

A G E N D A

BEAR RIVER TRI-STATE NEGOTIATING COMMITTEE MEETING

Fish Haven Resort
Idaho

July 19, 1973
10:30 a.m.

- I CALL TO ORDER
- II WELCOME AND INTRODUCTIONS
- III APPROVAL OF MINUTES OF MEETING HELD APRIL 23, 1973
- IV STATUS REPORT OF INTER-AGENCY MULTI-DISCIPLINE BEAR RIVER TEAM
- V TECHNICAL SUBCOMMITTEE REPORT ON ADDITIONAL UPSTREAM STORAGE IN RELATION TO WYOMING'S PROPOSAL FOR COMPACT MODIFICATION
- VI IDAHO RESPONSE TO LEGALITY OF STORING FLOW RIGHTS IN AN ENLARGED WOODRUFF NARROWS RESERVOIR (AS PROPOSED BY WOODRUFF NARROWS RESERVOIR COMPANY)
- VII OTHER BUSINESS
- VIII DATE AND LOCATION OF NEXT MEETING
- IX ADJOURNMENT

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VERBATIM MINUTES

BEAR RIVER TRI-STATE NEGOTIATING COMMITTEE MEETING

FISH HAVEN RESORT
FISH HAVEN, IDAHO

July 19, 1973

10:30 a.m.

Submitted by

Connie Borrowman, Secretary

TABLE OF CONTENTS

	<u>page</u>
SUMMARY OF ACTIONS	ii
THOSE PRESENT	iii
AGENDA	v
CALL TO ORDER	1
WELCOME AND INTRODUCTIONS	1
APPROVAL OF MINUTES OF APRIL 23, 1973	3
STATUS REPORT OF BEAR RIVER TEAM	5
TECHNICAL SUBCOMMITTEE RESPONSE TO WYOMING'S APRIL 23, 1973 PROPOSAL	7
IDAHO RESPONSE TO WOODRUFF NARROWS RESERVOIR COMPANY'S APRIL 23, 1973 PROPOSAL	43
OTHER BUSINESS	
Bi-State, Bi-County Commission	49
Mailing List	50
Utah-Idaho Sugar Company	50
Change of Direct Flow to Storage Rights	53
DATE AND LOCATION OF NEXT MEETING	54
NATHAN HIGER'S LETTER OF MR. SKEEN'S LEGAL OPINION ON BEAR RIVER STORAGE RIGHTS	56
REPORT OF TECHNICAL SUBCOMMITTEE	59

SUMMARY OF ACTIONS

1. Verbatim Minutes of meeting held April 23, 1973, were approved as prepared. page 5

BEAR RIVER TRI-STATE NEGOTIATING MEETING

July 19, 1973
Fish Haven, Idaho

THOSE PRESENT:

NEGOTIATORS:

Ferris M. Kunz, Idaho - Chairman
R. Keith Higginson, Idaho
J. C. Hedin, Idaho

Marion Olsen, Utah - Vice-Chairman
Daniel F. Lawrence, Utah
Calvin W. Funk, Utah
Gordon Peart, Utah
Simeon Weston, Utah
Paul Holmgren, Utah

S. Reed Dayton, Wyoming
Floyd A. Bishop, Wyoming
J. W. Myers, Wyoming

OTHERS PRESENT:

IDAHO:

Alan Robertson, Idaho Water Resource Board, Boise
Nathan W. Higer, Attorney General's Office, Boise

UTAH:

James G. Christensen, Utah Division of Water Resources, Salt Lake City
Dee C. Hansen, Utah State Engineer, Salt Lake City
R. Michael Turnipseed, Northern Utah Area Engineer, Logan
Joseph H. Francis, Utah Commissioner of Agriculture, Salt Lake City

WYOMING:

John A. Teichert, State Board of Control, Cokeville
James H. Barratt, Attorney General's Office, Cheyenne

E. J. Skeen, Attorney, Salt Lake City, Utah
Glen P. Ward, Bear Lake County Committee, Paris, Idaho
Donald S. Rex, Bear Lake County Committee, Paris, Idaho
Walt Dimond, Bear Lake County Committee, Paris, Idaho
Hyrum G. Johnson, Bear Lake County Committee, Paris, Idaho
Leland Christensen, Executive Director, Bear Lake Regional Commission,
Utah and Idaho
Wallace N. Jibson, U. S. Geological Survey - Bear River Commission,
Logan, Utah
Grant Lamborn, Rich County Commissioner, Utah
Thomas O. Parker, Regional Solicitor, U.S. Department of Interior, Utah
Dean E. Bischoff, U.S. Bureau of Reclamation, U.S. Department of Interior,
Utah

(Those present continued)

Donald J. Walkins, Utah Power and Light Company

R. B. Porter, Utah Power and Light Company

J. G. Haight, Utah Power and Light Company

Stephen E. Bastian, Environmentalist, Southeastern District Health Department,
Preston, Idaho

Blair R. Francis, Woodruff, Utah

Pat Wilde, Associated Press (Idaho State Journal), Pocatello, Idaho

Connie Borrowman, Secretary

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MINUTES

BEAR RIVER TRI-STATE NEGOTIATING COMMITTEE
MEETING

July 19, 1973 - Fish Haven, Idaho
10:30 a.m.

Verbatim Minutes of the Bear River Tri-State Negotiating Committee meeting held July 19, 1973 at Fish Haven Resort, Fish Haven, Idaho. The meeting commenced at 10:30 a.m. with Chairman Ferris Kunz presiding.

WELCOME AND INTRODUCTIONS

CHAIRMAN KUNZ: By way of introduction, I think you know most of our group. I would mention that Mr. Jenkins is in the hospital in Salt Lake and will not be with us today. We anticipate, yet, that Mr. Schlender will be here. Otherwise, myself, Mr. Higginson, and Joe Hedin, I think you all know as members of this group. I introduced Nathan Higer last meeting as the representative from the Attorney General's office; and Mr. Alan Robertson, our advisor from the Idaho Water Resource Board staff.

Marion, would you like to take care of any introductions you might have from Utah.

MR. OLSEN: I think that most of you are acquainted with all of our Committee, excepting two or three. We have, today, Commissioner Grant Lamborn from Rich County. He has a man with him, I suppose representing Idaho and Utah. Grant, why don't you introduce the gentleman you have, and tell us who they represent? And then we'll call on our State Engineer (we're glad to have our State Engineer here. He has been here before; but with him he has a new man in the Logan office, representing the State Engineer.) After the Commissioner, we'll ask you to introduce your man, will you, Dee, please?

COMMISSIONER LAMBORN: Very recently we just organized in this area what we call the Bear Lake Regional Commission. It's a bi-county, bi-state agreement we have between Rich County and Bear Lake County, Utah and Idaho - a legal entity that we are using to solve the problems in these two counties, especially the problems that are developing on Bear Lake. We have hired Lee Christensen, whom

I'd like to introduce, as our Executive Director.

DEE HANSEN: It is a pleasure for me to introduce R. Michael Turnipseed. We are happy to have him as the Area Engineer in the Logan office.

MR. OLSEN: Thank you, Dee. I notice a newcomer who just came in - we have with us Mr. Joe Francis, our Commissioner of Agriculture in the State of Utah. Joe, we're pleased to have you here.

CHAIRMAN KUNZ: Wes, I don't think it's going to take you very long, at the present time --

MR. MYERS: Do you want me to introduce myself?

CHAIRMAN KUNZ: I guess you'll have to.

(Laughter)

MR. MYERS: I think I know most of you. I'm Wes Myers from Evanston. We're spread pretty thin so far. I hope some of the men will show up yet.

CHAIRMAN KUNZ: I hope you have some reinforcements, Wes.

MR. MYERS: If not, we'll recruit from Idaho's group.

CHAIRMAN KUNZ: We have some observers here from Idaho I'd like to introduce. Mr. Don Rex, and Walt Dimond, I believe they're on the Bear Lake County Water Committee; Hyrum Johnson of the Extension Agent; Pat Wilby, are you representing the Idaho State Journal?

There are a few others here. Mr. Dean Bischoff of the Bureau of Reclamation; Mr. Parker, of the Solicitor's Office; and Mr. Wally Jibson - I think everybody knows Wally.

Here comes Wyoming -- we're happy you gentlemen arrived. We were hoping for some reinforcements for Wes: Reed and Floyd. We just got through with the introductions. I see you have a new man; anyway, he's new to me. Would you like to present him to us, Floyd?

FLOYD BISHOP: Yes; this is Jim Barrett, the Special Assistant to the Attorney General, assigned to the State Engineer's office. Everyone knows John Teichert.

CHAIRMAN KUNZ: We are now to Item No. 3, which is the approval of the Minutes of the meeting held April 23, 1973. Our very efficient Secretary has prepared a Summary of the Minutes. I think you've all had the circulation of the Verbatim

Minutes. This, of course, is a Summary of the meeting held in Salt Lake City on April 23, 1973; meeting commencing at 1:30 p.m.; Chairman Ferris Kunz presiding.

SUMMARY OF MINUTES
BEAR RIVER TRI-STATE NEGOTIATING COMMITTEE MEETING

April 23, 1973
Room 303 State Capitol Building
Salt Lake City, Utah

Summary of Minutes of Bear River Tri-State Negotiating Committee meeting held in Salt Lake City, Utah on April 23, 1973. The meeting commenced at 1:30 p.m., with Chairman Ferris M. Kunz presiding.

Minutes of meeting held December 20, 1972, were approved as corrected.

Daniel F. Lawrence of Utah read a memorandum concerning the Hydrology Report prepared by the Technical Sub-Committee. The Report concerned the nature and extent of any differences in the hydrology studies made by Utah Power & Light Company and the Technical Sub-Committee. It was the concensus of the Sub-Committee that the results of these two studies as to the present mode of operation of Bear Lake are not significantly different. The Sub-Committee had revised its report to include results of the completed Bureau of Reclamation depletion studies above Bear Lake, which include the full Compact storage allocation, and a review of previously computed depletions below the Lake. All three states and Utah Power & Light Company agreed with the report, and a Motion was passed that the Report of the Technical Sub-Committee on Water Supply above Bear Lake, March 15, 1973, be adopted by the Tri-State Negotiating Committee as the official position of the Committee for future discussions on the hydrology of the River.

Mr. Lee McQuivey, Corps of Engineers, reported to the Negotiators on Bear River and Bear Lake Flooding, and the flood control work that has been, and is being, carried on by the Corps in the Bear River Basin.

In reporting on Bear Lake County Commission as related to Bear Lake problems and solutions, Chairman Kunz stated that a planning commission has recently been organized in Bear Lake County which is setting up subdivision ordinances and a building code. One of the big concerns is pollution and sewage disposal; another is land use planning. The Commission does not, at the present time, wish to become too involved with the Tri-State Negotiating Committee activity, and will rely on Mr. Kunz to get pertinent information to them.

Mr. Marion Olsen related that Rich County has just completed its Master Plan. Their concern, too, is pollution control and sewage disposal. The Master Plan stipulates that no building will be allowed within 100 feet of the water at its highest level.

After some discussion as to flooding to home owners in the vicinity of the Lake and flood plain insurance, a Motion was passed directing Mr. Kunz and Mr.

Olsen to ask the Bear Lake and Rich County Commissions to request flood plain information from the Corps of Engineers, as it applies to the Bear Lake area.

Mr. James G. Christensen, Utah, discussed the Status of Bear River Westwide and Type IV Studies. The inter-agency multi-discipline team has been formed for the purpose of bringing together the various studies made on the Bear River into one common effort. This study is behind schedule, and the 6-month overview report which was anticipated by April of this year is now expected to be completed by July.

Mr. Tom Barker read and discussed his Proposal for amending the Bear River Compact, and letters and discussions carried on back-and-forth among the states relative to the proposed changes. Briefly, these would provide the opportunity for some additional storage in the upper part of the Bear River Basin and still guarantee that the downstream rights would not be adversely affected.

There was lengthy discussion concerning Mr. Barker's (Wyoming's) Proposal. Mr. Lawrence commended Mr. Barker for "a sincere effort to try and get us off dead center . . . and it is worthy of us looking at it." Mr. Higginson stated that "this is the first positive step that anyone has suggested towards what needs to be done to get this thing accomplished." It was determined that each State would consider the proposed Compact modifications, so that meaningful comments could be made at the next Negotiating Committee meeting. (See what the practical numerical effect of imposing the kinds of conditions suggested, would be on the River). The Technical Sub-Committee was assigned to write an interpretation of Mr. Barker's proposal and to evaluate the practical numerical effect on the River of imposing the kinds of conditions suggested.

Utah had met with Congressman Gunn McKay in February in an effort to get some funding for a feasibility study of a dam on the Cub River. A recent letter from Congressman McKay had stated, in part, . . . "Unfortunately, the Bear River project is handicapped by the inability of participant states to agree on overall water allocations, as well as by the fact that it will serve primarily the irrigation functions which currently have a low priority, I am told. To continue, the Bear River project study in 1974 within a very limited funding, would mean displacing some investigations which the Bureau feel enjoy a high priority." Since Utah and Idaho are in agreement as to the desirability of pursuing a Cub River project, this matter was to be pursued further as to other sources of funding.

Mr. Lawrence suggested that Idaho should comment at the next meeting about the proposed enlargement of Woodruff Narrows.

Mr. Higginson mentioned that Idaho had received petitions for the creation of a flood control district on Thomas Fork in Idaho; and Hearings had been held.

Mr. Olsen brought to the Committee's attention proposed wilderness areas in the western states, many of which would be located in the drainage areas of the Bear.

The next meeting of the Bear River Tri-State Negotiation Committee was scheduled for July 19, place and time to be announced by Idaho.

CHAIRMAN KUNZ: Gentlemen, that is the Summary of the Minutes. Do you have any corrections to the Verbatim Minutes you'd like to mention at this time?

MR. LAWRENCE: Mr. Chairman, I move that the Verbatim Minutes be approved.

MR. MYERS: I will second.

CHAIRMAN KUNZ: I have a Motion made and seconded that the Verbatim Minutes be approved as circulated. All in favor, say 'aye'. Opposed?

MOTION CARRIED.

STATUS REPORT OF INTER-AGENCY MULTI-DISCIPLINE
BEAR RIVER TEAM

CHAIRMAN KUNZ: The next item of business, then, will be the Status Report of Inter-Agency Multi-Discipline Bear River Team. Jim, I guess that's your 'baby' - Mr. Christensen.

MR. JAMES CHRISTENSEN: I would like to ask Dr. Stauffer to give that report. He is the team leader.

CHAIRMAN KUNZ: Okay. Norm --

DR. STAUFFER: I think if you read your Minutes, the report wasn't completed by April, and was expected to be completed by July - now as of July 31. The work has essentially been completed. All of the sections that the various agencies have been assigned to do have been turned in, with the exception of two; and we expect them this month. The report items that we have are approximately 80% typed -- we are still working on some of the figures and graphs. So this report should be completed approximately the end of this month, or the first part of next.

We will then give this report to the individual states and all of the federal agencies that worked on it to use as an 'in-house' document, for however-whomever wants to use it. It will not be published officially as a document, per se, but will be used by those in whatever way they wish. Are there any questions?

MR. LAWRENCE: Could you tell us in just a few words the kinds of information that will be in the report, and what it can be used for?

DR. STAUFFER: This report, first of all, starts with an inventory of what is available. It goes into what are the resource potentials, including areas other than water; it includes minerals, timber, recreation, the entire resource field in the Bear River Basin. As part of that team, the Department of Agriculture has been involved very much. Their Type IV people, who will be continuing a three- or four-year study on Bear River, will use this as a starting point, to see what holes are missing, what the report lacks, and as a starting point for them. It has got them familiar with the Basin. And I might add that this report takes the first stab at what is called "multiple objective planning"; which puts in the fact of the principles and guidelines which probably will be approved by Congress, and which all federal water resource projects will be funded by. So we take a look at the Basin through multiple objective planning.

MR. LELAND CHRISTENSEN: You mention that this would be made available to the agencies that contributed to it. Could this also be made available to the Bear Lake Regional Commission?

DR. STAUFFER: Yes; we will see that you get a copy.

MR. LAWRENCE: Who is publishing it? You say it is to be published.

DR. STAUFFER: Our office is typing it. The individual agencies sent the material; some of it is already typed; others we are typing from handwritten copy.

CHAIRMAN KUNZ: Norm, is the cutback in funding on a lot of these agencies going to give us an inferior product, do you assume - or effect - or?

DR. STAUFFER: It has had some effect; particularly, I think, maybe the Westwide emphasis changed, and some of the agencies couldn't support us as much as they would have liked to. We had good support from the Bureau of Reclamation, and the Department of Agriculture; but some of the other agencies were limited in their support.

CHAIRMAN KUNZ: Any other questions of Dr. Stauffer?

TECHNICAL SUBCOMMITTEE REPORT ON ADDITIONAL UPSTREAM
STORAGE IN RELATION TO WYOMING'S PROPOSAL FOR COMPACT MODIFICATION

CHAIRMAN KUNZ: Okay; that brings us to Item No. 5 then - The Technical Subcommittee Report on Additional Upstream Storage in Relation to Wyoming's Proposal for Compact Modification. Mr. Lawrence is Chairman of the Technical Subcommittee. Are you speaking, or - ?

MR. LAWRENCE: I felt that we ought to get a little closer to the 'guys' that were actually doing the work so that you can fire technical questions at them. I think they have agreed that Norm is going to read this report. Is that right, Alan?

CHAIRMAN KUNZ: Okay.

DR. STAUFFER: I have about ten copies of this report for you to look at.

Alan, do you want to comment on how these were set up?

MR. ALAN ROBERTSON: Alright. At the last meeting the assignment was made for the Technical Subcommittee to attempt to model an operation which would simulate Tom Barker's Proposal made at the last meeting. Norm and I got together shortly after that meeting, and agreed upon a study that is encompassed in Items 1 and 2 in the Statement; the study being one involving the Upper Basin, primarily. Utah is the only agency capable of handling it; and we made a request to Norm to do it, and he has done this.

DR. STAUFFER: I think I'll just read the report - it's only a page and a half. There are some figures attached; and then if you have questions, we'll attempt to answer them. There is a limit set for each month, of over 1 million acre-feet; I won't read those, you can read them in the report. (A copy of "Report of Technical Subcommittee on a Variation of Wyoming's Upstream Storage Proposal" is attached to, and made a part of, these Minutes.)

Are there any questions?

Exhibit 1 shows Bear Lake. The heavy line shows Bear Lake under present operating conditions with maximum elevation of 1,375,000 acre-feet. This is essentially the same as the Technical Subcommittee report at our last meeting. The dotted line is what 60,000 acre-feet would do, assuming 50% of it returns back to the system. It shows it draws the Lake down to 5,902, the low point in the year 1943.

On the following page is a list of what water would be divertible under the increased storage, 100,000 acre-feet, that you could store and use only in spill years. You can see there are only seven years of that period when water would actually be available; and it varies from approximately 10,000 to 100,000 acre-feet, depending on the wetness of the years.

MR. LAWRENCE: I've got to catch up with you there. On your first one, you were talking about 60,000 as shown on Exhibit 1; but I am not quite sure on the 100,000? For instance, when you had 60,000 to store, you stored every year; and yet on the 100,000 you only showed 7 years. What is the relationship between the 100,000 and the 60,000?

DR. STAUFFER: They are two separate concepts of storage. One is a flat 60,000 acre-feet used every year. This 100,000 acre-feet is only used when Bear Lake spills. It is on top of the 60,000. You can see, there are only seven of the 39 years you could actually use water from these spills; and this printout shows the amount that could be used. This is assumed to be supplemental water.

