------|------------------|
| Cash Balance 07-1- | \$75,335.53 | | | \$75,335.53 |
| State of Idaho | | | \$30,000.00 | 30,000.00 |
| State of Utah | | | 30,000.00 | 30,000.00 |
| State of Wyoming | | | 30,000.00 | 30,000.00 |
| City of Evanston | | \$1,800.00 | | 1,800.00 |
| Interest on Savings | | \$4,153.12 | | 4,153.12 |
| TOTAL INCOME TO June 30, 1996 | \$75,335.53 | \$5,953.12 | \$90,000.00 | \$171,288.65 |

DEDUCT OPERATING EXPENSES

EXPENDED THROUGH U. S. G. S.

| | APPROVED BUDGET | UNEXPENDED BALANCE | EXPENDITURES TO DATE |
|---------------|--------------------|-----------------------|-------------------------|
| Stream Gaging | \$46,320.00 | 0.00 | \$46,320.00 |
| SUBTOTAL | \$46,320.00 | 0.00 | \$46,320.00 |

EXPENDED THROUGH COMMISSION

| | | | |
|--------------------------|-----------------|----------------|-----------------|
| Personal Services Jack | \$34,280.00 | (\$83.98) | \$34,363.98 |
| Travel (Eng-Mgr) | 900.00 | (142.15) | 1,042.15 |
| Office Expenses | 1,100.00 | 69.20 | 1,030.80 |
| Printing Biennial Report | 1,600.00 | 90.37 | 1,509.63 |
| Treasurer Bond & Audit | 1,100.00 | (42.00) | 1,142.00 |
| Printing | 1,100.00 | (253.23) | 1,353.23 |
| SUBTOTAL | \$40,080.00 | (\$361.79) | \$40,441.79 |

| | | | |
|-------|-------------|------------|-------------|
| TOTAL | \$86,400.00 | (\$361.79) | \$86,761.79 |
|-------|-------------|------------|-------------|

| | | | |
|-----------------------------|--|--|-------------|
| CASH BALANCE AS OF 06-30-96 | | | \$84,526.86 |
|-----------------------------|--|--|-------------|

APPENDIX C
PAGE TWO

BEAR RIVER COMMISSION

DETAILS OF EXPENDITURES

FOR PERIOD ENDING JUNE 30, 1996

| | | |
|-----|--------------------------------|-------------|
| 401 | JACK BARNETT | \$5,713.34 |
| 402 | PETERSON'S PORTRAIT STUDIO | 44.52 |
| 403 | JACK BARNETT | 2,934.12 |
| 404 | ALPHAGRAPHS | 99.53 |
| 405 | JACK BARNETT | 3,246.53 |
| 406 | JACK BARNETT | 2,943.09 |
| 407 | U S G S | 46,320.00 |
| 408 | JACK BARNETT | 2,989.52 |
| 409 | ALPHAGRAPHIC | 1,512.87 |
| 410 | JACK BARNETT | 3,465.21 |
| 411 | DALTON, GILCHRIST, HARDEN | 1,042.00 |
| 412 | JACK BARNETT | 2,892.84 |
| 413 | FIRST SECURITY INSURANCE | 100.00 |
| 414 | JACK BARNETT | 2,963.13 |
| 415 | JACK BARNETT | 3,560.43 |
| 416 | JACK BARNETT | 3,156.67 |
| 417 | JACK BARNETT | 3,438.08 |
| SC | Service Charge of \$1.00/month | 2.00 |
| 418 | JACK BARNETT | 237.04 |
| 419 | JACK BARNETT | 100.87 |
| | TOTAL EXPENSE | \$86,761.79 |

BANK RECONCILIATION

| | |
|---|---------------|
| Cash in Bank per Statement 06-30-96 | \$2,388.91 |
| Plus: Intransit Deposits | 0.00 |
| Less: Outstanding Checks | 29,337.91 |
| Total Cash in Bank | (\$26,949.00) |
| Plus: Savings Account-Utah State Treasurer | 111,475.86 |
| TOTAL CASH IN SAVINGS AND IN CHECKING ACCOUNT | \$84,526.86 |

