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BEAR RIVER COMPACT

REPORT ON MEETING OF LEGAL COMMITTEE HELD AT LOGAN, UTAH

APRIL 12, 1949.  
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The first meeting of the legal committee appointed by the Bear River Compact Commission was held at Logan, Utah, on April 12, 1949. The following were present:

E. J. Skeen, Chairman, Legal Advisor of the  
Federal Representative.  
A. L. Merrill, Special Assistant Attorney General of Idaho.  
Clinton Vernon, Attorney General of Utah.  
Arthur Kline, Deputy Attorney General of Wyoming.  
Ashby Boyle, Attorney for the Utah Idaho Sugar Co.  
Gerald Irvine, Attorney for the Utah Power & Light Co.

The members of the committee were invited by the chairman to discuss fully the legal aspects of the tentative draft of compact, as revised, and the legal problems involved in the negotiation of any compact on Bear River. Mr. Merrill had prepared for the State Reclamation Engineer of Idaho a detailed discussion of the compact from a legal standpoint. He pointed out numerous objections to the compact, including, (1) that it does not conform to vested rights, (2) that it encroaches upon state sovereignty in the distribution of water, (3) that it is contrary to law in that it permits storage during the irrigation season, (4) that there is no provision for enforcement of the orders of the commission, and (5) there is no provision for a trial period. Mr. Merrill said it is unfortunate for psychological reasons that the tentative draft was circulated among Idaho users, because now it will be necessary to overcome prejudice and suspicion before any new draft of compact will be approved by them.

Mr. Boyle made a frank statement regarding the position of the Utah Idaho Sugar Co. and the large number of farmers in Boxelder County, who use Bear River water. He said that the draft of compact is not acceptable because it does not respect the early priorities established in the lower river. Mr. Boyle recommended that the rights on the river be listed by priority and that a compact be written based on the law.

Mr. Irvine stressed the importance of power on Bear River and said that any compact must respect existing rights. He recommended that a compact be written recognizing established rights with a schedule of rights attached.

In the afternoon a joint meeting was held with the engineering committee. Members present were:

W. V. Iorns, Chairman  
Lynn Crandall, Idaho  
C.O. Roskelly, Utah  
R.D. Goodrich, Wyoming  
E. K. Thomas, Bureau of Reclamation.

Merrill, Boyle and Irvine made the same statements they had previously made to the legal committee. L. B. Johnson, Leo McKinnon and a Mr. Jackson, all representing Rich County, water users, requested an opportunity to make a statement of their position. Johnson, acting as spokesman made the following suggestions:

- (1) that a water users' committee be appointed to meet with the engineering and legal committees.
- (2) that the irrigation season in the upper river be established by compact as from April 1 to August 30 of each year.
- (3) that the duty of water on the upper river be fixed at one second foot to 35 acres with total use of 3 acre feet per acre.
- (4) that the commission make a complete study of consumptive use of water for irrigation and power and for power alone.
- (5) that the compact show preferential uses of water as follows:
  - (a) domestic and stock water
  - (b) irrigation
  - (c) power and industrial uses.
- (6) that water users in the upper river be permitted to store water during the irrigation season. Mr. Johnson said that Leo McKinnon of Randolph had been selected by the Rich County users to represent them on any committee of water users which might be organized.

The joint committees discussed the advisability of including in the compact the main-stem below Cutler and the Malad River as well as the Bear River and tributaries above Cutler. A difference of opinion developed and it was moved by Mr. Crandall that the chairman of the meeting be directed to write Mr. Kulp of Idaho and request his views on the matter before taking any vote. The motion passed.

Mr. Kline and Mr. Vernon both stated that because of lack of background they could not make any statement regarding the positions of their respective states and requested that the meeting be adjourned to May 10 to give them an opportunity to consider the points presented and to prepare a statement on behalf of their states. The meeting was adjourned to reconvene at Logan on May 10, at 10 a.m.

*E. J. Sheen*

PROCEDURE FOR PREPARATION OF WATER RIGHT SCHEDULE.

1. Prepare schedule of water rights from information gathered by Mr. Iorns.
2. Make copy of schedule available for study in each section of river.
3. Hold meeting with water users in each section and suggest that one man from each section be named to represent that section on a water users committee.
4. After study by water users committee, hold meeting in each section of river for consideration of any objections to schedule.
5. If objections cannot be removed in meetings, submit them to arbitration board or court for decision.