MR. FUNK: Is this 100,000 during those seven years; would that be less during those other years?

DR. STAUFFER: It would be none.

MR. FUNK: It would be this amount instead of the 100,000 during the seven years?

DR. STAUFFER: That's right.

MR. LAWRENCE: What happens between the difference, then - if you can store 60,000 every year, there are some years that you can store more than 60,000?

DR. STAUFFER: We did not study that; we studied storing 60,000 each year as a maximum storage.

MR. LAWRENCE: This other was just storing -

DR. STAUFFER: Storing up to 100,000 - in spill years only.

CHAIRMAN KUNZ: Norm, - this was anything from 0 to 100,000 above the 60,000 in these other years? In other words, what your're telling us is what some of us thought we understood before -- that there were only seven years

there would be anything that could be stored concerning this 100,000 - above the 60,000?

DR. STAUFFER: Right.

MR. HIGGINSON: Well, what we are saying is that there are only seven years that you could store water that would otherwise spill at Bear Lake; that would not be adverse to Bear Lake storage out of 39 years; isn't that right?

DR. STAUFFER: Right. It also points out you would only be able to use the water seven years, even if you didn't use the 60,000.

MR. HIGGINSON: In 32 out of 39 years any storage above Bear Lake is adverse to Bear Lake storage?

DR. STAUFFER: But the amount that would be available under this 100,000 would be greater. But there are still only seven years that you could use it under that concept.

MR. LAWRENCE: Mr. Chairman, I don't think Keith said what I heard. We could store 60,000 without adversing.

MR. HIGGINSON: No; not if you look at that graph. Look at your worst year - look at 1942 -- you are 400,000 acre-feet short of storage in Bear Lake because of the 60,000 you store in here. That's adverse to Bear Lake storage.

MR. BISHOP: So you've lowered the level of Bear Lake. So what? You still have enough water for each year to manage.

MR. HIGGINSON: I suppose if your water rights were not in Bear Lake you'd say 'so what?' But if they are, you wouldn't.

MR. BISHOP: Why? If your water rights were in storage; if you had to draw the water level clear down to its lowest level in Bear Lake, using the entire storage capacity of the Lake; I don't see that that is adverse -- you are still meeting the demand.

MR. HAIGHT: Are you using the entire storage capacity - down to 5,902?

DR. STAUFFER: No; we are using up to 1,375,000.

MR. LAWRENCE: What elevation is that?

CHAIRMAN KUNZ: Have we got an extra copy of this we could give to Utah Power?

MR. HIGGINSON: Norm, I am interested in one other aspect - on your Proposal 2, where you make the comment that if Bear Lake did not reach any of the limits through the water year, all water stored would be moved down to Bear Lake "following the end of the irrigation season." Now, how, from a practical standpoint, do you do that if the purpose of storing the water in the first place is to use it. There would be no water left at the end of the irrigation season; would there be? In other words, you have stored 100,000 acre-feet of water; and now you have determined that it is adverse to Bear Lake, and therefore must be moved down at the end of the irrigation season. There's none of it left. How do you do that?

DR. STAUFFER: Alan, would you like to comment on that one? As Alan indicated, he and Tom chose just one or two, and then I programmed it on the computer.

MR. ROBERTSON: I suppose it implied here the assumption that by the time we knew whether Bear Lake was going to fill, you could prevent the use of the water. If you knew it was not going to fill, you could prevent the use of the water. You would probably know this by the end of June.

MR. LAWRENCE: Intended to store it, but didn't actually store it in a practical situation?

MR. ROBERTSON: We were trying to come up with some kind of guidelines, and allowed them to store in anticipation of spill. If the Lake failed to spill at these levels, then the water belonging to Bear Lake would have to be moved down there. I guess there may be a practical difficulty there in controlling the use of that water for a month or two. I was assuming that the related agriculture -- maybe in June there might be some question about that, but in a general sense it was intended to allow storage on the anticipation of spills - because if you don't do that, you have less flexibility even in the seven-year thing.

MR. HOLMGREN: That isn't the way this sounds to me - it sounds to me like it's the end of the irrigation year - it sounds to me like October. You are talking about May or June, which sounds more practical.

MR. ROBERTSON: We discussed - actually it wouldn't be by the end of the year - but we discussed the practicality of moving it by the irrigation diversion. If you can come to the end of the year - if that water belonged to Bear Lake,

and you had stored, say, 70,000 acre-feet up there - you could begin moving it down immediately to store, in theory; but then there would be the question of whether the diverters were actually taking some of it. So we just figured in this thing that we would keep it in that upstream storage until the end of the irrigation season, and then move it downstream. The storage would take place in the upper reservoir when the excess water was there to store.

MR. HOLMGREN: I still don't understand, the end of the irrigation season, I don't think there's going to be any water.

MR. BISHOP: If you had to make the decision in June that there wasn't going to be enough water to utilize that water in those upper reservoirs, you would store it and hold it in the upper reservoir throughout the irrigation season and then release it after the irrigation season.

MR. HOLMGREN: As long as you're sure there's water up there.

MR. BISHOP: You have to make that decision as soon as possible, and then hold it.

MR. HOLMGREN: The way they did that, I wasn't sure that there would be any water left.

MR. BISHOP: In order to make the contention practical, you would have to establish some criteria which would require that the water to be used, would be held.

MR. FUNK: As a matter of practicality, if you hit a year that short of water, wouldn't you know, or have a pretty good idea well in advance, that it would be required downstream?

MR. ROBERTSON: This is not a year that is short of water; this is a very wet year.

DR. STAUFFER: These are when Bear Lake is over 1 million acre-feet, before you even begin to store.

MR. FUNK: But the years you needed the storage to meet Bear Lake requirements, you would probably know in advance.

MR. ROBERTSON: There is no danger of having to move the water down to Bear Lake because the obligations downstream need that water that year. In this type of year, if you have 1 million in Bear Lake, there is plenty for that

season. But it's the protection of the downstream users the following dry years.

MR. FUNK: But you've got some leeway here, because you've got the volume to work with. You know in advance.

MR. ROBERTSON: I think there may be some operational problems connected with this.

MR. LAWRENCE: But for the purpose of saying how much water might be available, this is the way you set it up through the computer; and I find no problem with it.

Mr. Chairman, I think maybe we need to talk definitions here a little better, so I can keep up. I think Keith was talking about adversing Bear Lake storage. Isn't this all on the assumption that we will use the Lake as a storage reservoir, and draw it down to the limits stipulated; and only concerned with looking ahead, and possible needs in dry years? We don't adverse Bear Lake unless you draw it down below that point, do you?

MR. HIGGINSON: I think from a water right standpoint, Dan, you do. Any time you store water upstream that legally should go down to Bear Lake and store in Bear Lake, you adverse Bear Lake storage.

MR. HOLMGREN: Even if you don't need the water?

MR. HIGGINSON: Well, if they have the right to store it for subsequent use, yes. I think you adverse that right.

MR. MYERS: This type of water is what is being spilled in Salt Lake now. That is not adverse use if you are just going to spill it in Salt Lake - you might as well leave it up above.

MR. HIGGINSON: I would agree with regard to the seven years of storage that there is spill in Bear Lake. The 60,000 that you are talking about it not spill water; that is just 'every-year' water stored, whether it's adverse to Bear Lake or not.

MR. BISHOP: I still don't understand, Keith, why you feel it's adverse to Bear Lake to use the full range of capacity of the Lake.

MR. HIGGINSON: I'm not saying it's adverse to Bear Lake; I'm saying it's adverse to the rights to store in Bear Lake. From the standpoint of whether you and I enjoy a full or an empty Lake, it's not adverse to that; but it's adverse to the right of the Power Company - they have a right in Bear Lake.

MR. BISHOP: It is adverse to the production of power.

MR. HIGGINSON: As long as that is understood. You can't simply take 60,000 acre-feet a year out of water that would otherwise go into Bear Lake, and say that there is no effect on Bear Lake. There is an effect on Bear Lake. There's an effect on Bear Lake water rights; and downstream water rights.

MR. BISHOP: But just on power rights. We have met all other demands, it's my understanding. I think that is the criteria this Committee was talking on.

MR. FUNK: It kind of seems to me that we should delineate these rights. We're talking about meeting the demands of irrigation; and then there is also the power right; and it maybe would adverse those power rights, as to time and amount of release from Bear Lake.

CHAIRMAN KUNZ: Cal, it seems to me what Keith is saying is that Utah Power & Light's right to store this water is a valid water right. You just can't kick it out of the window; something's got to be done to offset it.

MR. FUNK: I think we've recognized this in previous discussions; and then of putting a value on it. We've talked about it; I think this has been recognized.

MR. HIGGINSON: I think you ought to add to that, and point out that Utah Power & Light Company's right is not just a power right. They have a right to that Lake - for any use that they want to make of it, by a federal court decree. Sure, we recognize that they are using some of the water for power only; but they have a right to the water of that Lake by reason of their diversion to storage. Now, I'm not going to speak for the Power Company, but I suspect that they think that has some value.

CHAIRMAN KUNZ: Would you care to comment any more, Bob? I think you've told us in the past --

MR. PORTER: I think it sounds pretty good.

(Laughter)

MR. OLSEN: It might be to some; but what of the rest?

MR. WATKINS: Mr. Chairman, could I make an observation? In the discussion of raising the Lake, I think there were a couple of comments that led me to

believe (it might be erroneous - Norm, and Alan - correct me if I'm wrong), but you don't look at Bear Lake in April, or February, and say, "We're either going to fill it, or we're going to do it on a year-to-year basis." If I remember the figures - it's been quite a while since I used these figures - but, as I recall, the amount of flow available for storage in Bear Lake on a minimum year is around 35,000 acre-feet. We have had flows upwards; around 800,000 on the maximum years.

This creates, with that great variation on the River, a problem that you have to project either on statistics, or whatever; not for one year of controlling that Lake, but you have to control, project, and take your actions on - well, we think four to five years, don't we, Jay? Four years - that we have to make adjustments to control the Lake the best we can. This creates - in the report that Keith was bringing out - the problem as to whether the water is going to be available for the right users - (and I'm talking about irrigation, and not power, rights at this time). You've got to make adjustments in operating that Lake, several years, before the water is to be used to protect the lower River users. I think this should be considered very thoroughly in this adjustment; and how the Lake is operated. You have that great fluctuation. Just for example, 35,000 is about the minimum available on a minimum year. I think the evaporation on a normal year is up around 200,000 acre-feet, just from loss of water off the surface of the pond. This complicates the water adjustments you make, and how far ahead you have to make them to protect lower River users.

MR. FUNK: Mr. Chairman, in connection with this discussion, maybe Don could review for us the decision, and when it was made, and why it was made, to put the Lake at the level that it was this year. They've stored last winter, and lowered the level of the Lake this spring. Maybe you'd care to comment on that?

MR. WATKINS: I haven't been in the operation for a couple of months --

CHAIRMAN KUNZ: I hear where you've been relieved of your duties. Are you retiring?

MR. WATKINS: I just opened a spot for Jay (Haight).

In this process of projecting for four years, as most of you know,

we were high in the Lake last year, and this year; and you have to count at least until you get to February 1 snow surveys. You have to adjust your Lake level; and if you're high you are going to be drawing water all that year. You can tell pretty well what is coming off the snow pack by February 1; and the thing that you still have to worry about is, what kind of a spring are you going to have and how much additional you try and draw for the spring runoff.

Now, we made adjustments; we were drawing water all through the summer to assure ourselves that we were not going to spill. I think we were somewhere in the range of 125% or 130% of normal year. But we didn't get 130% of normal; therefore, we are down lower in the Lake - lower than 23. And I think that's the best answer I can give. This is the concept I have.

MR. PORTER: This problem is pretty wide. That's all there is to it.

MR. ROBERTSON: I think what we assumed -- rather than to try to answer that, I know they (Utah P & L) haven't had a chance to study this statement. Perhaps it might be appropriate to ask them to look it over, and perhaps after lunch they could comment. I don't believe there is anything here -- it's a theoretical operation it's true; but I think when we look at it, it is really under these assumptions. This four-year thing is not a problem; but I think it would be best if they look it over. In regards to what we did in this study that Norm has told you about, - it is the assumption that the changed operation is not a problem relative to protection of downstream users, or perhaps flooding on the Lake, and this sort of thing. Rather than for me to sit here and try to assure you that there is no problem, I think it would be better if you look over the statement.

MR. WATKINS: Let me ask you this, now - I realize that the study was made on a vast history, where you have a statement and you can plot these curves out as they go. You start 1974, looking forward - what is the sequel to that kind of year? Is it going to be a minimum year; or is it going to be a maximum year?

MR. ROBERTSON: In that context, regarding these two studies, if the Lake would be above 1 million acre-feet, the Upper users would simply be allowed to store water; but if the Lake did not actually spill, then the water would still be delivered down to the Lake that fall and you would have it available to meet

your obligations.

MR. WATKINS: In other words, what you are doing in your study is, - you're taking so much water as it comes in; if the year turns out to be a dry one, that water can come in later in the year?

MR. ROBERTSON: Yes.

MR. WATKINS: In this planning for the operation of Bear Lake, you still have to go on the statistical basis over a four-year period, with the idea that water will be held up early in the year; and if the high water doesn't materialize, that water will be let down later in the season?

MR. ROBERTSON: I still think it would be good if you had a chance to look at the report - and then maybe comment later.

CHAIRMAN KUNZ: We will reserve that right for you, Don, or Jay, or whichever; because you weren't even in on the beginning of the discussion, I realize this.

MR. LAWRENCE: I need some more help from Keith. I am interpreting that what he was doing was making the record clear that if you draw this 60,000, you are using a bona fide right of the Power Company to store. But I think he wasn't saying that that might not be feasible by some method of applying that right, or compensating the Power Company in some way, or permission from the Power Company to do that. It does utilize the available storage space in Bear Lake, which is the cheapest storage we have anywhere on the River. You weren't just simply saying that this might not be an alternative that is available to the River?

MR. HIGGINSON: I'm not saying it's not an alternative; I am saying that in order to store the 60,000 acre-feet, you are interfering with downstream rights; which is contrary to the Compact. And if you want to do that, the Compact has got to be modified to do it.

CHAIRMAN KUNZ: Are there any other questions?

MR. MYERS: I think this is a pretty good report. I have to have time to digest it, and to understand it; but it is a forward step.

I would like to throw something else out here, which has intrigued me ever since I've got mixed up with this Compact. That is the mechanism whereby the Power Company - every time we were - we actually constructed storage above

Bear Lake under the old Compact, and they were given the same amount of additional storage for irrigation reserve in Bear Lake. It looks to me like the whole works of it should, if we are getting something like this to look at, we should investigate this thing - think about it - study it - research it - with the idea in mind that it may fit in very well in a system like this, to give us firm storage above Bear Lake as extra storage is developed below Bear Lake, on about the same kind of a system. We have thought about it, and kicked it around a bit, but nobody has ever done anything about actually coming up with anything on it; and I think it should be considered. We have such a system in the old Compact where there is built up for the Power Company on Bear Lake to equalize the upper storage; and I think that it should be looked at where the storage above Bear Lake would receive a certain increase as the storage below Bear Lake is developed.

CHAIRMAN KUNZ: Wes, maybe I should ask the Bureau of Reclamation to comment on this; but this has been done - that the upper reaches could have additional firm storage by construction of additional storage below. The question always comes up, you have a double payment. Dean, do you want to comment here a little bit at this time? I think this has been bandied around, but it's always avoided because of this double payment. Am I correct? Or am I wrong, Dean?

MR. BISCHOFF: This is true. You store above Bear Lake, and then of course you have to have some replacement storage below Bear Lake. And how is the upper storage going to participate in the lower storage? So this is the big point. You have these storages that you have to work - you have replacement storage - you have dual replacement storage that you have to work with here.

MR. MYERS: That is correct. All phases of it have to be considered - I understand that. But, we as a group on the Compact Commission, and the Negotiating Committee, are supposed to be developing on a broad concept to the best advantage of all, the water for all the users concerned in the whole River system. And I think that it definitely has a place, - as the undeveloped storage is developed lower, that we are certainly entitled to more efficient use of our storage above Bear Lake. Now what happens so far, is that we above Bear Lake are the only ones that have any lid on us at all, or any control on us; and every year, even in wet water years, if we get an early runoff, we're sitting up there -- the water's gone; we can't use it; we're dry, and burned up; and it does no good

below, because in a high water year nobody needs it down below.

That's the type of thing we are supposed to be developing by this whole process. We want to consider these far-reaching matters as well as just who's got the right, and what's going on. I think we want to look at it in greater depth than most of us are inclined to do -- we're each one kind of looking out for ourselves. I'm worried about not getting any; Keith's worried about us getting more than we should have; and so on. We really should look at this whole thing. And I think this hasn't been done.

CHAIRMAN KUNZ: Wes, I believe this is part of our original Proposal; that we look at this thing on a Basin-wide plan. So far, there have been at least two items there in our Proposal that have never been addressed. One was ground water; the other was distribution of water without respect to state lines, which we feel can have a very definite effect to Idaho. So far, it seems we have been talking very strongly about what's going to benefit upper Utah and Wyoming, without regard to what could happen to Idaho or lower Utah.

For instance, this 60,000 acre-feet of water that we are talking about -- so far, all proposals are to whack that up between upper Utah and Wyoming. Shouldn't Idaho and lower Utah have part of this 60,000? There is a stretch of River there from Bear Lake to the next storage site that maybe could use some of this 60,000. And so I think there are definite questions that Idaho is going to have to have answered here before we can meaningfully discuss how we are going to whack this 60,000 up.

MR. MYERS: Well, of course, I think the people that are making the study on this are assuming that there is water above the 60,000 that can be used below Bear Lake.

MR. LAWRENCE: Mr. Chairman, I think that isn't correct, if I've read it right. This particular study, Alan, provided for present use -- 1970 level below Bear Lake, and no addition; is that right? So Ferris is right; that this would show the effect on the Lake with no greater demand on the Lake downstream than the 1970 year. But water below Bear Lake can be developed.

MR. BISHOP: There are large quantities of water below Bear Lake that are available for further development. Maybe these below Bear Lake -- I think that's what he's talking about.

CHAIRMAN KUNZ: This is what I'm talking about.

MR. BISHOP: How far downstream?

CHAIRMAN KUNZ: Well, as far as Soda Springs, maybe. That's the next logical storage place that has been mentioned, anyway, Floyd.

MR. DAYTON: Ferris, have you ever experienced any shortage between this distance you speak of, in the past?

CHAIRMAN KUNZ: I'm not necessarily speaking of shortage. I don't know if we have specifically said yet that all this was supplemental. There are very likely some meadows down through there that would like supplemental water, just the same that you and I would, Reed; at a later date than when our meadow rights are cut off. There is considerable land there that could be developed. Now, when you start talking developing, we're talking about different than supplemental water; we are talking about new lands. But to my knowledge, we have never actually said that this 60,000 acre-feet we're talking about was strictly supplemental. This assumes it; but we have never actually agreed to this supplemental.

MR. MYERS: Going back to this addition to the irrigation reserve under the old Compact; what has happened to that before? -- Something - 25,000 acre-feet or so, additional storage in the Lake that is irrigation reserve? Where has it gone? What has happened to it? Where did it go?

MR. PORTER: That isn't additional water; it's additional irrigation reserve. It's just for the protection of the lower users. There's no more water in the Lake than there ever was.

MR. MYERS: Well, of course.

MR. PORTER: This is a theoretical figure; we never use it.

MR. MYERS: It's more than theoretical; you've got the right to use it down to that level.

MR. PORTER: Down to that level; - we never have.