BEAR RIVER COMMISSION

STATEMENT OF INCOME AND EXPENDITURES

FOR THE PERIOD OF JULY 1, 1996 TO NOVEMBER 15, 1996

| INCOME | CASH ON HAND | OTHER INCOME | FROM STATES | TOTAL REVENUE |
|--|-----------------|-----------------|-----------------|------------------|
| Cash Balance 07-1-96 | \$84,526.86 | | | \$84,526.86 |
| State of Idaho | | | \$30,000.00 | 30,000.00 |
| State of Utah | | | 30,000.00 | 30,000.00 |
| State of Wyoming | | | 30,000.00 | 30,000.00 |
| City of Evanston | | \$0.00 | | 0.00 |
| Interest on Savings | | \$2,552.15 | | 2,552.15 |
| TOTAL INCOME TO November 15, 1996 | \$84,526.86 | \$2,552.15 | \$90,000.00 | \$177,079.01 |

DEDUCT OPERATING EXPENSES

EXPENDED THROUGH U. S. G. S.

| | APPROVED BUDGET | UNEXPENDED BALANCE | EXPENDITURES TO DATE |
|---------------|--------------------|-----------------------|-------------------------|
| Stream Gaging | \$45,400.00 | \$45,400.00 | \$0.00 |
| SUBTOTAL | \$45,400.00 | \$45,400.00 | \$0.00 |

EXPENDED THROUGH COMMISSION

| | | | |
|---------------------------------|-----------------|-----------------|------------------|
| Personal Services Jack | \$35,650.00 | \$20,086.69 | \$15,563.31 |
| Travel (Eng-Mgr) | 1,100.00 | 761.46 | 338.54 |
| Office Expenses | 1,100.00 | 938.33 | 161.67 |
| Printing Biennial Report | 1,600.00 | 1,600.00 | 0.00 |
| Treasurer Bond & Audit | 1,200.00 | 1,200.00 | 0.00 |
| Printing | 1,300.00 | 777.84 | 522.16 |
| SUBTOTAL | \$41,950.00 | \$25,364.32 | \$16,585.68 |
| TOTAL | \$87,350.00 | \$70,764.32 | \$16,585.68 |
| CASH BALANCE AS OF 11-15-96 | | | \$160,493.33 |

APPENDIX C
PAGE FOUR

BEAR RIVER COMMISSION
DETAILS OF EXPENDITURES

FOR PERIOD ENDING NOVEMBER 15, 1996

| | | |
|-----|---------------------------|-------------|
| 420 | KEMMERER GAZETTE | \$12.25 |
| 421 | IDAHO STATE JOURNAL | 18.38 |
| 422 | VOID | 0.00 |
| 423 | THE CITIZEN PUBLISHING CO | 23.52 |
| 424 | JACK BARNETT | 5,941.66 |
| 425 | STAR VALLEY PUBLISHING | 20.00 |
| 426 | JACK BARNETT | 25.15 |
| 427 | BOX ELDER NEWS JOURNAL | 18.60 |
| 428 | UINTA COUNTY HERALD | 38.90 |
| 429 | IDAHO ENTERPRISES | 25.80 |
| 430 | CARIBOU COUNTY SUN | 54.00 |
| 431 | JACK BARNETT | 3,934.67 |
| SC | MONTHLY BANK CHARGE | 4.00 |
| 432 | STATE TREASURER | 29,000.00 |
| 433 | JACK BARNETT | 3,298.75 |
| 434 | JACK BARNETT | 3,170.00 |
| | TOTAL OUTLAY | \$45,585.68 |
| | LESS: INVESTED | (29,000.00) |
| | NET EXPENSES | \$16,585.68 |

BANK RECONCILIATION

| | |
|---|--------------|
| Cash in Bank per Statement 11-1-96 | \$2,635.32 |
| Plus: Intransit Deposits | 5,000.00 |
| Less: Outstanding Checks | 3,170.00 |
| Total Cash in Bank | \$4,465.32 |
| Plus: Savings Account-Utah State Treasurer | 156,028.01 |
| TOTAL CASH IN SAVINGS AND IN CHECKING ACCOUNT | \$160,493.33 |

The Bear River Basin Advisory Group

Randy Lowe,
Chairman
Mining Representative
PO Box 816
Soda Springs, ID 83276
208-547-3391

Opal McKay
Vice-Chair
Agriculture Representative
5104 E. Bear Creek Rd
Preston, ID 83263
208-852-2041

Eulalie Langford
Environmental Rep.
PO Box 386
Montpelier, ID 83254
208-847-1732

Terry Rindlisbaker
Water-Based Recreation
1770 Jorgensen Road
Bancroft, ID 83217
208-425-3255