MR. MYERS: Well, that's what I'm saying - no one has ever used it. It has just been there. I guess there has never been any call for it. I guess it really hasn't benefited anyone.

MR. HIGGINSON: Well, it benefited from a protection standpoint.

MR. MYERS: But I mean from an actual physical standpoint. There has never been any call for it.

MR. WATKINS: I think the problem - for any time that you are in the Lake, there is water there. But the history shows, and I'm sure this study shows, that with the irrigation demand, 60,000 to 5,902, - with the existing facilities, this is right at the bottom of the barrell. In 1961, as Jay says, we were below the irrigation reserve, and it was for irrigation purposes. On a year like this, or the years that we have just come through -- it is in the year 1961, 1934, and so on, that this water is being used by the lower users; and this is the protection that Bob is talking about.

CHAIRMAN KUNZ: Any other comment, or question on this item of business?

MR. DAYTON: In line with what Wes has said, it would appear to me that in the overall picture, instead of all this water running to waste, - or what water there is, - certainly these three states ought to come up with something that might be used to advantage, rather than spilling, and use the water for the benefit of all.

CHAIRMAN KUNZ: I think this was the point I was trying to make, Reed; that it should benefit all, instead of just the upper users.

MR. MYERS: I think we would all have to agree that anything that is stored upstream, there is going to be benefit derived by users below it; it can't help but be, can it? From past history, it all hasn't been used -- and downstream is the only place for it to go.

CHAIRMAN KUNZ: I think your return flows have been considered in all of these studies, haven't they, Alan?

MR. MYERS: I think the great reason why we are doing a lot of talking about upstream storage is because that's all the Compact has anything to do with. If we open the Compact, we necessarily talk about upstream use. We really should be talking about the whole Basin.

CHAIRMAN KUNZ: This is the point I'm making, Wes; that before Idaho can agree to modifying the Compact only for the upper reaches we are going to have to have some benefit for Idaho below.

MR. MYERS: We better put the whole River in the Compact.

CHAIRMAN KUNZ: This is what we better be looking at.

MR. FUNK: I think there is another aspect of it. The upstream users have expressed an interest and a willingness to utilize this water; and apparently under conditions up to this date, things have been rosy enough below the Lake for all users, that there hasn't been that interest and pressure for any development. Now if you have a need below the Lake, it seems that certainly you ought to get it in the mill, here. At least in my thinking, the assumption has generally been that below the Lake there just hasn't been anything planned; there's no wheel to squeak; and there has been no reason to develop, or grant permission.

Where, above the Lake, that fact exists. And I can't see that we have any insurmountable objections to granting a reasonable study request for this storage above Bear Lake, just on the grounds that sometime, many years from now, we may use it below the Lake. I think we ought to come up with that use if we've got it. Or we could just meet forever and say, 'Well, just on the assumption that something may happen, we better hold off here and be safe.'

QUESTION: Mr. Chairman, haven't they been asking for utilization below the Lake for at least 15 or 20 years now? We have been trying to get storage reservoirs to utilize. They still haven't anything below the Lake; and they have been hollering for it for years.

CHAIRMAN KUNZ: I think this puts us back to Idaho's original Proposal for a Basin-wide plan.

MR. PEART: Mr. Chairman, if Idaho, or even Lower Utah, has been after this water for years, what's the holdup? Why haven't they done it? It's like Wes says - you haven't got a Compact tying you up.

MR. HIGGINSON: Yes, we have.

MR. OLSEN: Below the Lake?

MR. HIGGINSON: We have a Compact provision which subordinates, in effect, the allotment of Idaho through prior development in Utah, which we're not very happy living with. We have asked for, and suggested, that that provision of the Compact ought to be revised. We also ought to consider the ground water in this Basin as part of the water available within each state. We recognize that in certain areas of the states there are tremendous ground-water reserves.

We are not willing to commit ourselves to the full development of the surface water supply, and let one or the other states sit there with their groundwater reserve undeveloped, for future use, and leaving those omitted. We have suggested that in our original Proposal; and there has been no reaction to it.

I guess what we're saying is that Idaho is willing to continue to work with the other states for what you apparently want in the upper Basin; but at the same time, we want something in the lower Basin settled.

MR. FUNK: What do you want?

MR. HIGGINSON: I can give you my personal view; but that doesn't represent the Commission's and the Committee's part. One of the things I think we have got to have is an allocation of future developable water in the lower Basin, that is not obligated to downstream users. In other words, we have got to have a Compact division of that divertable, appropriable water supply below Bear Lake.

MR. LAWRENCE: We get that by, Mr. Chairman, by defining the unappropriated water on the River.

MR. HIGGINSON: Which we have done in the studies that have been made. The unconsumed flow of the Bear River below Bear Lake has been defined. What I have to have, from my point of view, is that for Idaho to be properly protected, we need an allocation of that.

MR. LAWRENCE: Let me be sure that I understand. You have defined the unconsumed flows, - but have we related them to existing water rights in good standing and good faith? Is that a paper filing; or actual diversions?

MR. HIGGINSON: Paper filing. This is one of our problems, and one of our concerns. These are paper filings; and we know what paper filings are made in Utah, as well as what paper filings are on record in Idaho. They cause us great concern.

MR. FUNK: To end the sparring, we need some kind of a starting point; and I think it is commendable that the users above the Lake have put this much effort in and say, 'there is this much available water; and it could be used here; and have this effect.' If this is the criteria, and putting it in through here, and coming up with what it's effect is on the system, then maybe we better get some specifics in that area below the Lake, across the line and in lower Utah. Is this what you are suggesting, - a firm tabulation of paper

rights, and a project proposal basis? Just how do you go about grappling with the question? It seems to have been precipitated by users above the Lake by a real and sincere desire on their parts to develop; and that seems to have been lacking elsewhere.

MR. HIGGINSON: Mr. Chairman, I'm not sure that we would agree that there has been a lack of interest elsewhere to develop. Certainly the Utah and Idaho people in the Cub River area have had a sincere desire to develop; and they have felt frustrated by the fact that we have been negotiating and discussing; and I think representative _____'s letter indicates that. It is because of the fact that we have been developing and discussing, that they have been stopped from any other procedure on their project with the Bureau. There has been a continuing interest in Idaho, and I think Utah, in connection with the main stem development on the Bear River. I think there still is a strong interest in connection with a potential Plymouth, and Oneida Narrows, and other reservoirs. I think there is the interest there. I think the people have all kind of got half asleep because they understand that negotiations are going on; and nothing is going to happen until we get finished. We have been at it for six years.

MR. LAWRENCE: I think this has been good review discussion; and the Chairman has talked about the Idaho proposal for a Basin plan. But it's my understanding that we were agreed, not too long ago, that we would try the approach of agreeing on some projects that could go forward, because we looked ahead and couldn't see the development of a Basin plan in the time frame that we had hoped we could have had at first. Now, is it the consensus of this group that we still are committed to try and break out specific projects that could be agreeable to the states and that could be endorsed; or is that assumption on my part incorrect?

CHAIRMAN KUNZ: I think we agreed pretty well still even last meeting that a Cub River project was a high priority item; and we would continue to do anything that we could to move that along, didn't we?

The thing that I would like to refer you back to here, the point that I'm trying to make, is at Malad on February 3, 1972, Item 4 says: "In addition to Plymouth, the Idaho Committee suggests that the storage allowance upstream from Bear Lake be increased to supply uses in each of the three involved

states. The Idaho Committee would entertain proposals from Utah and Wyoming on amounts of such storage and the manner of its operation."

Now, we have had proposals alright; but the third stage has not had the consideration we feel we should have had, yet. This is what I'm saying. Maybe we want to use our allocation strictly for recreational protection of Bear Lake -- this is something that we have recognized that you're going to have to confront. And I think the Power Company has; but everyone else seems to want to ignore it. And it is a definite thing.

Norm, in his report, just told you that any water use in the future is going to be multiple objective; and recreation is sure a part of multiple objective, isn't it, Norm? You can't just ignore it, and say, 'if you ignore it long enough, it'll go away.'

MR. FUNK: What does Idaho want as a stored right or additional use above Bear Lake? Any suggestions? Amounts, and locations, what you want to do?

CHAIRMAN KUNZ: Well, I don't know if we have a definite figure on it; but I think before we -- I'll say this: Before we agree to a 60,000 acre-foot development above Bear Lake, we're going to have a chunk of it. Now, this is a negotiable matter -- maybe we'll settle for 10, maybe we'll settle for 20; --

MR. FUNK: How can we find this out? How do we go about getting a hand on it?

CHAIRMAN KUNZ: No. 1, I think Cal, is to answer our two requests here. What are you willing to do with the ground water development? And what about this state line? These are two items that have never been addressed by the other two states.

MR. PEART: Mr. Chairman, where do you consider above Bear Lake? As I understand it, Thomas Fork is all Idaho's got above Bear Lake; and they have already got a storage right that they've never yet used.

CHAIRMAN KUNZ: Well, there's additional storage besides that above Bear Lake that's never been used for storage.

MR. PEART: Don't they consider -- above Bear Lake -- where, Wally?

MR. JIBSON: Well, above Bear Lake -- above the dam.

MR. FUNK: Some way we've got to get these things out so we can decide about them. If it's just something in the porridge, and we don't know what it is, we can't talk about it, or work with it.

CHAIRMAN KUNZ: These points I'm making have been with you since February, 1972.

MR. FUNK: Maybe your state will have to come out and disclose some of its desires so that we can talk about them; as the upper users in Wyoming, and Utah, have done. We want a disclosure of what the plans or possibilities -

MR. HIGGINSON: Let me ask you -- What do you feel that you have disclosed - when you talk of disclosures? In regard to a shortage of water above Bear Lake, we have talked about half a dozen different figures, and we haven't found out yet.

MR. FUNK: Well, I think they have put a figure on Woodruff Narrows; and there is a group that's working for that figure -

MR. HIGGINSON: You mean 5,000 acre-feet?

MR. FUNK: Yes. This is what I am referring to. It has been tied down as to place, and amount, mode of operation, and so on.

MR. HIGGINSON: We can identify Cub River - project size, capacity for amount of water, use. You have mentioned Plymouth - I think we could identify its size, location -

MR. FUNK: But is there enough interest and desire in that? Maybe Paul can answer that; we have talked about this. Is that enough of a reality that we should spend any amount of time talking about it?

MR. LAWRENCE: At the September 29, 1972 meeting of this Committee, Utah responded in part to Idaho's proposal. And we said "with regard to the use of groundwater in the Upper Bear River Basin, Utah concurs in the Idaho recommendation that the storage and depletion limitation include both surface and groundwater--with the exception, however, that diversions from either surface or groundwater sources for domestic uses for less than .015 c.f.s. be excluded from these limitations.

MR. HIGGINSON: That's upper - what about lower?

MR. LAWRENCE: This comment went only to the upper. With respect to the amount of additional upstream storage, Utah said "The Utah Committee earlier indicated a tentative approval of the concept of a Tri-State Authority whose approval would be required to implement the construction and use of any additional storage projects in the Upper Bear River Basin. This tentative approval was based upon the concept of a Bear River Basin development plan which would involve a project-by-project development rather than a specific allocation of water to each State.

Since it now appears that we are returning to the proposition that a specific block of water be allocated to each individual state, Utah no longer favors the adoption of such a Tri-State Authority and believes that it should be left to each of the states to reallocate to its users the water which it receives." We ask for an additional 35,000 acre-feet. Those are the only, I think, official numbers that have been presented; and those are the ones that Utah still pretty well uses.

MR. LELAND CHRISTENSEN: Mr. Chairman, could I interject some additional consideration, with respect to the water quality of the Lake and recreational use? It would appear to me that probably nothing can be done, from my standpoint, on use of the Lake for a storage facility; but the more dams and reservoirs to be elsewhere - upstream, downstream, or wherever - the less need there would be to dump water into the Lake and take water out of the Lake; and this would reduce the amount of silt, and this, I think, should be a consideration.

MR. FUNK: Another thing that concerns me personally, is that we don't seem to get a total agreement on what the level of the Lake should be. We talk about something; of course, the Power Company indicates that it should be something less than 5923.65; Idaho implies that it should be less than that. But how much less? It seems to me that this is critical - with 70,000 acre-feet in the top foot here, that's more storage than we talk about in this report that Norm just presented, in Phase 1, or Option 1. It seems to me that this is basic to the whole system; that we've got to tie this down and get agreement as to what mode of operation we are going to continue in the Lake; because as long as we let that be a variable, we just can't pin down anything else. I think Utah's taken rather a definite stand; that is, maximum fluctuation of the Lake. If someone else is going to insist on a different mode of operation, we need to know what the limits are, and get that thing resolved.

CHAIRMAN KUNZ: I think Wyoming has taken that definite position, too; but the legal responsibility, no one has assumed yet.

MR. FUNK: We need to inspect what that legal might be. Let's get the 'bear out of the closet and wrestle with it,' if we can. Let's take a stand; and go from that fixed position so that we can make some measurable progress, or lack of progress.

MR. BISHOP: Mr. Chairman, I would like to comment on your thought expressed a while ago, that people hadn't discussed your suggestions on ground water. I think that Wyoming did. It was our position that we didn't have enough information on ground water availability in the Wyoming section of the Basin that we felt qualified to start negotiating allocation of ground water uses between states. I don't have the Minutes of this, but I'm sure someone made some comment of that kind.

CHAIRMAN KUNZ: I believe you did make this expression, Floyd. Of course our concern is - are you willing to restrict future development of ground water, too?

MR. BISHOP: How can you restrict future development of ground water without knowing what your ground water resource is, or potential is, and what the limitations are? I don't think you can do it, and do it properly, without a very exhaustive study of the ground-water resources. That's a long-time data-accumulation program. I don't think you could do it in less than two or three years, if you got started right now; and we haven't started it.

CHAIRMAN KUNZ: I think this was one of the reasons that we said any modification, or so on, should be flexible enough to meet future changes. There might come a time when development of ground water in Wyoming could affect your supply for the Idaho portion above Bear Lake, for instance.

MR. BISHOP: It's very possible.

MR. MYERS: Well, if we look at this once every 20 years, maybe we could look at that in the next 20-year go-around.

(Laughter)

CHAIRMAN KUNZ: The hassle we're having this time, I don't know as I want in on another 20 years of it.

MR. BISHOP: Nobody is going to worry about that. It would be my feeling, Mr. Chairman, that the present conflict and why limitation on the use of ground water - that we say you can't develop ground water to the point where it would interfere with the surface water, is certainly outdated. If you develop ground water to the point where you are actually interfering with surface water, then

I think you are in violation of the Compact. I believe there is an implied limitation to that nature already. To go beyond that implied limitation, it seems to me, takes more information than we have available to us now.

MR. FUNK: I would just make another comment. In my knowledge of the development of water rights, it seems that it has been a chronological thing; and if someone came on the River 100 years ago, and made a diversion and used it, that established his right; and it's hard to project from '73 forward 50 years, what rights might be, or might ought to be. And it seems to me a kind of a weak position to deny a right that wants to be developed and used now and become a matter of reality, when the facts don't indicate that it's going to be adverse or detrimental to the uses that we can foresee in the future.

MR. OLSEN: May I ask Mr Higginson - you stressed the importance of ground water, Keith. Do you have a need of development of ground water within your area now - a great interest in this? Are we going to separate it - or can we separate it - from flow rights at the present time, and deal with that at a later time? Or are we going to deal with them both at the same time? What is your position on this?

MR. HIGGINSON: My position in connection with the Compact provisions is that it ought to be dealt with now, as part of that Compact provision. There ought to be some provision written into the Compact with respect to ground-water development as it would affect the total water supply of the River system. Yes, we have interest in Idaho of development of ground water -- ground-water development is going on all the time; even before the Compact date. The same thing is happening in the other states. We don't know to what extent we have ground-water reserves, the development of which will affect surface flows - entirely, we do know, in certain areas. We don't know how much ground water we've got 'in the bank' so to speak, compared to what ground water is 'in the bank' so to speak, in other states. I do know from past experience that there are certain basins within the Bear River drainage where there are tremendous ground-water reserves. And it seems to me that if we are talking about some kind of an equitable division of the water among three states, the amount of water that is available in each state in those ground-water reserves ought to be taken into consideration.

MR. OLSEN: Then what do you propose? Do you propose a study be started on the

ground water, - and probably take three years, now, to come up with a proposal from that angle?

MR. HIGGINSON: I don't think that it would take three years. I think there are studies already made that will give us the information that we would need for the purpose of these negotiations.

MR. OLSEN: Now, we have a complete ground-water study in Cache Valley area.

MR. HIGGINSON: We have two or three studies in Idaho.

MR. OLSEN: Well, I'm including Idaho in it. Idaho and Utah - the whole Cache Valley ground-water study is complete.

MR. HIGGINSON: Yes; and we have a couple of studies in Idaho that will give us information on ground water in Idaho. We don't know what the situation is above Bear Lake.

MR. BISHOP: Do you think you have enough information to negotiate?

MR. HIGGINSON: Well, as much as we have enough information to negotiate at all.

MR. FUNK: Would it be in order to ask Mr. Higginson to make some suggestions for actually putting this in writing as to what protection might be given to ground-water resources? It seems to me that there's the one that Floyd just mentioned in the Compact, that if you got to the point where ground-water diversions affected surface flows and rights, that this is an obvious factor; and then there is the second one, of the regular Commission meetings - that any application of ground water used is to be reviewed, and the opportunity there to make some suggestions. Would you be able to make some suggestions as to what actual protection might be written to a ground-water resource? Do you feel that it can be tied down to specific amounts at this point; or more in generalities, as the Compact suggests, that the flow rights are affected? We ought to ask for something to get on the table and start talking back and forth, just as a starting point. Maybe we could get areas you have concern with, and as the facts become more obvious, we would have a talking point.

CHAIRMAN KUNZ: I think maybe this is a good time to stop and think about it. It's lunch time, as far as I'm concerned. We will not dispose with Item No. 5 at this time -- we will leave it open, and recess for lunch. There has been no specific arrangement made; they tell us we can order from the menu at the

dining room, so there will be no set lunch served anyone - you can order what you'd like. We will reconvene at 1:15.

Oh, one thing we do have coming up: Item No. 6, is our response to legality of storing flow rights. We anticipate no great amount of discussion on this, because you haven't had this; but we do have a copy, or a couple of copies for each of the states, of our Attorney's opinion regarding Mr. Skeen's legal opinion on this Bear River storage. You might want to look at this. Maybe you will want to ask some questions. As I said, we don't anticipate any discussion because you haven't had this. And if you want it for a future Agenda item, then we can set that.

We recess til 1:15.

LUNCH

CHAIRMAN KUNZ: Okay, let's get things rolling again here. We are still on Item No. 5. Are there any additional comments or questions here before we move on?

MR. FUNK: Mr. Chairman, as I look at this report that was submitted by the Sub-committee this morning, it tells me that with the exception of interference with power rights, that there is 60,000 acre-feet of water that can be stored above Bear Lake in the 39-year historical period that they have studied, without interfering with flow rights. And as I get the figures here and there, in the hall, and whispered in my ear, and so on, maybe Utah is looking at 35,000 acre-feet of that; Wyoming is looking at some of it; and you said that Idaho is looking at some of it. If that's the amount that the Technical Subcommittee has decided could be stored, would Idaho like to store some of it in Woodruff Narrows? Wyoming has indicated they may store some at Woodruff Narrows. I would just like a little more comment from the State of Wyoming about this 60,000 acre-feet; and maybe more comment from Idaho about what part of that 60,000 they would like and where they would like to put it -- and just a little more comment about the 60,000 acre-feet that is isolated by this report that the Subcommittee has given.

CHAIRMAN KUNZ: Floyd, -

MR. BISHOP: Mr. Chairman, really, we haven't got to the point of trying to decide how the 60,000 acre-feet is going to be divided up. I take issue with Cal that 35,000 acre-feet is for Utah, because we've always said that it would be at least 50% for Wyoming, and probably more -- so 35,000 for Wyoming and 25,000 for Utah would be more appropriate. (Laughter) Really, we haven't gotten to the point of trying to divide that between states. I think the Technical Subcommittee report is very helpful in spelling out that figure; and I interpret it to be 50%.

MR. MYERS: That's right; the report says 50-50.

MR. BISHOP: I interpret the report to say the same thing as you do.

MR. MYERS: But the report does have some errors in it, I think.

MR. BISHOP: Well, the statement that 40,000 acre-feet would be stored at Smith Fork - really I don't think that's Wyoming's intention at all; and I don't know what significance that might have.

MR. LAWRENCE: Could I ask Floyd, would you then agree - I think I heard you say you agreed with Cal's general statement - and would you think, then, the thing to do would be to agree to come up with some answers as to what part of that particular 60,000 Wyoming would like to have as a project for immediate study, or something?

MR. BISHOP: I think that would be appropriate. It seems to me, and I think it's Cal's feeling also, maybe we ought to agree to the 60,000. If the Negotiating Committee can agree that there is 60,000 acre-feet that can be stored above Bear Lake without infringing upon the flow rights below Bear Lake, then I think we are at a point where we can talk about 60,000, and how much of that would be allocated to each of the three states. I don't deny Ferris' point, that maybe Idaho should be considered in that 60,000 figure. It seems to me that their needs are pretty limited as compared with Wyoming's and Utah's. In fact, I think Wyoming's are very obvious - they are greater than either Utah's or Idaho's, without any question. Our potential, and our need for supplement irrigation requirements are greater in that part of the Basin than anybody else's; so I think we're entitled to more.

MR. HIGGINSON: I think it would be well to ask the Technical Subcommittee for an explanation of the 60,000 acre-feet - how that figure was arrived at - in

drawing some conclusions from the use of the 60,000 acre-feet in this study, as to its being a supply that is available. How did you arrive at this 60,000 acre-foot figure? Why was it 60? Why not 50? or 40? or 100? Some other figure? How do you come up with the 60,000 acre-foot figure?

MR. ROBERTSON: Tom Barker and I 'guesstimated' that it would be about that amount, assuming certain depletion related to it from supplemental use that would cause the kind of depletion that it states in the supplemental report, that would empty the Lake. So that's what we asked Norm to run; and I think the study very closely showed.

MR. HIGGINSON: But that 60,000 is based upon several assumptions, including the depletion of that which could be used for supplemental irrigation only, as opposed to any other use. We have to keep that in mind. If you are talking about 60,000 acre-feet of storage and uses other than supplemental irrigation, and efficiencies of irrigation application, and conveyance loss is different than are in this report, then you don't have 60,000 - you have some other figure.

MR. ROBERTSON: Mr. Chairman, I would like to make one thing clear. The study was just completed by Utah's staff; and I think it is probably very good. But until this morning I had not had it, and I think Wyoming had not. We would like to look at it in more detail. However, I think it does point out about what we said it would, regarding the amount of storage. Perhaps we shouldn't agree on that matter - it is an assumption.

MR. HIGGINSON: That's what I wanted to point out - it is an assumption. Again, if you look at what the assumptions were, one of them being that irrigation efficiency is only 33%, that's pretty low efficiency - maybe that's all that can be obtained in that area, but I'm not certain that we as a negotiating group ought to agree that 33% is a reasonable figure. But that's what was used in the study to come up with this kind of results. And so, if you are talking about establishing a firm figure as to the amount of storage that can be constructed above Bear Lake that, under current operations, will draw Bear Lake down to the minimum level during this study period, you have got to examine the whole thing. Maybe 33% efficiency is not a reasonable assumption.

MR. LAWRENCE: Adding to what Keith has said, it's significant because I think the water rights administrators have told us in previous meetings that, as a

practical matter in administering the program, we probably have got to go to some kind of a diversion requirement relationship; and if you present a picture on the basis of 33% efficiency, return flows would be one thing; and then if you divert the same amount and obtain 50% efficiency, the return flow is substantially different; and you get a different picture.

MR. BISHOP: Of course that being the case, we may well be talking about depletion along with this - how much we can deplete the system, rather than how much we control. I think 33% is a reasonable figure of efficiency for what we actually have in the Wyoming portion of the Basin right now. If we can improve that, and thereby increase the depletion, and thereby upset the balance -- maybe we ought to talk about depletion; but then you get to the very difficult problem of trying to administer water on the basis of depletion. So you are torn between.

MR. HIGGINSON: I think we can go ahead, Mr. Chairman, and proceed on the basis of the 60,000 figure developed in this study; but it would be understood what assumptions went into that 60,000 acre-foot figure.

MR. ROBERTSON: I think it would be well if Norm would explain why there was 40,000 on Smith Fork.

DR. STAUFFER: The water supply at Woodruff Narrows - if you want 60,000 acre-feet every year additional - you can't get it every year. What I'm saying, if you want an average storage of 60,000 you would have to carry over a number of years at Woodruff Narrows, or above it. Now, on Smith Fork, you don't have that problem. There is enough water supply there to store the 40,000 every year. But up at the Narrows above, there isn't enough to store more than 20,000 acre-feet every year without some holdover.

MR. BISHOP: Of course, what we would have in mind would be a combination of storage capacity involving Smith Fork, Woodruff Narrows, and the upper Bear River Basin - some storage in all the reservoirs, which I assume could be an object of speculation in the total water supply available; I don't know.

DR. STAUFFER: If you want to average storage of 60,000 then you need to have a limit greater, so that some years, you can store 90,000 to 120,000 and other years you'll only store 20,000 or 30,000.

MR. BISHOP: Well, I would just say that in practical sense we wouldn't want to construct it. There just isn't need for 40,000 acre-feet of storage capacity in Smith Fork. There are major needs in the Basin, but not all on Smith Fork.

DR. STAUFFER: Then we better specify that we need 120,000 acre-feet of storage in the upper Basin, with an average of 60,000.

MR. BISHOP: I think we need to stick pretty well to it, Norm, of how much we do want where; and you don't know how much you need until you know where you need it.

DR. STAUFFER: We have studied Woodruff Narrows particularly; and more than 20,000 acre-feet additional you've got to have a lot more storage than yield. This is in addition to the existing system. It does not include the 4,000 that is not used.

MR. FUNK: I wonder if this should be an Agenda item for our next meeting? Mr. Bishop made some suggestions as to how much and where for each of the three individual states that would be related to storage that might be available above Stewart Dam. Could this be an Agenda item for our next meeting?

CHAIRMAN KUNZ: Could be. Paul -

MR. HOLMGREN: I wanted to ask Norm to correlate the acre-feet in the Lake with the elevation of the Lake. In reading your chart here, is it my understanding that in 1961 the Lake was drawn down to 5902 feet?

DR. STAUFFER: No.

MR. HOLMGREN: I some way got the assumption that it was down to the limit in 1961.

CHAIRMAN KUNZ: The irrigation reserve.

MR. HOLMGREN: At 200,000 acre-feet, how low is the elevation of the Lake. That's what I want to get, is the correlation between -

MR. ROBERTSON: Very roughly, about 5905. There is a crop of three feet vertical elevation for every 200,000 acre-feet.

MR. LAWRENCE: In 1935 it got down to that.

MR. HOLMGREN: Well, that's what I wanted. In reading your chart I read 400,000 acre-feet, and I notice over here what the elevation of the Lake is, and how dangerous it is getting to be - and I wondered what the elevation of the Lake would be.

MR. LAWRENCE: Why don't you give us a couple of numbers -

DR. STAUFFER: Well, at 180,000 it is 5905; at 5910 you are roughly 500,000; at 5915 you are approximately 800,000; and at 5920, you are 1.1 million.

MR. LAWRENCE: So in 1961 you were down to 5910, so you had about 8 feet.

MR. HOLMGREN: You were pumping.

MR. OLSEN: Did they pump in '61, or were they just on the verge of pumping?

_____ : You can draw down to about 14 before you have to pump.

JAY HAIGHT: No; can't get that down much below 15 to 18.

DON _____ : You have to pump it below 20.

MR. HOLMGREN: Well, I'm getting a few things cleared up.. Thank you.

CHAIRMAN KUNZ: Don, are you prepared to comment here on this report? Or is Jay going to; or which one?

MR. HAIGHT: I could say, first off, that we agree with the hydrology as near as we can determine. One aspect of operating the Lake is the practical way of predicting the drawdown which is necessary to provide for future runoff. We have indicated that we have to do this four years in advance. This is impossible, so we do it statistically. We are now on the basis of a statistical analysis of the past year's operation at the optimum point to draw on. It seems that every year we should draw down, prior to the spring runoff, to this point of around 5918. This gives us minimum exposure to uncontrollable spills, as well as to drawing the Lake dry.

So, practically, in the Lake we have tried to draw down to this point regardless of whether the year looks like it's going to be a dry year, or wet year, or any other kind of year; because we don't know whether subsequent years are going to be exceedingly wet. As you know, the last two years, 1971, and '72, we have had to spill uncontrollably because there is no way we can avoid that.♦ To provide this 100,000 acre-feet of storage upstream would allow us to operate at a higher level in the Lake without having any increased exposure to flooding. I don't know if that is clear or not. So in addition to what we have done here, this 100,000 acre-feet is needed to transfer the burden of flood control upstream. If we leave the water down in the Lake according to this criteria, we then would draw it down to a much greater elevation, and enter into the spring runoff period confident that we weren't going to spill. But unless the 100,000 is pro-

vided, the 60,000 we cannot carry under our present mode of operation; because we cannot regulate greater than 2265 every year and let it spill. And that's what we have to do in order to provide the 60,000 and not have shortages down below if we didn't have the 100,000 upstream. That's the only comment that I have to make here.

No matter how we look at it, operation, and all considerations, it takes about five feet of storage capacity some place for one acre-foot of water - yield. Bear Lake provides this cushion for it now -- if we don't have it there, we will have to have it some place else; or someone else will have to take the responsibility for flooding. This year is a pretty good indication of how these predictions run. Indications were that we were going to rise about a foot higher on the Lake than we actually did. Indications also were, that the Lake was going to drop off faster than it has. So we are higher right now than we thought we were going to be. One of the reasons is because of the greater amount of sustained runoff in the delta in lower Cache Valley, so that the irrigators down there didn't make their demands on the Lake as early as they usually do. To practically operate the Lake we have to consider you cannot get exact elevations, exact flows -- so we have to have a five-foot operating demand - is all I'm trying to say; which I think should be considered. But the study, the demands, the amounts of inflow, and everything, pretty well correlate. So I think we can agree on the hydrology.

MR. LAWRENCE: Mr. Chairman -

CHAIRMAN KUNZ: Dan

MR. LAWRENCE: Jay, by five feet, you meant five acre-feet of storage for each acre-foot of use?

MR. HAIGHT: Yes; we will let this go up to 2365. In 1972 it went up to 23.3 - a little over that -- which is pretty close to maximum. 23.65 is the point of uncontrollable spill. There is no way that we can hold it back at that point; but we don't like to get right up to the very top. 5½ feet from 23.5 brings us down to 18.

MR. SKEEN: Mr. Chairman, may I ask here - what time of year do you draw down?

MR. HAIGHT: We start right after the irrigation season, and try to draw it down during the winter.

MR. SKEEN: Do you draw it down all winter?

MR. HAIGHT: Until we reach the 5918.

MR. SKEEN: And where does the water go that you release?

MR. HAIGHT: Into Great Salt Lake. We draw down, of course, at a rate that we can utilize it for power.

MR. WATKINS: I think a little additional on that -- the capacity of the River channel, without undue flooding, during the non-storage season of the year is around 1,400 second-feet. During the winter it will vary between 700 and 900 second-feet because of the ice. If you find yourself in a year, like '71 for example, where I think the flow past Harrer was about 280% of normal, you find that instead of having an average increase on the Lake of about three feet, you end up with seven feet. It takes you a long time, without any down below to get that down to where you -- for a normal, or say 130% year of normal for the next spring runoff; and it requires many months during the year to get it down, regardless of what the water is used for. I am sure some of us realize that this is a legal concern.

MR. SKEEN: Has the Power Company considered at all building an upstream reservoir for regulatory purposes to assist in flood control problems?

MR. WATKINS: I think that is another observation I would like to make. Jay mentioned the ratio of capacity to yield on Bear Lake is about 5 to 1. I am guessing at this figure; but I suppose the ratio of -- maybe Norm or somebody can correct me on this -- but I suppose that the ratio of capacity to yield in the Woodruff Narrows or in the Wyoming area would be something on the order of 8 or 10 to 1. Do I have any corrections to that figure?

MR. ROBERTSON: That is exactly what the divertible flow table will show.

MR. WATKINS: That doesn't help the people up the River that want to hold it up there for their use. So there is still need for this reservoir with high storage capacity to yield.

MR. BISHOP: Except that yield to storage capacity depends on what kind of commitment we have to provide water to Bear Lake. An 8 to 1 ratio doesn't apply to the 50,000 acre-feet; and it doesn't apply at all areas of the River system above Bear Lake. If I understood Norm right, he said 60,000 acre-feet

could be stored every year, by providing that storage space at Woodruff Narrows and on Smith Fork.

MR. HAIGHT: That's if the Lake has a capacity of 23.5?

DR. STAUFFER: No, that's 23 even - not using the .65.

MR. HAIGHT: You'd better consider a capacity of 5918, though, as top capacity for irrigation, if we are denied the 5 feet of operating space capacity; or 100,000 acre-feet of storage up there to provide this kind of flood control operating base.

DR. STAUFFER: In our situation we do bring the Lake down each year, and as indicated on this table, the Lake has tried to be maintained at these levels; so that - like January through March - you're down to 18, independent of storage. We are letting water out of the Lake, according to this table here, out of Bear Lake itself - assuming there's no storage above - no additional storage - just operation of the Lake, and its present situation. We tried to simulate the present operation of Bear Lake, and each year we draw the Lake down pretty much according to this table. You draw it very close to 18 in March. During the winter months we are releasing water at either 900 or 1400 cfs, in order to keep the Lake from spilling.

MR. WATKINS: How many years does that happen? We have gone through a series of years right now where the winter flows were released; but I can remember 15 years before that when there was very little released.

DR. STAUFFER: Any time the Lake was over 1 million acre-feet, we started releasing in the simulation, to get it down to 5918 in the spring. Anything above that, we spilled. We still had the 60,000 in addition to that; and that's what brings the dotted line here - when you have the 60,000 you run on the dotted line. You run the Lake as presently operated on the solid line.

MR. ROBERTSON: The dashed line doesn't have any operation before 100,000 acre-feet. It is just placed in storage every year, and Bear Lake makes it up every year.

DR. STAUFFER: The 100,000 - the curve for 100,000 isn't quite as severe, because that does cushion it - If you add the 100,000 on top.

MR. ROBERTSON: Yes.

CHAIRMAN KUNZ: Any other comment on Item 5? We would assume then, that this would be another Agenda item for the next meeting.

MR. LAWRENCE: What is the problem that we are going to consider?

CHAIRMAN KUNZ: I assume that it's each state's idea of how that should be handled.

MR. OLSEN: Mr. Chairman, have we arrived then, that 60,000 is the figure that we are going to use? Why don't we go to 100,000 and then take Idaho and Wyoming and Utah and disperse the 100,000 rather than consider the 60,000 that's recommended? - with the concurrence of the Power Company?

MR. PORTER: We can take a look at it.

MR. OLSEN: Well, I think we should, Bob; that's the reason I bring it up. Let's take a look at 100 rather than 60 though -- look at them both; but let's go to a maximum, and then we can go and take a look with Idaho and everyone that's concerned, and thereby supply a need for everyone concerned, and a need that's substantial.

MR. LAWRENCE: Mr. Chairman, one clarification - I think, we have been talking 60,000 here as storage. It is also significant that we are talking about a depletion of 30,000 annually. Am I right, Alan?

DR. STAUFFER: Yes; it says right in the report, 50% return to the River, based on 33% and 25% conveyance loss. We are assuming that 50% of the storage will get to Bear Lake.

MR. WATKINS: In other words, a one time use for each diversion of water that you are using?

DR. STAUFFER: Yes; assuming that 50% of the stored water will get back.

MR. WATKINS: What it means is, that you are taking the maximum return flow; which is not necessarily the case.

MR. HIGGINSON: You wear it out.

MR. PORTER: By the time that gets down there in the summer time, it's been claimed by the lower users, and never gets to the Lake.

MR. FUNK: Still, it fills a commitment you don't have to meet out of the Lake. If it never gets to the Lake, it fills a commitment that you don't have to meet out of the Lake.

MR. PORTER: Not necessarily; there are a lot of users below Bear Lake with direct flow rights, but no storage rights. Many of them in Idaho. Most of the Idaho rights are strictly direct flow rights, with no demand on Bear Lake.

MR. FUNK: Question on Marion's request: Was this 100,000 acre-feet a total of storage; or are you talking about the 100,000 on top of this 60,000?

MR. OLSEN: No; I was talking about a total.

MR. FUNK: A total - a different figure then, than we've used previously?

MR. OLSEN: Yes; I think we just as well put another figure in there if we are going to - and 'run the show' on it and see what we come up with.

MR. FUNK: I wanted to verify that. Thank you.

MR. HIGGINSON: Mr. Chairman, it occurs to me that we are going around in circles. There are any number of numbers that you may want to fill in. I think what we have established through the studies that the Technical Subcommittee has made is the general principle of what happens if you store above Bear Lake. I don't think it's going to be any advantage to anybody to run another study using another set of assumptions. I think we have the picture; or at least have it in mind.

I have the same concern as has been expressed here by the Power Company - here we said initially, all the studies were done on what the 50,000 acre-foot figure represents; I think we can then go on, based on this study, and reach some conclusions later on. When the assumption here is that you are operating with a 33% irrigation efficiency, and 25% consumption of the unconsumed but diverted flows; and that 50%, therefore, of the water returns to the River, the next assumption is that that water will reach Bear Lake. I think from a practical standpoint most of it will not, as storable Bear Lake water. It will be diverted by various canals, and will be demanded downstream below Bear Lake by natural flow rights - because it will be natural flow water, and you won't be able to separate it. It's not going to be blue, nor green, nor purple, to identify the difference in the water that's in the River. As a result of that, you've got those kinds of problems.

As long as you know what you are talking about here, in a relative range of figures, I think you've got something to go further on. But I don't think

it will do any good, Mr. Chairman, to write another study and use 100,000 instead of 60,000; we'll just get another set of figures, and we'll be just as confused as we are now; because we don't know whether the assumptions are anywhere near correct. What we need is something to tie down the assumptions.

MR. FUNK: Mr. Chairman, to add further light to that, I would like to ask for comment from Mr. Jibson. Wally, would you give us more enlightenment on this 50% depletion by storage on that amount? Is it going, in face, to be, in your opinion, 90% depletion? Is it going to come along with other flow and be taken by direct flow so that it has no way to see even benefit through storage?