Bob Jensen
Forestry Representative
20335 US Hwy 89
Ovid, ID 83260
208-847-0889

Gale Moser
Livestock Representative
1864 S. Hulls Crossing
Preston, ID 83263
208-852-0560

Steve Gardels
Nonmunicipal Permittee
416 W. Collins Rd.
Blackfoot, ID 83221
208-785-8302

Craig Thomas
Representative At-Large
PO. Box 26
Fish Haven, ID 83287
208-945-2333

Mayor Kelly Holt
Local Government Rep.
P.O. Box 288
Grace, ID 83241
208-425-3104

GENESIS OF IDAHO'S 1995 WATER QUALITY LAW

Early 1995 Idaho Legislature passed Senate Bill 1284, now Idaho Code 39-3601, creating major changes in water quality laws for the state.

Section 303(d) of federal Clean Water Act (CWA) requires each state to submit a list of rivers, lakes or reservoirs in the state where pollution controls requirements have failed to provide for water quality to the Environmental Protection Agency (EPA) every two year.

SENATE BILL 1284 EVOLUTION:

1992 Idaho submitted list of 31 waters deemed to be polluted as defined under Section 303(d) of federal Clean Water Act.

1993 The Sierra Club Legal Defense Fund, representing Idaho Sportsmen's Coalition and the Idaho Conservation League filed suit against the EPA challenging Idaho's 31 waters as being inadequate.

1994 Idaho submitted a new list of 62 waters designated as polluted.

Federal Judge Dwyer in Seattle ruled AGAINST the EPA, maintaining that EPA had approved "an under inclusive list of the Idaho waters under Section 303(d) of the Clean Water Act."

EPA identified 788 additional waters and opened process up for public comment which resulted in 962 water bodies placed on Idaho's 303(d) list. **(List includes 44 water bodies located in the Idaho portion of the Bear River Basin).**

1995 Under pressure from the federal judge's decision, the Idaho Legislature passed Senate Bill 1284 during the 1995 legislative session.

BASIN AND WATERSHED ADVISORY GROUPS:

Senate Bill 1284 mandates the creation of two groups: **BASIN ADVISORY GROUPS-(BAGs) and WATERSHED ADVISORY GROUPS-(WAGs).** BAGs and WAGs advise the Director, Idaho Division of Environmental Quality (DEQ) on water quality objectives for each basin and work cooperatively to achieve those objectives. BAGs provide guidance on specific pollution control actions to restore beneficial uses of impaired water bodies, as required by Section 303(d) of the Clean Water Act.

Idaho Code mandates that the BAGs "provide general coordination of the water quality programs of ALL public agencies pertinent to each basin."

BAG members represent: 1) Forest products industry, 2) Agriculture, 3) Mining, 4) Local government, 5) Livestock industry, 6) Indian tribes, 7) Water based recreation interests, 8) Environmental interests, 9) Non-municipal point source discharge permittee, and 10) Representative-at-large.