MR. JIBSON: Well, I haven't had a chance to study this. In one of my older reports - in 1968 - the actual depletion on developed storage, we had developed at that time about 29,000; and a yield of about 21,000 out of 29,000. I was trying to find the figures of return flow and depletion that I used. Well, 17,000 or 18,000 is what I figured for average depletion on a developed storage of 29,000 irrigation and about 40,000 capacity. I have present depletion of Bear Lake from upstream storage at 22,000 acre-feet per year. My earlier studies showed 18,000 - before the Compact came into effect. I used 22,000 acre-feet per year, which is somewhat higher than our earlier estimates, in which the reservoir is now expected to deplete the Lake about 18,000 acre-feet. So the difference was, that we hadn't anticipated late summer use in those earlier studies, and in late summer use, the depletion is almost 100%; so our depletion is actually running higher than we had anticipated. That's on a basis of about 29,000 allocated storage and 40,000 acre-feet of total capacity. So it is somewhat more than 50%.

MR. LAWRENCE: Is this evaluation of the assumptions a project for the technical subcommittee, or each separate state? Which?

MR. ROBERTSON: The only thing I could say is that we have not claimed to have any real knowledge of the water use above Idaho. We have not studied that reach to any degree at all. I think before this Committee, or this group, tried to split up some number such as 60,000, we would want to look at it more thoroughly. I think Norm has been very explicit about what he has done; but we have not studied that area; and Wyoming has not looked at that report; and I don't think we should start dividing up 60,000 at this time. We should look at diversions, returns, supplemental water, late season use, etc., to our own

satisfaction before we do that.

CHAIRMAN KUNZ: Wally would have those figures available, wouldn't he? Of what Alan is talking about?

MR. JIBSON: Yes; I have them.

MR. ROBERTSON: We have not looked at it at this point.

CHAIRMAN KUNZ: Any other comment on Item 5 before we move on?

MR. HIGGINSON: Are we going to resolve what we are going to do with this report and that item for next meeting? Or can we draft Mr. Jibson to work with our Technical Subcommittee? Is he available to work with this Negotiating Committee? Would it be in order to ask Mr. Jibson and the Technical Subcommittee to work with regard to these assumptions as to irrigation efficiencies, the losses, and return flows, and report back on that so we can tell whether this 60,000 is a good figure or not for that need? I think that is something we have to tie down. If that's going to be the basis for some kind of an agreement on upstream storage, we at least ought to be talking the same language.

I think 33% efficiency is awful low; I don't think that ought to be permitted in a state. And under normal circumstances 50% return is fine, if there is nobody between there and the point at which you are going to claim the return; but if there are all these natural flow diversions between the point where you are going to use the supplemental water up at Evanston and the point where you are going to start to credit that for return to Bear Lake, it is another matter. I think that has to be looked at; because we are talking about the effect on Bear Lake storage. If Wally and the Committee can do that before next meeting, it will at least get us closer to a figure that we can agree upon.

MR. LAWRENCE: I would just like to say that the assumptions made here were not just pulled out of the air. We have what we think are good and valid reasons for using them; and it is based on present history of what is actually happening right now; and we feel we can show a 50% depletion. We didn't just guess that for fun; we don't want to convey that impression. If we have to go back and make a new assumption, we want to know. We don't object to the idea that it has to be verified by each individual state, but let's start from our contention that it has some validity to begin with.

MR. FUNK: This is a related question, as Mr. Higginson just suggested as having an effect on Bear Lake storage. Would it be possible for Idaho to firm up the level of the Lake they have in mind? - You have indicated that maybe it should be something less than 2365 - and get the firm figure that we could arrive at in connection with this storage?

CHAIRMAN KUNZ: I think Idaho had taken the position that 2365 presents you with a lot of legal implications that this group isn't ready to accept yet.

MR. FUNK: Can Idaho say that they wanted 21, or 18, or -- we feel that it's within the realm of right; and it's fixed now, at a maximum of 2365. We would like a firm figure from Idaho on what they feel it should be.

CHAIRMAN KUNZ: Oh, I think we could probably try to arrive at some conclusion by the next meeting. Within our own group we haven't definitely set a figure. I think we have said, and said all along, that 2365 just presents some legal implications that we don't think can be accepted.

MR. FUNK: Well, I think this is one thing we need, to get this firm before we make any adjustments upstream; that if the Lake level has to be other than we see it at now, then this is a consideration that has to be evaluated.

CHAIRMAN KUNZ: Let's move on then.

IDAHO RESPONSE TO LEGALITY OF STORING FLOW RIGHTS
IN AN ENLARGED WOODRUFF NARROWS RESERVOIR
(AS PROPOSED BY WOODRUFF NARROWS RESERVOIR COMPANY)

CHAIRMAN KUNZ: Item No. 6 - Inasmuch as the letter I passed out to you gentlemen before lunch was offered by Mr. Higer, I'll ask him to briefly go through that for you.

MR. HIGER: Mr. Chairman, I'll explain briefly for you the basis of the letter. As I understood Mr. Skeen's proposal, he was suggesting that the Compact could be, subject to interpretation, that the water stored upstream above Bear Lake was not subordinate to Bear Lake water or other rights; that this water would be taken out by the terms of the Compact. In my letter I expressed the idea, and I think as far as I am concerned, the only thing you can take out of the Compact - the Compact says that there is 35,500 acre-feet available for storage to divide above

Wyoming and Utah - "and no more." Now what Mr. Skeen is doing, he is attempting to interpret a provision in the Compact that does not need any interpretation. It is a well-established rule of law that the only time you get into interpretation of the provisions of a compact, or the provisions of anything, there has to be an ambiguity in the compact, or whatever you interpret. My view is that the Compact says "and no more" - is clear. There is no ambiguity there - it is very clear. It did not say 'and no more above a certain level of Bear Lake' or anything. So I think any time that you start interpreting something that is not subject to interpretation, then you are getting into a very nebulous area, as far as opinion is concerned.

Now, as far as this idea regarding the transfer of direct flow rights to storage, I think you have broad, and clearly recognized, that if this interferes with downstream rights you cannot do it. The Compact expresses that idea; and the rule gives you a to get back to the same problem; that whether you take direct flow rights and change them to storage; or create storage in other ways; this is still storage that you're putting above Stewart Dam, and the Compact will not allow that, regardless of where it comes from. So I think that in order to get anywhere with Bear Lake, you are going to have to try in terms of complying with the Compact, or make changes in the Compact, - rather than trying to go around it with some kind of unnecessary interpretation of the Compact.

CHAIRMAN KUNZ: Thank you, Nathan. Anyone care to ask Nathan questions?

MR. TEICHERT: I have one question: Considering flood control on Thomas Fork - or on Smith Fork as soon as possibly necessary - this would certainly be above the 35,000 specified in the Compact -- but we feel we can go ahead and build that. Do you think we are limited on flood control on this?

MR. HIGGINSON: Are you talking about storage capacity in a reservoir?

MR. TEICHERT: Yes.

MR. HIGGINSON: That's entirely different from storage for some later use; and I would assume that your flood control is not water stored for the purpose of some future use - you are storing it in order to prevent flooding; and you subsequently release that water to provide the storage space again for the next flood.

MR. TEICHERT: What essentially would be the difference if you were storing water to, rather than use it in May, use it in July; and you pulled it off and used

then in flood control? You are still storing it.

MR. HIGER: I had definitely felt that this flood storage -- I would suggest that you have two problems with the Compact. The Compact - my interpretation of it would be that - you are talking about storage and consumptive uses above Bear Lake - possibly what you suggest is true; but I would not be, at this point, willing to say that that is storage outside the Compact. The Compact, in its own terms, is saying that you can store 35,000 acre-feet of water, "and no more" - it doesn't say 'only for storage', or 'for agricultural purposes' or 'flood control' or whatever. It says "storage" period. There is a strong possibility that, even for that purpose that would still be within the Compact; but there is the other possibility, also.

CHAIRMAN KUNZ: Any other questions?

MR. LAWRENCE: On this same point of view, there, what is the definition of the word 'store', then? Is that for one hour; or two weeks; or one year? If the water is stopped, is that storage?

MR. HIGER: In the proposal of Mr. Skeen, a definition of storage is unnecessary. He was proposing storage for a long enough period that the water could be applied for agricultural purposes. If it is stored up there for a short period of time, then I presume that if you store it for an hour and then release some down to Bear Lake, that is not storage in the terms of the Compact. I presume you would have to store it, and store it for some use.

MR. LAWRENCE: We have a copy of the letter referred to by the Idaho Attorney General. Was it your wish to place that as a part of the Minutes in the record or not?

CHAIRMAN KUNZ: It's immaterial. We indicated at the last meeting that we weren't at that time in position to comment on that - on Mr. Skeen's opinion of the morning session. If you would like that as part of the Minutes, this is fine

MR. OLSEN: I think it should.

MR. LAWRENCE: Well, it doesn't matter; but I think it ought to be clarified so that the Secretary would know.

MR. OLSEN: Yes; inasmuch as one of our Agenda items, there ought to be clarification of the item - and an answer, too.

CHAIRMAN KUNZ: Include it as a part of the Minutes, then. (Mr. Higer's letter of May 8, 1973 to Mr. Skeen is attached, as a part of these Minutes.)

CHAIRMAN KUNZ: Any further questions or comments? Mr. Bischoff -

MR. BISCHOFF: Article 5 in the Compact says "Additional rights are hereby granted to store in any water year above Stewart Dam, 35,500 acre-feet-" - You could store that, and accumulate, couldn't you? Provided you didn't store any more than that in one year?

MR. HIGER: You have the right to store 35,500 acre-feet each year. You could accumulate it; you would not have to deplete it.

MR. DAYTON: Your total amount in any one year?

MR. HIGER: I think in any one year you could store that much - each year.

MR. DAYTON: In addition to what you held over?

MR. HIGER: Well, the first year if you stored 35,000 acre-feet and you ended up with 20,000 hold-over, the next year you could store another 35,000 acre-feet.

MR. PARKER: Mr. Kunz, could I ask a question? I assume your agreement with Mr. Skeen was to determine if action is necessary, based on the assumption you couldn't handle it by opening up the Compact? If you opened up the Compact, you wouldn't need the court action.

MR. HIGER: That's true. It would not be necessary. You could enter into agreement and amend the Compact to say you could or couldn't have whatever type of agreement you decided on.

MR. PARKER: You are recommending a Court action at the same time you are negotiating the Compact?

MR. HIGER: No; I don't believe a Court action is the only way to resolve the problem.

MR. FUNK: In further clarification of this, is that last paragraph on the second page an invitation to get a verification by Court action? Would you welcome it?

MR. HIGER: No; I don't think the State of Idaho is looking to have a Court case. It is unnecessary. I personally do not see any reason why the problem cannot be handled through negotiation. I am just saying that if the proponents of the idea decide that this is the proper thing to do, they can do that; and the only way to

resolve it would be in Court. I am not by any means suggesting that the State of Idaho desires to go to Court, any more than any of you desire it.

MR. FUNK: I think it has some practical application, because there is a sincere request for this sort of thing, and a resolution needs to be made; and it may accelerate the intensity of negotiation, or it may pursue it to a Court solution -- since the issue is before the Committee.

MR. LAWRENCE: One of the alternatives would be for the proponents of the project to raise the dam and build the storage facilities; and if someone objected, they maybe wouldn't actually initiate any action until they started to store water.

MR. HIGER: Well, if I were counsel for whoever is building the dam, I would not suggest that they raise it until they actually have the question resolved in the Court. If you really don't think you can resolve it in negotiations, then the only other alternative, of course, is to get a declaratory judgment; which I think would be preferable, rather than going ahead with what you just said and building it, and then having the State of Idaho or one of the states file against it, and then go to court.

MR. LAWRENCE: But we wouldn't have you do that.

MR. HIGER: But I would do it.

MR. BISHOP: You say you would do it?

MR. HIGER: Well, I think the State of Idaho is certainly interested in it enough that --

MR. BISHOP: You are saying that Idaho would bring such action if the Utah and Wyoming users decide to go ahead on this?

MR. HIGER: Well, I have to qualify that by saying that I am not instructed to speak for the Attorney General and say what his action would be; but my feeling about that -- part of the law of the State of Idaho is that people over in the State of Idaho, in effect, in a respective area, have a right to protection; and the Attorney General's office of the State of Idaho has a duty to protect those rights. If the Compact is violated, I think it is up to us to see that it is enforced. Just as the states of Wyoming and Utah are obligated to enforce rules and laws.

MR. HIGGINSON: I think further, Mr. Chairman, we are obligated not to violate the Compact.

MR. BISHOP: Of course, if it's our interpretation that this is not a violation of the Compact, and we decide to go ahead, and Idaho would object -- I would really like to know what Idaho would do, if they would take it to court. And I think that's what you're saying. Let me put one further qualification on it -- As far as Wyoming is concerned, if we were going to adopt this approach, we would not consider this a storage right; it would be considered direct flow water - direct flow water that is changed and stored temporarily in a reservoir for later use as needed - temporarily stored direct-flow water -- not to be considered as storage, and therefore not in violation of the Compact. That's the only way I could go along with the enlargement.

MR. HIGER: Well, I can suggest to you that Article 10 says if there is any change in the nature or place of use, this change has to be approved by the states affected; and that application or change has to be denied by that state if it will interfere with direct flow rights of another state.

MR. BISHOP: I agree with all that.

MR. HIGER: So, if you are changing direct flow rights into storage rights, my understanding of what storage rights are going to do, you probably are going to end up interfering with water rights in another state.

MR. BISHOP: Not necessarily.

MR. HIGER: I would suggest that, as far as I am concerned, if I were asked by the Attorney General, or the Governor, or the Negotiating Committee, or whoever would seek an opinion, I would recommend that if the Compact is violated in the way that you have suggested, I would recommend a Court action to clear it.

MR. BISHOP: You would interpret this as a violation?

MR. HIGER: I would.

OTHER BUSINESS
Bi-State, Bi-County Commission

CHAIRMAN KUNZ: Okay, we move on to Item No. 7, Other Business. At the beginning of the meeting Mr. Leland Christensen was introduced to you, newly hired Director of the Bi-State Commission. At this time, I will allocate him five minutes to give us a resume of what has taken place, and possibly what they expect to accomplish.
Lee -

MR. LELAND CHRISTENSEN: The agency was set up to provide some needed ordinances, and comprehensive plans, and zoning for the Bear Lake area; to be very concerned about sewer for the area, and preservation of the Lake as far as water quality goes.

So far, we've got an office set up; we've got some staff. We are looking for federal funds; and we are presently in the process of setting up a meeting that would bring the governors of both states together here at the Lake, hopefully, - and some other people, - HUD agency people, and EPA.

A portion of the Commission and myself made a trip to Lake Tahoe to see exactly what has been done there, and what appliance to the situation here. We brought back some useful information, I think, including some ordinances that are almost directly applicable to the situation here.

We are presently putting together shoreline ordinance for the Lake, which we hope to work with the Corps of Engineers and a few state agencies on; and come up eventually with an ordinance that will be acceptable to everybody, and become a part of that review process. That is really about it right now. I could get into some of the details; but I would be more than happy to cut it off right there, unless you have some questions.

MR. FUNK: Where do you office, Lee?

MR. CHRISTENSEN: We are right practically on the state line, just down the road - the old Uida Supper Club - just barely on the Idaho side.

MR. FUNK: That's a full-time office, and you have a staff - secretarial help, and - ?

MR. CHRISTENSEN: We don't have secretarial help, yet, but we're working on it. We do have a staff member that was provided on the Idaho side, in lieu of the \$4,000 HUD money that was put up by the Utah side. There's myself, and one man.

MR. LAWRENCE: Why don't you tell us what the Commission is; and the organization structure?

MR. CHRISTENSEN: This is a bi-state, bi-county agency; and the membership consists of county commissioners from both the Utah and Idaho side, representatives from the cities over 500, and I think some at-large members from the smaller communities, and then some ex-officio members from both states. There is William Bruhn from the Utah side; and Gary Jones, I believe -- and Scott McDonald, Shirl Boyce, and Howard Burkhard from the Idaho side.

CHAIRMAN KUNZ: Thank you, Lee.

Mailing List

CHAIRMAN KUNZ: You have a mailing list; do you have some corrections there, Floyd? In particular?

MR. BISHOP: Eliminate Tom Barker.

CHAIRMAN KUNZ: And add someone?

MR. BISHOP: We don't have an 'add'.

CHAIRMAN KUNZ: Just a delete?

Tom Barker needs to be changed to Department of Interior.

MR. LAWRENCE: Mr. Chairman, I think that we are probably a little bit out of date on our mailing list with Robert Hilbert. He was on our mailing list because he was President of Utah Water Users Association. That association has Shirl Harris, and I don't know who else.

MR. ROBERTSON: Could we have one more copy of any materials mailed to the Idaho Director's office?

CHAIRMAN KUNZ: Connie can make those adjustments and take care of these things.

Utah-Idaho Sugar Company

CHAIRMAN KUNZ: Cal -

MR. FUNK: As another item of business - I understand from Paul that there has been some change in the custodial status of the Sugar Company and shepherding the water rights in the lower valley; and some look at the stream as to possible

use of the Plymouth site. We could just ask him to explain the physical change that has taken place, and any possibility that they might have thought about for the Plymouth site.

MR. HOLMGREN: I'd be glad to. The Utah-Idaho Sugar Company for years, I guess clear back to the year 1903, has been administering the canal system in Bear River Valley. It is constituted - made up - of 65,000 acres of irrigated ground. For some reason, and this might be interesting to you Attorneys - they had what they called "One-dollar water". A person would buy water for an acre of ground, and you would buy that right for a certain amount; which was flexible - \$20 an acre; \$30 an acre; - it's now \$100 an acre -- but the maintenance of the canal system was pegged at \$1.

And for some reason, about 65% of the water sold in that valley was \$1 water; and I just assume that there was no way that they could break that. About 20% of the water was sold at \$1.50 an acre; and about 10% at about \$2.00; and 3% at \$3.00; and a fraction percent at \$4.00. This is the annual operation assessment.

The Company found, due to inflation, that they were operating at a loss; and were quite reluctant to maintain the canal system in what we consider a proper manner. They were actually reluctant to sell any more water. We had quite a heated go-around; especially the fellows who have this \$1 water did not want to see it change.

But with the Company attorney, Mr. Joe Burton, and others involved in it, they dissolved the holdings that Utah-Idaho Sugar Company had, and completely reorganized a new canal company, with a completely new president of the Company, - and called it the Bear River Canal Company. And they have a way now of setting the cost of operation at whatever figure they need in a budget to operate the system. The operation is now set at about \$2.65 an acre per year. Of course, people with that water thought this was terrible; people who had \$4 water thought this was great.

But, nevertheless, we have a new company over there called Bear River Canal Company. The President is Norm Carver. It is a subsidiary of Utah-Idaho Sugar Company. They did give us a chance - we didn't pursue it - they did give us a chance of buying them out at the rate of about \$2.5 or \$3 million; and we felt that we didn't want to do that. But anyway, we have high hopes now that,

with this new canal company, we will be able to enlarge our canals and do a better job of administrating the water.

As a company, Utah-Idaho Sugar Company was quite reluctant to look at any further development of water, even Plymouth Reservoir. There stands on the books, according to Winford Barrus, the Engineer, about 1,000 acres of applications, just standing there static, that they will not fill because we've run out of water. According to what Mr. Watkins assessed, we have 900 second-feet of water delivered at the Cutler Reservoir; and we're right up to the 900 second-feet. As Winford Barrus has told me, they have at least 1,000 acres under application which they can't fill.

The Company has been a little reluctant to do anything about this; but we did have a meeting there around the 7th of May with the Water Resources Board - We took them on a tour of the Plymouth Dam site, and the reservoir site. We showed them how the water could be diverted from the Cutler Dam in the spring of the year and the runoff year, and diverted over to this Plymouth Reservoir site, which would be a distance of maybe 5 to 7 miles - something like that. We also took them on a tour of thousands of acres of land that can be developed and can be irrigated. A lot of this land is northwest of Brigham City - about 11,000 acres there called the Black Slough area, which is quite wet; land over around the Corinne area, and up north of Corinne, as well as the reservoir site around Plymouth, which would have to be pumped.

Some of the people on our State Board were a little surprised to see some of the land that we showed them; but I would say that 80% of our irrigated land in Bear River Valley is drained. We are right north of the Great Salt Lake, and it is a regular miracle to see what the people have done there. We raise grains - wheat - 100 and 120 bushels to the acre; barley is 100 to 140 bushels to the acre; sugar beets that will grow from 18 to 30 tons to the acre; some of the best tomatoes in the United States; sweet corn; green beans - well, anything you can imagine -- and it all comes off from this land where we have installed these tile drains.

Well, I don't want to belabor it, but that's the situation in our area. When you hear me talk about these crops in our valley, - we had some people with us that day from down in Hurricane, and some areas of Utah that are depleted and pretty barren, and as I stepped out of the car - we had walkie-talkies - we had

a six-car caravan - this one man came up to me and he said, "I have never heard such bragging in all my life since I left Texas." But this is the truth. That's the situation in our valley with the new water company.

CHAIRMAN KUNZ: Anything further on Other Business for Utah? Wyoming, have you got anything under Item No. 7?

MR. BISHOP: I don't think of anything.

Change of Direct Flow to Storage Rights

CHAIRMAN KUNZ: Keith?

MR. HIGGINSON: Mr. Chairman, I would really like to explore something a little bit if I may. With regard to the possibility of their being applications filed, both in Wyoming and Utah (I understand that we will have a lot), for change of direct flow rights to storage; I wonder if each of the State Engineers would briefly explain the process of their considering approval of those, under law? What is the process, or procedure, for your permitting a change of direct flow to storage?

MR. BISHOP: We actually haven't done it yet, Keith; but we do have rules and regulations set up. It requires that anyone proposing to accomplish this must submit an application to the State Engineer outlining exactly what he proposes to do; what rights are involved, and the use he proposes to make of these rights; where it is to be stored, in what quantities, and what periods of time during which it will be actually released from storage, and used, and all of this sort of information. As to whether or not it will be approved by the State Engineer will depend on whether assurance can be, or has been, made that there is no injury to other users.

MR. HIGGINSON: Is there a hearing process, or public notice, or publication, or anything of that nature?

MR. BISHOP: As I recall, there is not.

MR. HIGGINSON: It is your determination. In Utah, I know there's a change application and -

MR. HANSEN: I'm sure Keith knows what Utah's law is. It would involve the filing of change of what the applicant is trying to do. This would be processed by the office and then advertised in our local paper - in this case, we use the Deseret

News, because it has wide coverage - once a week for three weeks. Then there is a 30-day protest period following that. Then if the application is protested, or if the State Engineer felt that a hearing would be in order - (if it's protested, you have to hold a hearing; you can hold a hearing if it is not.) Then the protest can be filed; and a decision is made based on determination of evidence of interference of prior rights.

MR. HIGGINSON: Maybe my question really is, is the State of Idaho a proper protestant in your procedure?

MR. HANSEN: I think so.

MR. HIGGINSON: Incidentally, would the Idaho water users might be adversely affected?

MR. HANSEN: I think in this case you definitely would have some consideration.

MR. HIGGINSON: Could we then ask, Mr. Chairman, - if such applications are subsequently filed, could the State of Idaho be given notice of those changes?

CHAIRMAN KUNZ: You mean in the Bear River drainage?

MR. HIGGINSON: Yes. Any direct flow storage we would like to know about it.

MR. BISHOP: In writing?

CHAIRMAN KUNZ: Put your request in writing.

(Laughter)

MR. HANSEN: As far as Utah is concerned, this is fine; but I would not want to be obligated to notify you of all applications that might be made.

MR. HIGGINSON: I understand; I have the same problem.

CHAIRMAN KUNZ: Anything further under Other Business?

DATE AND LOCATION OF NEXT MEETING

CHAIRMAN KUNZ: We'll move on to the date and location of the next meeting, then. It's Utah's turn.

MR. OLSEN: Do you propose a timing for it, Mr. Chairman?

MR. LAWRENCE: I would think unless someone is pressed with an urgency, that we ought to have it coincide with the meeting of the Bear River Commission in November.

MR. BISHOP: I think that is plenty soon enough. I am somewhat concerned by the tendency of this group to meet and not accomplish very much. It seems to me like a long time ago we said that we were going to provide copies of reports and things that were going to be presented for the next meeting, 30 days in advance. We haven't followed that. Really, we would get a lot more done. I recognize the difficulties in trying to get things like the Technical Subcommittee reports 30 days prior to a proposed meeting date; but if we had had the Technical Subcommittee Report and Idaho's analysis of the direct flow storage question 30 days ago, we could have responded much more meaningfully here.

I would suggest that before the next meeting - well, let's not have another meeting until we have some of these things available to study beforehand. We are wasting a lot of time.

CHAIRMAN KUNZ: What is the date on that, then?

After considerable discussion, it was decided to hold the next Tri-State Negotiating meeting on November 19, in Salt Lake City.

CHAIRMAN KUNZ: You'll receive notice then.

If there is nothing further, the meeting is adjourned.

MEETING ADJOURNED AT 2:40 p.m.

May 8, 1973

Mr. Ferris Kunz
Star Route #1
Montpelier, ID 83254

RE: MR. SKEEN'S LEGAL OPINION ON BEAR RIVER
STORAGE RIGHTS

Dear Ferris:

I have reviewed the verbatim transcript of the last Bear River Commission Meeting, April 23rd, 1973 at Salt Lake City, and have the following comments to make regarding the opinion given by Mr. Skeen.

Mr. Skeen feels the language in the first two sentences of Article V.(a) is not entirely free from doubt and attempts an interpretation which meets the purpose of at least one of his clients. He seems to feel that because the allowed storage was not made subordinate to Bear Lake rights that any new storage subordinate thereto would not be controlled by the limitation. He states that the compact was only intended to control storage which is not subordinate to Bear Lake mainly because subordination is used in the second sentence.

In my opinion, the compact merely made a statement of the law and recognized existing rights. No other interpretation or meaning needs to be or should be drawn from the language used. In fact, the language used in the compact is clearly a method used by the negotiators to reach agreement on its terms and was not meant to be a creation of different types of stored water which would or would not be subject to the storage limitation. No matter what kind of strained interpretation is placed on the compact, it still says that no more than 35,500 acre feet of water can be stored above Stewart Dam for use in Wyoming and Utah.

Mr. Ferris Kunz

Page 2

May 8, 1973

As to the theory that changing direct flow rights to storage created storage outside the compact, I feel this too is erroneous.

All the people involved in the negotiations are certainly aware that storage of water will eventually lead to a higher consumptive use than use of direct flow rights. This is due, of course, to the very nature of storage and its use at times when water is scarce, temperatures higher and crop needs are higher. It is therefore an entirely different creature in water rights as far as the method of creation and use. However, no matter where you get or create the water which you plan to store, you have a new water right with a different character and this water is storage and is subject to the compact. The compact does not say how the storage is created (i.e. -- from where the right comes) nor that the limitation applies only to storage which is not created from direct flow rights. The ultimate limitation was imposed -- AND NO MORE. I am therefore of the opinion that the idea put forth would be in violation of the compact if it exceeded the 35,500 acre feet limitation on new storage.

Mr. Skeen recognizes an additional problem beyond that of the compact. If the compact does not control (and it does), the storage can not be created out of direct flow rights if that change will interfere or is likely to interfere with other existing rights. In fact this is the law in Idaho and in Utah the Utah Supreme Court held in Plute Reservoir & Irrig. Co., et al, -vs- W. Panguitch Irrig., et al, (367 P.2d 855) that storage can not be created from direct flow rights unless the transfer can prove that the change will not affect other rights. As stated above, it would be almost impossible for anyone to show non-interference. So if the compact did not apply, this principle of law would and would seem to stop the project.

I do agree with Mr. Skeen that the only way to clear the air would be through a Court action. The best approach would be for the proponents of the project (Wyoming and Utah) to seek Declaratory Judgment in Federal Court that the change is not governed by the compact.

Mr. Ferris Kunz
Page 3
May 8, 1973

If you have any questions or if I can be of further assistance,
please feel free to write or call.

Very truly yours,

NATHAN W. HIGER
Assistant Attorney General

NWH/sc

BEAR RIVER TRI-STATE NEGOTIATING COMMITTEE

REPORT OF TECHNICAL SUBCOMMITTEE
ON

A VARIATION OF WYOMING'S UPSTREAM STORAGE PROPOSAL

July 19, 1973

This report involves the following two elements of new storage use above Bear Lake:

1. 60,000 acre-feet of storage used only for supplemental irrigation purposes.
2. 100,000 acre-feet of additional space to be filled with water that would otherwise spill at Bear Lake under its present operation. Storage in this space could occur anytime Bear Lake contents exceed 1,000,000 acre-feet but the stored water would be required to be released to Bear Lake in the following low flow months if Bear Lake contents did not reach these limits:

October	1,180,000	April	1,140,000
November	1,140,000	May	1,300,000
December	1,105,000	June	1,375,000
January	1,070,000	July	1,360,000
February	1,040,000	August	1,300,000
March	1,030,000	September	1,250,000

If Bear Lake did not reach any of the limits through a water year, all water stored in this secondary storage space would be moved down to Bear Lake following the end of the irrigation season.

All existing direct flow rights would be met before either of these types of storage would be used. Subject only to that restriction, the 60,000 acre-feet of space could be used every year. The 100,000 acre-feet would yield water for the upper basin in only the spill years shown on Exhibit 3 of the March 15, 1973 Technical Subcommittee Report. Uses of both types of storage would be equally split between Wyoming and Utah.

The return flow from diversions of this new addition storage was based on an irrigation efficiency of 33% and a 25% loss of unconsumed diverted flow which results in a return flow to the river system of 50% of the diversions from storage. The hydrology used for this study is based on the March 15, 1973, Technical Subcommittee Report using present Bear Lake management conditions (maximum contents = 1,375,000 acre-feet). Using the above assumptions it is possible to store and use the 60,000 acre-feet each year. 20,000 acre-feet could be developed on the

main stem at Woodruff Narrows and the remaining 40,000 acre-feet on Smith Fork. Storage of more than 20,000 acre-feet on the main stem at or above Woodruff Narrows would require holdover storage. The effect on Bear Lake of this 60,000 acre-feet of storage would be to lower the lake to elevation 5,902 in the lowest year as shown on Exhibit 1.

The water yield under element 2 for the 100,000 acre-feet of storage is shown on Exhibit 2. This storage is in addition to the 60,000 acre-feet. Water from element 2 storage would be available only 7 years of the 39-year study period in amounts varying from 9,600 acre-feet to 100,000 acre-feet. The effect of element 2 storage on Bear Lake is favorable and increases the lowest elevation of Bear Lake by 0.40 feet.

VERBATIM MINUTES

BEAR RIVER TRI-STATE NEGOTIATING COMMITTEE MEETING

ROOM 303, STATE CAPITOL BUILDING
SALT LAKE CITY, UTAH

November 19, 1973

1:30 p.m.

Submitted by

Connie Borrowman, Secretary

TABLE OF CONTENTS

	<u>page</u>
SUMMARY OF ACTIONS	ii
THOSE PRESENT	iii
AGENDA	iv
WELCOME AND INTRODUCTIONS	1
APPROVAL OF MINUTES	2
Summary of Minutes of July 19, 1973 Meeting	2
VI IDAHO'S LETTER DATED OCTOBER 23, 1973	5
IV REPORT OF IRRIGATION EFFICIENCIES, LOSSES, AND RETURN FLOWS	5
Analysis of Compact Storage Above Bear Lake	5
Reservoir Storage & Release Periods	8
V TYPE IV SURVEY PLAN OF WORK, BEAR RIVER BASIN	17
Bear River Type IV Study	17
Chart - Schedule of Planned Activities	19
VII OTHER BUSINESS	22
DATE OF NEXT MEETING	29
ADJOURNMENT	35

SUMMARY OF ACTIONS

1. The Minutes of meeting held July 19, 1973 were approved as corrected. page 4
2. A Motion was passed that the Analysis of Compact storage above Bear Lake be referred to the Technical Sub-committee, with representatives from each state, and that they meet with Mr. Jibson prior to the next Negotiating Committee meeting to review the report and extend its coverage. page 14
3. With the concurrence of those present, Mr. Marion Olsen of Utah acceded to the Chairmanship of the Tri-State Negotiating Committee; and a Motion was approved that Mr. J. Wesley Myers of Wyoming be elected as Vice-Chairman for the coming year. page 28
4. A Motion was approved that the date of the next meeting of the Bear River Tri-State Negotiating Committee be set for 30 days after letters have been submitted from Utah and Wyoming concerning their suggestions for Compact modifications. page 29

BEAR RIVER TRI-STATE NEGOTIATING MEETING

November 19, 1973
Salt Lake City, Utah

THOSE PRESENT:

NEGOTIATORS

Ferris M. Kunz, Idaho - Chairman
J. C. Hedin, Idaho
William G. Jenkins, Idaho

Daniel F. Lawrence, Utah
Calvin W. Funk, Utah
Simeon Weston, Utah
Paul Holmgren, Utah

Floyd A. Bishop, Wyoming
S. Reed Dayton, Wyoming
J. W. Myers, Wyoming

OTHERS PRESENT:

IDAHO

Stephen Allred, Idaho Water Resource Board, Boise, Idaho
Keith Higginson, Idaho Director of Water Administration, Boise, Idaho
Alan Robertson, Idaho Water Resource Board, Boise, Idaho
Nathan W. Higer, Attorney General's office, Boise, Idaho

UTAH

Dee C. Hansen, State Engineer, Salt Lake City, Utah
R. Michael Turnipseed, Northern Area Engineer, Logan, Utah
Dallin W. Jensen, Assistant Attorney General, Salt Lake City, Utah

WYOMING

John A. Teichert, State Board of Control, Cokeville, Wyoming
Marvin Bollschweiler, State Board of Control, Evanston, Wyoming

Donald S. Rex, Bear Lake County Water Users Commission, Idaho
Cecil Quayle, Bear Lake County Water Users Commission, Idaho
Cliff Skinner, Bear Lake County Water Users Commission, Idaho
Joseph H. Francis, Commissioner of Agriculture, Salt Lake City, Utah
Thomas O. Parker, U.S. Department of Interior, Salt Lake City, Utah
E. O. Larson, Federal Representative, Bear River Commission, Salt Lake City
Dean E. Bischoff, U.S. Bureau of Reclamation, Smithfield, Utah
Wallace Jibson, U.S. Geological Survey, Logan, Utah
R. B. Porter, Utah Power & Light Company, Salt Lake City, Utah
J. G. Haight, Utah Power & Light Company, Salt Lake City, Utah
John Schmidt, Soil Conservation Service, Salt Lake City, Utah

A G E N D A

BEAR RIVER TRI-STATE NEGOTIATING COMMITTEE MEETING

Room 303
State Capitol Building
Salt Lake City, Utah

November 19, 1973
1:30 p.m.

- I CALL TO ORDER
- II WELCOME AND INTRODUCTIONS
- III APPROVAL OF MINUTES OF MEETING HELD JULY 19, 1973
- IV REPORT ON IRRIGATION EFFICIENCIES, LOSSES, AND
RETURN FLOWS - Wally Jibson
- V TYPE IV SURVEY PLAN OF WORK, BEAR RIVER BASIN
U.S. Dept. of Agriculture in cooperation
with States of Idaho, Utah, Wyoming
John Schmidt,
Asst. State Conservationist
Salt Lake City
- VI IDAHO'S LETTER DATED OCTOBER 23, 1973
 - (a) Presentation by Idaho
 - (b) Response by Utah
 - (c) Response by Wyoming
- VII OTHER BUSINESS
- VIII DATE AND LOCATION OF NEXT MEETING
- IX ADJOURNMENT

MINUTES

BEAR RIVER TRI-STATE NEGOTIATING COMMITTEE
MEETING

November 19, 1973 - Salt Lake City, Utah
1:30 p.m.

Verbatim Minutes of the Bear River Tri-State Negotiating Committee meeting held November 19, 1973 in Room 303, State Capitol Building, Salt Lake City, Utah. The meeting commenced at 1:30 p.m., with Chairman Ferris Kunz presiding.

WELCOME AND INTRODUCTIONS

CHAIRMAN KUNZ: Gentlemen, it's time to get the Tri-State Negotiating Meeting underway.

By way of introductions, I believe you probably know all the Idaho people here, with the possible exception of our new Director of the Idaho Water Resource Board, Mr. Steve Allred. We have, of course, Mr. Nathan Higer, our representative from the Attorney General's office; Alan Robertson, from the Water Board staff; and I think you know all the gentlemen at the table. There are three Bear Lake people here who were at the Commission meeting this morning, that I introduced. Again - Mr. Cliff Skinner, Cecil Quayle, and Don Rex.

Wyoming - ?

MR. BISHOP: Mr. Chairman, we introduced the Wyoming delegation at the Bear River Commission meeting this morning. The people are the same -- Wes Myers on my left; Reed Dayton on my right; and we have John Teichert and Marv Bollschweiler here in the front row. I think that constitutes the Wyoming delegation.

CHAIRMAN KUNZ: Thank you, Floyd. Dan, your Utah group - ?

MR. LAWRENCE: I think we are as we were. We have Dr. Stauffer, a member of my staff. And Dee Hansen, State Engineer, is here. And he has his Area Engineer from Logan, Mike Turnipseed. I think that's all.

CHAIRMAN KUNZ: In addition, Mr. Wally Jibson of the U.S. Geological Survey in Logan is here; Jay Haight of Utah Power & Light; John Schmidt, Assistant State Conservationist, sitting there; and Dean Bischoff, Bureau of Reclamation; and Mr. Larsen, Chairman of the Bear River Compact Commission.

APPROVAL OF MINUTES

CHAIRMAN KUNZ: This brings us to Item No. 3, which is approval of the Minutes of the meeting held July 19 at Fish Haven. You've all had circulated to you the Verbatim Minutes. Our very able and capable Secretary has prepared a Summary of those Minutes which I will read to you at this time.

Summary of Minutes

Bear River Tri-State Negotiating Committee

Meeting

July 19, 1973

The Bear River Tri-State Negotiating Committee met on July 19, 1973, at Fish Haven, Idaho. The meeting commenced at 10:30 a.m., with Chairman Ferris Kunz presiding. Verbatim Minutes of meeting held April 23, 1973, were approved.

Dr. Norman Stauffer, Utah, told the Negotiators that the completion of the inter-agency multi-discipline Bear River team Report is anticipated by the end of July, or early August. The report would then be given to the individual states and the federal agencies for use as an 'in-house' document. It covers resource potentials; and discusses multiple-objective planning, and probable principles and guidelines for funding federal water resource projects.

A Technical Subcommittee Report was given by Norman Stauffer on additional upstream storage in relation to Wyoming's proposal for Compact modification. Findings of the Report indicated that 60,000 acre-feet of additional storage could be used in the Upper Basin without adversely affecting irrigators in the Lower Division of the Basin. (Power rights would be adversely affected.) Water stored in addition to the 60,000 acre-feet above Stewart Dam and subject to Bear Lake filling would be available in only 7 years of the 39-year study period.