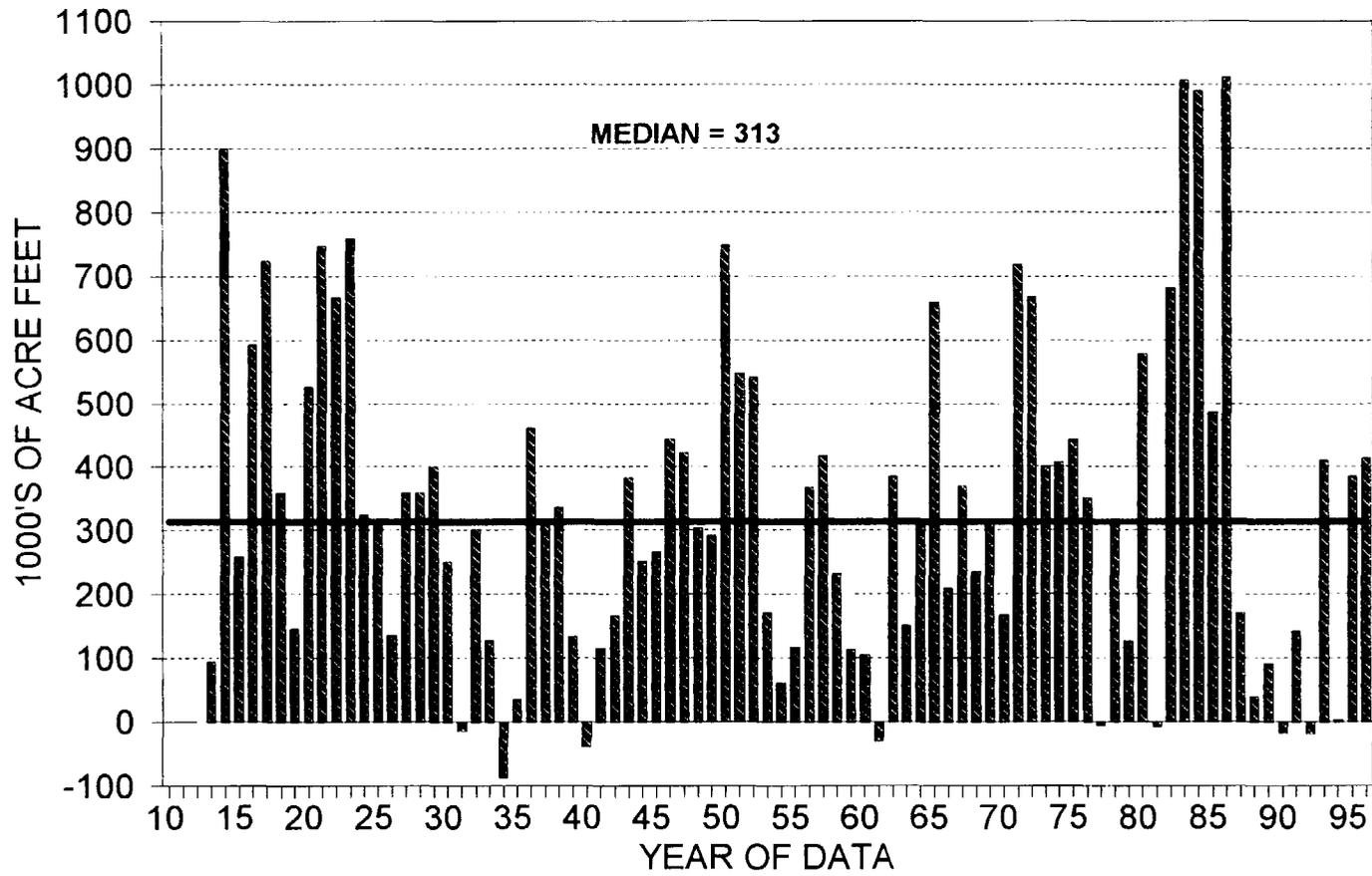
BEAR LAKE OPERATION
COMPARISON OF 1995 AND 1996 CONDITIONS
(OCTOBER 1, 1996)

| | <u>1995</u> | <u>1996</u> |
|----------------------------|-------------|-------------|
| <u>Bear Lake</u> | | |
| Net Rise for Year (Ft.) | 4.38 | 4.32 |
| High Elevation | 5912.37 | 5916.66 |
| Low Elevation (Oct. 1) | 5910.82 | 5915.22 |
| Net Runoff (Ac. Ft.) | 386,000 | 414,000 |
| % of Ave | 123% | 132% |
| <u>Inflows</u> | | |
| Rainbow Inlet Canal | 310,000 | 378,000 |
| % of Ave. | 119% | 145% |
| <u>Outflows</u> | | |
| Total Outlet Canal | 110,000 | 111,000 |
| % of Ave | 37% | 38% |
| Natural Flow Bypass | 63,000 | 56,000 |
| Storage Release* | 47,000 | 55,000 |
| % of Allocation | | 24% |
| Date Outlet Releases Began | June 28 | June 21 |
| Date Storage Release Began | July 29 | July 14 |

*Allocation to BRWUA for 1996 - 230,000 Ac. Ft.

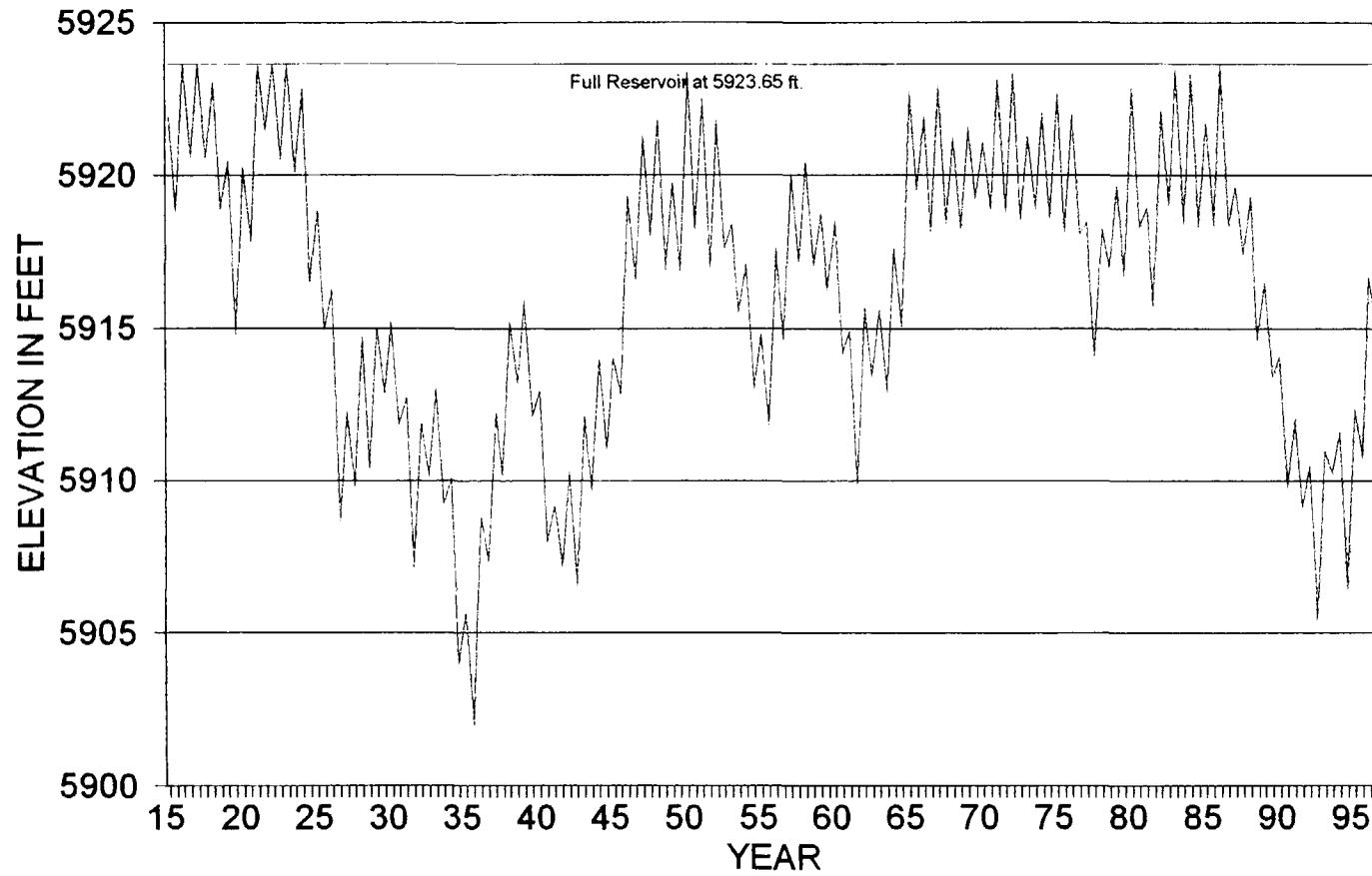
BEAR LAKE NET RUNOFF

FROM 1913 - 1996



BEAR LAKE ELEVATION

FROM 1916 TO 1996



**RESOLUTION OF THE
MEMBERS OF THE
BEAR RIVER COMMISSION**

WHEREAS, as members of the Bear River Commission we have been privileged to serve with Reed Dayton and have all benefitted greatly from his wisdom, history, leadership and compassion in the management and administration of the Bear River, and

WHEREAS, Reed Dayton began his service to the Bear River Commission and the State of Wyoming over one half century ago during the 1940's, in the early negotiations of the original Bear River Compact, and

WHEREAS, during his many years of service Reed Dayton respectfully and gracefully sought joint solutions to a wide range of traditional and contemporary issues and water uses in the Basin;

THEREFORE BE IT RESOLVED, that the members of the Bear River Commission on this 19th day of November, 1996 does honor and gratefully thank Reed Dayton for his dedicated and exemplary service to furthering interstate cooperation and beneficial administration of the Bear River.