Mr. Nathan Higer, Idaho, Attorney, explained his interpretation of the legality of storing flow rights in an enlarged Woodruff Narrows Reservoir. This possibility is being sought by Woodruff Narrows Reservoir Company; and Utah is of the opinion that this can be done without changing the Bear River Compact. Mr. Higer felt that, since the Compact says there is 35,000 acre-feet available for storage "and no more", that no additional storage can be permitted in Woodruff Narrows Reservoir without Compact modification. If Utah and Wyoming users went ahead and raised the Dam, it was Mr. Higer's opinion that Idaho would bring court action. Mr. Higer suggested that if this matter cannot be resolved by negotiation, a declaratory judgment would be preferable to building the facility and then going to court.

Mr. Leland Christensen, Director of the Bi-state, Bi-county Commission, explained to the group that the newly-formed agency was set up to provide needed ordinances, comprehensive plans, and zoning for the Bear Lake area.

Mr. Paul Holmgren, Utah, discussed the newly-formed Bear River Canal Company, a subsidiary of Utah-Idaho Sugar Company, formed in an effort to administer the canal system in the Bear River valley more efficiently and equitably for all concerned.

The process each state uses in changing direct flow rights to storage rights was explained; and there was considerable discussion on whether or not ground-water reserves should be included as a part of the flow to be divided under the terms of the Compact.

The next meeting of the Tri-State Negotiating Committee was set for November 19 in Salt Lake City, to coincide with the Bear River Commission meeting.

Adjournment at 2:40 p.m.

CHAIRMAN KUNZ: Gentlemen, you've heard the summary of the Minutes. What are your wishes?

MR. BISHOP: Mr. Chairman, I would have one thought. In the third paragraph - in parenthesis it says, "power rights would be adversely affected". I would prefer that that said "might be". I don't think it has been definitely shown that they would be adversely affected.

MR. HIGGINSON: Mr. Chairman, I would assume that in the normal course we would approve the Verbatim Minutes - not this summary, anyway.

CHAIRMAN KUNZ: Right.

MR. HIGGINSON: I would move that the Verbatim Minutes as circulated be approved; and not this summary.

MR. BISHOP: I've got a couple of suggested corrections in the Verbatim Minutes, if I might correct them.

CHAIRMAN KUNZ: Okay.

MR. BISHOP: And these are offered in the interest of clarification. I think I said rather poorly, probably, some of the things I was trying to say; and I would like to clarify a couple of them.

On page 11, along toward the middle of the page, where Mr. Bishop said, "In order to make the contention practical", that sentence, I think would be clearer if you said, "In order to make the arrangement practical". Strike "contention" and insert "arrangement" in place of it. Going on - "you would have to establish some criteria which would require that the water" - and I would suggest

striking "to be used" - going on as is, - "would be held" - and then instead of a period there go on with the statement as follows: - "would be held in storage and not used if Bear Lake failed to fill to the specified level". So that the statement would read as follows: "In order to make the arrangement practical, you would have to establish some criteria which would require that the water would be held in storage and not used if Bear Lake failed to fill to the specified level."

One other suggested change, on page 27, the bottom of the page. Once again it's one of my statements that I didn't say very well. "Nobody is going to worry about that. It would be my feeling, Mr. Chairman, that the present" - and instead of saying 'conflict' I think I said 'Compact' - "that the present Compact has an implied limitation" -- strike 'conflict' and 'why' and insert 'Compact has an implied' limitation on the use of ground water. Then I would put a period after ground water. Strike 'that we say' and insert in its place 'in Wyoming' - and going on - "in Wyoming you can't develop ground water to the point where it would interfere with surface water rights" - insert 'rights' after 'surface water' and put a period there. Strike 'is certainly outdated'. And that's it. So that would read, "Nobody is going to worry about that. It would be my feeling, Mr. Chairman, that the present Compact has an implied limitation on the use of ground water. In Wyoming you can't develop ground water to the point where it would interfere with surface water rights." And the balance is okay. If I might suggest those two corrections.

CHAIRMAN KUNZ: Any objection to those corrections?

MR. LAWRENCE: Mr. Chairman, it seems to me that it is very appropriate to make this kind of a correction for the permanent Minutes. I would urge that we do.

CHAIRMAN KUNZ: It certainly clarifies those two statements, Floyd. Do I have a Motion then, that we accept these? Are there any other corrections?

MR. HIGGLINSON: I move they be approved as corrected by Mr. Bishop.

MR. BISHOP: Second.

CHAIRMAN KUNZ: A Motion is made and seconded that the Verbatim Minutes be approved as corrected. All in favor say 'aye'. Opposed?

MOTION CARRIED.

VI IDAHO'S LETTER DATED OCTOBER 23, 1973

CHAIRMAN KUNZ: At this time -- when the Agenda was made up, Idaho still was anticipating that we may receive a letter similar to the one that we sent out on October 23rd, from both Utah and Wyoming. Inasmuch as we have not received this sort of thing, Item VI will be cancelled from the Agenda. I see no reason to discuss one state's position until we have the other. So Item VI will not be; and anything the states may want to bring up will come under Item VII.

IV REPORT ON IRRIGATION EFFICIENCIES, LOSSES, AND RETURN FLOWS

CHAIRMAN KUNZ: So we will now move on to Item IV. At the last meeting there was some talk that Wally may be in a position, and wish, to update his report on some of the irrigation efficiency, losses, and return flows; so we put this on the Agenda. If Wally has something at this time, we'll be glad to have it.
Mr. Jibson -

MR. JIBSON: I had anticipated, Mr. Chairman, that any contribution that I might make to the group would be taken up in the Technical Sub-committee; but I found myself listed on the Agenda last week, so I quickly, as you mentioned, updated part of the report that I made in December, 1968, to the Bear River Commission relative to reservoirs that have been constructed. With this in mind, I'll read through this brief report for what it is worth; and perhaps the Technical Sub-committee would like to kick it around in their committee.

"Analysis of Compact Storage Above Bear Lake

Reservoirs built under storage provisions of the Bear River Compact have a total allocation of 30,883 acre-feet in reservoirs having a total capacity of about 44,500 acre-feet. A study was presented to the Bear River Commission in December 1968 which included storage and yield data on Compact reservoirs. Woodruff Creek Reservoir, storing 2,000 acre-feet of allocated water, has been built since that date and has now been in use for three years.

The 1968 study has been reviewed and updated through the 1973 water year with respect to operation of existing reservoirs. Return flows from applied storage water and losses to Bear Lake from reservoir development have been

estimated from a study of river flows at various points below individual reservoirs. These estimates are confined solely to measured surface-water flows observed in a relatively short time after stored water application. The estimates do not include any accretion to the underground water supply and subsequent effect on surface flows that may not be evident for months after application.

With an allocation of 30,883 acre-feet for diversion to storage each year, we find an average of about 26,000 acre-feet actually being diverted from direct streamflow, the difference being a result of holdover of unused water from previous years and not of inadequate supply. In no year to our knowledge, did any reservoir fail to fill because of supply. After deducting a computed evaporation loss, the net yield each year from all reservoirs is about 21,000 acre-feet. Return surface flows that reach Bear Lake in a relatively short time are estimated to be less than 4,000 acre-feet annually, and the total depletion to Bear Lake is about 22,000 acre-feet. Such depletion includes reservoir evaporation losses adjusted downward for prior consumptive use from lands inundated by the reservoirs and excludes return flows as estimated. Disregarding the effect of stored water use on the ground-water supply, we then estimate a total depletion to Bear Lake of 22,000 acre-feet from an allocation of 30,883 acre-feet or 71 percent depletion." (Now, as I mentioned, the \$64,000 question, I think, really applies to ground-water accretion or buildup, which I could not go into, primarily for the fact that we just do not have enough ground-water data. I did, late last night, after this report was prepared, plot an accumulative flow diagram or double mass curve, of Bear River near the Utah-Wyoming state line, adjusted for Whitney Reservoir against Bear River near Randolph. The Bear River near Randolph station is higher up than I would have preferred to have used it for this particular study, but the Pixley Dam station has a gap in the record, and I couldn't use it for accumulative study. But the object being, that it would show a change in relationship with return flow after, particularly after, Woodruff Narrows Reservoir came into use in 1962. I didn't try to duplicate this curve; but we start back in 1943, the beginning of the record, and plot the - incidentally, I used the July, August, and September flow as being indicative of what we might get in return flow as far as time. The dashed line, if you can see it, is pretty much of a straight line relationship, which is what you would expect if there were no man-made changes in the picture. And as you would expect, after 1961, the vertical part of the graph, Bear River near Randolph, did take a turn upward, which reflects

the return flow from water applied. Now the intercept over here, at the end of 1972, figures out about 60,000 acre-feet, which, if we spread that out over ten or eleven years, we would get about 5,500 acre-feet that shows up here as a change in the two flow patterns, undoubtedly due to return flows. The 5,500 acre-feet is just about what I had estimated at our Pixley Dam gage as return flow; and figuring channel losses as we go down the River, I came out with an estimated figure of about 4,000 to Bear Lake. I had about 5,400 at Pixley Dam.)

MR. HANSEN: You're showing an increased return flow over previous history?

MR. JIBSON: Right. Just a typical curve. It tended somewhat to verify that this figure is in the ballpark; although, as I say, I think we should not ignore the fact that our ground-water supply, our ground-water buildup, is a very measurable quantity and we just don't know what that is.

The Agenda mentions as part of this subject, irrigation efficiency. I have only a point or two that may be of interest. "In 1972, an above-average year, (I may have to qualify that a little bit. It was above average because of our heavy precipitation, as I mentioned this morning.), the following rates of diversion were measured in the Upper and Central Divisions:

Upper Division

Upper Wyoming Section:	2.7 ac-ft/acre
Lower Utah Section:	3.2 ac-ft/acre
Lower Wyoming Section:	1.6 ac-ft/acre (Lower than usual)

Central Division

Wyoming Section:	4.7 ac-ft/acre
Idaho Section:	3.4 ac-ft/acre

Consumptive Use studies made for the Negotiating Committee several years ago, indicate an average requirement for meadow hay in the Upper Basin of about 1.4 acre-feet per acre. The headgate requirement for supply through about mid-July was about 2.8 acre-feet per acre which gave a farm headgate efficiency of 50 percent. This would not include conveyance losses above the headgate."

Reservoir	Period of Record	STORAGE PERIOD		RELEASE PERIOD		Loss to Bear Lake
		Net Diversion to Storage	Loss to River System	Net Reservoir Yield	Return Flow Reaching Bear Lake	
	(2)	(3)	(4)	(5)	(6)	(7)
		Quantities in Acre-feet				
Woodruff Narrows	1962-'73	16,500	15,800	12,600	2,300	14,400
Sulphur Creek	1958-'73	3,700	3,600	2,900	800	2,800
Whitney	1967-'73	3,000	2,900	2,700	300	2,600
Woodruff Creek	1971-'73	2,000	2,000	1,900	300	1,800
Others	---	600	600	600	0	600
TOTALS		25,800	24,900	20,700	3,700	22,200

(3) Change in content plus evaporation.

(4) Diverted to storage less prior consumptive use in reservoir area.

(5) Change in content minus evaporation.

(6) Estimated from flow hydrographs.

(7) Loss in Column (4) adjusted for release period evaporation, pre-reservoir consumptive use, and return flows.

MR. JIBSON: Some of you may remember those studies that we made in the early part of the negotiations. Vaughn Iorns actually conducted the study. I assisted him with this. But we used the Blaney-Criddle method. I have summarized the individual reservoirs showing the period of record which essentially is the period of reservoir development. Woodruff Narrows was first used in 1962; Sulphur Creek was first used in '58, the year of the Compact, and was later enlarged and used, of course, until the present time. Whitney has had use since 1967; Woodruff Creek, 3 years from 1971 through '73; and the other small reservoirs have been used variable times. We show the net diversion to storage during the storage period - a loss to the River system, which is essentially that diverted during that period. Of course, any evaporation loss that took place during the storage period; and then in the release period, the net reservoir yield, with actually the change in the content of the reservoir, minus evaporation losses. Column (6) was estimated from flow hydrographs; and though I didn't show the incremental reaches down there, I started out with the flow of Randolph, Pixley Dam, Border, and so forth on down the River. And came up with the eventual loss to Bear Lake, which figures about 70% depletion.

I think it is rather difficult to really analyze properly what happens to the water once it gets back into the River - say, at Pixley Dam. We can say it's used and reused, and so forth, on down the River. I didn't compute it this way -- I figured if there is 150 to 200 second-feet of water in the River, and you add another 15 or 20 or 25 second-feet, that your diversion rate on down the River remains essentially as it was at the beginning. And therefore, one way of analyzing this would be to assume that the water should take a reasonable channel loss; which is what I did in going from around 5,400 or 5,500 down to 4,000. But it is not diverted and rediverted; I don't think we could ever come up with an answer. As mentioned at Fish Haven, the water can't be earmarked, or colored differently.

Well, anyway, this was the way I looked at it for this study.

CHAIRMAN KUNZ: Thank you, Wally. Do we have some questions to ask Mr. Jibson?

MR. ROBERTSON: Are these averages?

MR. JIBSON: Yes; these are averages. Here again, averages are sometimes misleading. We have years when the yield is zero and the reservoirs will not be used; so sometimes averages can be very misleading.

MR. LAWRENCE: Is that why the numbers here don't add across?

MR. JIBSON: This is one reason. The other reason is that I used a consumptive use quantity for the reservoir areas prior to the time they were built to offset the evaporation; and I used an estimated evaporation loss based on Bureau of Reclamation recommended figures; so they won't add across exactly. I have the base data that I used written down, if the Sub-committee would care to look at it.

CHAIRMAN KUNZ: Any other questions?

MR. BISCHOFF: Wally, what months did you use?

MR. JIBSON: I used July through September - three months. As being reflective of return flows. I didn't, of course, use three months on these other figures.

MR. BISCHOFF: Now, had you gone beyond that - beyond the irrigation season - would you have reflected more return flows getting back - in October?

MR. JIBSON: Probably so. Like I say, I just found I was on the Agenda about Tuesday, and I was trying to get some figures together for the report this morning and I had really very little time to work on them. I had thought about moving into October, but the computation would have been more difficult.

MR. BISCHOFF: Possibly your depletions might not be 71% if you had gone on.

MR. JIBSON: That's right.

DR. STAUFFER: I would like to ask Dean a question. Didn't your upper studies show about 15,000 acre-feet depletion of Bear Lake?

MR. BISCHOFF: I believe so.

DR. STAUFFER: I think that is what we found. I wonder if a double curve at an annual basis - I wonder if at Harrer, perhaps, with a line, perhaps this curve might show that -

MR. JIBSON: I compared with Bear River at Border. This is what I wanted to get at. I mentioned this morning the erratic flow at Smith Fork, which does not correlate with Bear River. And I found that this shows up on a double mass diagram. The effect of Smith Fork coming in, between our state-line gage and Bear River at Border, was such that it completely dampens out any return flows. So, essentially, what I ended up with is almost a straight-line curve; and several jobs there are reflective of this situation coming out of Smith Fork.

Here, again, I might have pursued that a little further; but this is the type of curve Norm mentioned (pointing to chart); and below the pencil line is merely a 4,000 acre-feet per year added onto these different curves; and also I reversed the scale so that we should have had them end downwards in the middle of nothing. But essentially, plotting a straight line against Border didn't really show a trend. This is one of the reasons I moved to Randolph -- there is some return flow below the Randolph gage. Storage water applied at Pixley Dam and Whitney Dam diversions - the return flow from that would come in below the Randolph gage, so there would be a greater return flow at Randolph show up.

E. K. Thomas of the Bureau of Reclamation, some years ago made a study of his own on what he considered to be return flows, and we noticed that he used a variable curve in one of his older reports; and in that one it showed 17% return flow, usable return flow, to Bear Lake. This figures out considerably better than that.

CHAIRMAN KUNZ: Any other questions of Wally?

MR. ROBERTSON: Not any question, but I think it would be of interest to us, at least to pursue the implications of that relative to the use of additional storage. Maybe as a Technical Sub-committee, or something, later. You were just treating here the existing situation?

MR. JIBSON: Right. May I add, Alan, to clarify that a little bit - (I'm sure you are all aware of this, especially the committee that has been working on it) - we had a number of years that Woodruff Narrows was not used to augment the regular irrigation season supply. This year they did use it; but we have a number of years that they did not take any water out of Woodruff Narrows Reservoir until the middle of August; and that's why the River channel itself is way down - not dry, but way down; canals are all dry. It actually takes two or three thousand acre-feet to fill up all of these channels. They pull eight, or nine, or ten thousand acre-feet at that time. They really don't get overland with much of it. And on those occasions, so many times, as we study the stream-flow record at Pixley Dam, we don't even see a ripple on it. Some years we do. If the water table is high; if the year is good; we do see a jump down there; but I do have some years where I can't even pick up a ripple on the hydrograph. So we are kind of leaving things out of Woodruff Narrows Reservoir, and I'm not criticizing that; I would certainly use it rather than let the Reservoir go full through the season. But at the same time, this doesn't give us a very

large percentage of return flows in that water applied. Likewise, Sulphur Creek, in many years is not used until quite late in the year - sometimes toward the end of July and into August; and at that time the inflow to Woodruff Narrows Reservoir is very small and it is difficult to pick up return flows in a reasonable period of time down through the River. Here, again, we get an unknown factor in the ground-water accretion. I think we have to take any of these results with these things in mind.

MR. LAWRENCE: I would like to ask - Wally, are you implying that Woodruff Narrows was not built for release in August, as a regular thing to irrigate in August?

MR. JIBSON: No; no; I'm not implying that, although earlier studies before the Compact was ever signed assumed a full water supply through mid-July. That's why my statement here on irrigation efficiency. But I'm not implying that it was built only to use through mid-July -- I'm just stating the fact that when we have let everything dry up to do our haying, and then put our water on afterwards, we see a smaller return flow than we would if it were used like this year. On the 20th of July, if the supply is cut, to immediately turn reservoir water into it; and our return flow is much greater.

CHAIRMAN KUNZ: Any other questions?

MR. MYERS: It seems to me that the return flow immediately, in an area like this -- now these soils up in that area, there's a lot of gravel formation. Right after you shut the water off to put up your hay, that gravel is all full of water. That water all sinks; and then this new water that you turn out in August has to fill all that cavity. That doesn't mean to me that it doesn't eventually go down back into the River just like the original, and eventually get to Bear Lake. It kind of looks to me like we're maybe getting a little bias out of this. I can't quite understand -- is it because of only partial use of the Reservoir? For instance, Whitney is a 4,200 acre-foot structure; it shows here that its loss to Bear Lake is 2,600. Sulphur Creek is twice that big, and it loses 2,800 in depletion. For Whitney there is twice as much water. What's the explanation for that? Is it just non-use of Sulphur Creek?

MR. JIBSON: Sulphur Creek has a total capacity of about 7,088 which includes some holdover. But you notice that the net yield out of Sulphur Creek is only 2,900. And since Sulphur Creek is closer to Bear Lake, for one reason, we do

show a greater return flow reaching Bear Lake out of that 2,900 than we do of corresponding 2,700 out of Whitney. But they do have a comparable yield - the two reservoirs.

MR. MYERS: What is the yield - when one is a 4,200 and the other is 7,000?

MR. JIBSON: The yield is simply the amount of water that is pulled down during each year - average.

MR. MYERS: In other words, they use Whitney more than they do Sulphur Creek?

MR. JIBSON: So far they have done.

MR. MYERS: Okay; that's what I'm trying to get at -- just what causes this.

CHAIRMAN KUNZ: Any other questions?

MR. BISHOP: I would have a comment, Mr. Chairman. I'm a little troubled by the conclusions that this analysis seems to lead us to. It seems to me that return flows are very difficult to analyze. I think the point that Dean Bischoff brought up, relative to return flows coming into the system much after September, is a very important consideration. I know in many situations you have return flows coming back in, in October, November, and December that are quite significant. I think you have contributions to the ground-water table that eventually get back into the system, that defy analysis. I have real trouble in convincing myself, or in being convinced, that the return flows are really as small as this analysis seems to lead us.

MR. JIBSON: Floyd, here again, I tried to stress a point, both in my report, and just off the cuff here, that ground water is the big unknown factor. And I also state that I studied this in a relatively short time after application of water. It is true that in years past we used to put out what we called the 'Bear River hydrometric report', and it showed the gains and losses, and various things; and we noticed there that after the major application of water, down through this general area, that you could watch the strong gain for two or three weeks, and then it dropped off rapidly. Most of that gain was return flow; there was some ground-water gain, some base flow gain, but most of it was return flow. And in those gravelly soils and this basin around Smith Fork, you can see your gain drop off just a few weeks after the bulk of your irrigation season, or the peak of the irrigation season. So I think your point is very well taken. I don't want to leave the impression that I think 4,000 acre-feet is the total return flow

reaching Bear Lake. I stated here that this is surface, within a relatively short period of time. And I wouldn't argue with anyone -- I think ground water is so indefinite, so unknown here, that it would be very difficult to analyze.

MR. JENKINS: Mr. Chairman, I wonder if perhaps after this fine chart by Mr. Jibson, if perhaps this matter shouldn't be formally turned over to the Technical Sub-committee to work with him to extend the period of this report and look at it perhaps in a little more detail, and then report back on any further modifications that would seem appropriate to these figures? Also, so that the Technical people from each state would have a feel for the input that went into this; and could advise their own separate state delegations of their feelings on it?

CHAIRMAN KUNZ: Do you want to put that in the form of a Motion?

MR. JENKINS: Well, alright; I'll move you that this analysis of compact storage above Bear Lake be referred to the Technical Sub-committee with representatives from each state, and that they meet with Mr. Jibson prior to our next Negotiating meeting to review this report and extend the coverage of the report.

CHAIRMAN KUNZ: Okay - Mr. Jenkins has made a Motion. Do I have a second?

MR. DAYTON: I'll second the Motion.

CHAIRMAN KUNZ: Second by Mr. Dayton. All in favor say 'aye'. Opposed?

MOTION CARRIED

MR. LAWRENCE: Mr. Chairman -

CHAIRMAN KUNZ: Dan -

MR. LAWRENCE: I think you kind of 'railroaded' that one. I'd like to ask the experts - in view of the fact that return flows will undoubtedly be an important issue to this body, or to the Bear River Compact Commission over the years, do we have the physical setup to do some fairly sophisticated research on return flows in the Upper Bear River system, or anywhere; and if not, should we consider it important enough to establish additional gaging stations, or whatever is necessary? Alan - or Norm - or somebody - talk to that. In other words, what can the Technical Sub-committee do immediately; and what long-term program do we need to establish?

CHAIRMAN KUNZ: Do you want to address that, Alan?

MR. ROBERTSON: I don't know; but - of course, I think the first thing would be to examine the assumptions made here and get a feel for it. I don't know what would be required in the way of additional gaging, or this sort of thing.

MR. FUNK: This just raises the question, since the hydrology indicates there is water there to be developed - really, how important is it - the amount of return flow? There is developable water above the Lake without adversely affecting downstream rights; and therefore, how critical are these return flows?

MR. JENKINS: Mr. Chairman, if the figures that we see here are indicative of the magnitude, you're talking about whether you get twice as much or half as much; and I would think that would be very material.

MR. FUNK: The figures that have been talked about in developing water above the Lake - the hydrology shows there is that amount there. Whether there is twice as much, or half as much, there's still that much water there. It may affect your decision whether you want to use it there or someplace else, but it doesn't seem too important in that regard.

MR. JENKINS: Well, I think it's very material; because it shows -- It would effect, I think, Idaho's decision. If we got 100% return flow, I think we would be very easy to negotiate with on your using it anywhere upstream. You change those numbers, it affects what's coming back to us; and we would consider it accordingly.

MR. FUNK: I would like to respond to this as we get a little further into the meeting, as it pertains to other issues.

CHAIRMAN KUNZ: Alan, answer me something here, will you please? Didn't this 60,000 hydrology give some credence to return flow? Wasn't there some return flow considered in that?

MR. ROBERTSON: Yes; any study that you run, new storage meant for some new use. Obviously, the assumption you make regarding return flow relates to the net effect downstream. In that way, it is important; and if the degree of upstream storage that you are discussing hinges on, or is affected by, downstream considerations, there is a relationship to return flows.

MR. LAWRENCE: In the July 19 report of the Technical Sub-committee, that was assumed to be 50% return.

CHAIRMAN KUNZ: So, maybe this assumption is high. John - ?

MR. TEICHERT: We have about an 80 to 90-day growing season in this particular area; and we have only so much consumptive use. So, I think you can probably settle the consumptive use figure. This water may stay in the ground and be there for the next season, which would affect the next season's runoff -- we would have more return flow at the beginning of the next season if the water table is already filled to capacity. So I think maybe dealing with consumptive use rather than return flow of the area would be a better approach.

MR. JIBSON: You will notice a great deal of disagreement in the various reports I read on consumptive use. In that kind of an area, they all seem to come back to about 1.4, 1.3, 1.35, acre-feet per acre for actual consumptive use for this high, high elevation meadowland. This is essentially what Iorns found in his study.

Again, I think we should keep in mind, on this headgate efficiency, that if we allowed a full diversion rate through mid-July, with no diversion after that, and you came up with a 2.8 - if you irrigated in August or late-season irrigation, then the 2.8 would be increased and your 50% efficiency would tend to be lower.

CHAIRMAN KUNZ: Do you have in mind what this is going to require, Alan? Or do you have some questions?

MR. ROBERTSON: I guess the assignment has been made; and it's not necessary for me to make a determination.

CHAIRMAN KUNZ: You'll be contributing. I'll have to -

MR. ROBERTSON: That's right. I would like to talk to Wally.

CHAIRMAN KUNZ: Okay. Norm? - Is he the boy that's going to be doing it for you, Dan?

MR. LAWRENCE: I was going to say - this, theoretically, is the Chairman. I wanted to be sure the Technical Sub-committee understood their charge; and Norm nodded his head like he understood, so -

CHAIRMAN KUNZ: Okay; he's got his hand up now.

DR. STAUFFER: I think we should include Dean Bischoff on this Committee. He has done a lot of work and I think did a study on return flows at one time. We should include him.

CHAIRMAN KUNZ: Okay. Floyd, who's going to be contributing here for Wyoming?

MR. BISHOP: Good question. I think I understand the assignment, Mr. Chairman.

(Laughter)

V TYPE IV SURVEY PLAN OF WORK, BEAR RIVER BASIN

CHAIRMAN KUNZ: Okay. We're ready to move on now to No. V, then - Type IV Survey Plan of Work, Bear River Basin. Mr. Schmidt, the floor is yours.

MR. SCHMIDT: Thank you very much. Ladies and gentlemen, I appreciate this opportunity to bring you up to date on the progress of this study.

Bear River Type IV Study

The Plan of Work that has been developed for the Bear River Type IV Study, and is now in the process of approval, outlines the role of the USDA and the three states in coordinating the Study to achieve the objectives. There will also be standards and specifications to supplement the Plan of Work.

The overall objectives of the Study will be to provide information on land and water resources, economic inter-relations, and problems and development opportunities. This information will be given to the public to help in the management and development of the area.

Problems and needs of the people will be evaluated using the multiple objective planning procedure.

Overall Objectives

1. Enhancement of the National economic development to increase the value of the Nation's output of goods and services and improving National economic efficiency.
2. Enhancement of the quality of the environment by the management, conservation, preservation, restoration, or improvement of the quality of certain natural and cultural resources and ecological systems.

Specific Components of Objectives

1. The economic objective is to increase personal income and strengthen the agriculture sector of the economy. Activities will first, include an economic base study to determine present productivity in relation to projections to determine needs; and second, measure the effectiveness of alternatives in meeting these needs. Opportunities to more efficiently utilize water, forage, cropland, and timber resources will be identified. Recreation opportunities in relation to the economy will also be evaluated.

Specific Objectives

2. Flood protection objective is to reduce resource and economic loss and to assist in flood plain planning.

3. The erosion and sediment objectives are to maintain the productivity of the land and reduce downstream sediment damage. Activities of this objective will be to identify opportunities for erosion and sediment reduction.

4. The recreation objective will be to provide diverse recreation opportunities while maintaining or improving the quality of recreational experiences. Activities will include an inventory of resources, a determination of their capacity in relation to demand, and identification of opportunities to meet projected demand.

5. The environmental objective is to manage and restore the biota, open and green space, human interest and esthetic resources, and the quality of air, water, and land. A major activity is to develop a base environmental inventory for evaluation of alternative impacts.

6. The irrigation water management objective will be to determine the opportunities for improving irrigation water use through system rehabilitation and consolidation and through improved on-farm irrigation water management, and to evaluate these opportunities in relation to alternative and conjunctive uses of water. A major activity will be to determine and evaluate the opportunities for single and multi-purpose storage facilities as they relate to timing and distribution of available irrigation water.

7. The water quality objective is to identify opportunities to reduce pollution. Activities include identification of sources and levels of water pollution and evaluation of the impacts of developments on water quality.

The results of the study will provide data to facilitate the Bear River Compact negotiations and will also assist in promoting coordinated and orderly conservation, development, utilization, and management of water and related land resources. It will provide a base for USDA to meet its responsibilities for managing public lands and for assistance to local sponsors with projects and programs which will contribute to the satisfaction of current and long-term needs for resource utilization.

Progress to Date

The 6-year Study was scheduled in six phases:

Phase One, which included the preparation of the Work Plan, the development of the procedures and information programs, was delayed at the request of the states to work on the State Water Plans and Westwide Study. This data will be helpful, however, in later phases of the Study.

Phase Two, covers the inventories, the projection of future demands, and the evaluations of the conditions.

Phase Three includes the design of alternatives to meet objectives and the evaluation of the alternatives and the formulation of the two plans, Economic Efficiency and the Environmental Quality.

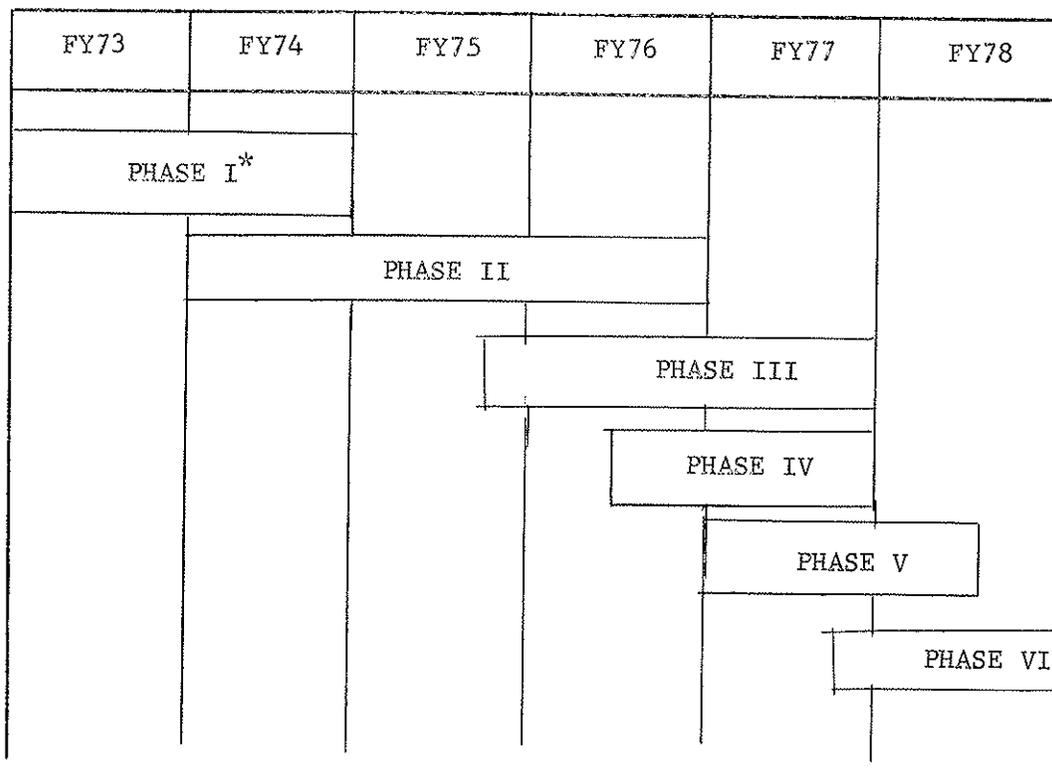
Phase Four, analyzes the differences of the plans and identifies items that could be accomplished with present USDA authorities and identification of new authorities needed.

Phase Five, Review the plans with the decision makers.

Phase Six includes assistance to the decision makers to select a recommended plan and the preparation of the reports.

We have developed the plan of work, completed work on the State Water Plan, and nearly completed the Westwide Study. We are now gathering inventory in Phase Two.

CHART 1
 SCHEDULE OF PLANNED ACTIVITIES
 BEAR RIVER BASIN, UTAH, IDAHO, WYOMING



* At the request of the States of Utah, Wyoming, and Idaho, a six-month portion of Phase I will be devoted to Westwide and State Water Plan activities. This will also provide direction to the Type IV study of the Bear River.

MR. SCHMIDT: Any specific questions?

MR. LAWRENCE: How are you integrating the water rights into your plan formulation? You are talking about potential structures. There has to be some water right authority, I would assume, for building those; and how are you planning to work that out?

MR. SCHMIDT: I would think that we would cooperate fully with the Division of Water Resources and the State Engineer of each of the states, or the state agency dealing with water rights. Does that answer your question, Dan?

MR. LAWRENCE: Well, I was trying to relate your study with the work of this Committee. Are you going to be constrained? You are going to have to make some assumptions independent of the work that we're trying to do. Are you going to go ahead, or - ?

MR. SCHMIDT: Of course, I think this study will only identify possibilities of storage; it would not identify specific sites. This study is broader than that, I think. I might add that as we do a phase of the inventory, working papers will be published or will be printed, and that data will be available for use. So this whole study will have a series of working papers of all the inventories.

MR. HIGGINSON: Could you tell me, has this study been approved and funded? And if so, what kind of problems are you having with employment ceilings?

MR. SCHMIDT: It has been funded; and we have maintained, so far, our staff. Oh, we've lost a couple on our staff, but we essentially have got through with the Beaver River Type IV studies in the State of Utah, and our staff will now be available to work on this stuff.

MR. LAWRENCE: In connection with that, how do you - what about Idaho and Wyoming S.C.S. office? Do they have staff programmed?

MR. SCHMIDT: Yes; they have adequate staff. I say 'adequate' loosely, Dan, in light of things. We're all hard-pressed; but we have been able to maintain in the river basins and in the watersheds sufficient funds and sufficient staffs to accomplish this.

MR. JENKINS: Is the Malad River, tributary to the Bear, included in the study?

MR. SCHMIDT: I believe so; yes.

MR. BISHOP: You indicated that the information from the Task Force study will be helpful to the Compact negotiations; and then you said that the study won't be finished until '77 or '78. I would hope we won't be negotiating that long.

MR. SCHMIDT: Hopefully not, either; but inventory data as we collect it -

MR. BISHOP: Will you present that to the Commission in some way on a regular basis? Will it be automatically done? Do we have to ask for it?

MR. SCHMIDT: No; it would be available.

MR. BISHOP: It will be automatically provided?

MR. SCHMIDT: Yes; I think we can arrange that.

MR. HIGGINSON: How is the study coordinated between the three states and the S.C.S. staffs? Is there a lead agency - ?

MR. SCHMIDT: Yes; S.C.S. in Utah --they coordinate.

MR. HIGGINSON: S.C.S., Utah.

MR. TEICHERT: The way you enumerated the different aspects of it - is this according to a priority system?

MR. SCHMIDT: No.

CHAIRMAN KUNZ: Any other questions?

MR. LAWRENCE: I'd like Alan or Norm to respond, for the benefit of the group, as to the input from the state agencies to this study. How are we working with them?

DR. STAUFFER: There is a section in the plan of work that identifies what each state will do; and the states have provided this input to the plan of work. The states individually have said how they will help and how they will cooperate in the work. Now, one of the things that is coming up is getting public involvement, and this is being worked out at the present time. I don't think we have a final answer on it. I think they are working now on the public involvement - getting local input into the planning. The states have submitted to the S.C.S. how they will cooperate in this study. This has been done by the staffs of the three states. If we were to respond how each state will support the study, I think we would have to respond item by item.

MR. LAWRENCE: Maybe a little more specifically; we have been meeting with the field advisory committee. It has had some meetings and the states have been represented, haven't they?

MR. SCHMIDT: Oh, yes; it's a coordinated effort between the states and S.C.S.

MR. ROBERTSON: What about the six-months' study? Is that completed?

MR. SCHMIDT: Nearly so; isn't it, Norm?

DR. STAUFFER: It has been completed every month. It has been typed; it is ready to run off; we have every section in but one, and the man promised me that he would get it to me today.

MR. LAWRENCE: I saw a draft copy of something.

DR. STAUFFER: You must have seen something else. It is virtually completed, though. A week or so, and it should be in the mail.

CHAIRMAN KUNZ: Any other questions? Thank you for your presentation.

VII OTHER BUSINESS

CHAIRMAN KUNZ: This brings us now to Item VII, which is Other Business. I'll call on you first, Mr. Bishop - Wyoming.

MR. BISHOP: Mr. Chairman, you skipped over Item No. VI, and I'd like to comment on it.

CHAIRMAN KUNZ: I cancelled Item VI.

MR. BISHOP: I know you did; and I understand why. I would like to apologize for Wyoming's failure to provide specific suggestions for Compact modification in time for consideration at this meeting. It's my own responsibility, that we failed to do that. I have been just too darned swamped with other things to do the last couple of months, and didn't get it done; but I do assure you and the other states that we will provide our suggested modifications for the Compact in specific terms within the next few weeks. We feel that we have done this previously, but we did agree to update those suggestions and to provide them to the negotiators, and I apologize for having failed to do that.

CHAIRMAN KUNZ: Would you care to bring up anything else at this meeting?

MR. BISHOP: I would only want to emphasize the importance of that particular effort. I think it provides us a means of making some real progress in these negotiations; and, hopefully, Utah and Wyoming will get their contributions made in the near future so we can have a more meaningful discussion at the next meeting.

CHAIRMAN KUNZ: Thank you, Floyd. Utah, your Chairman isn't here. Who's taking his place, Dan?

MR. LAWRENCE: Marion asked me to stand in his place. With respect to Item VI, we did have a meeting of our Utah group and almost reached an accord as to what we might put in a letter to the negotiators. Our meeting was scheduled a little bit after the 30-day limit, and for various reasons we didn't comply with the promise we made at Jackson. I hope we will be able to, 30 days in advance of a future meeting.

I, personally, don't have anything in the way of other business; but maybe I should turn to other members of the committee from Utah. Cal, do you have something that you think should be brought up?

MR. FUNK: I think with the deletion of Item VI, maybe I don't have any other responses to make either.

I'm concerned about one thing. Idaho has mentioned that if additional storage is granted above Bear Lake, and figures specified there, that if this were written into a modification, they would have a figure that they would want specified also. I'm wondering if we can make some amount here available, if Idaho has a figure in mind at this point; or if there's some work that they need to do to arrive at this figure? The part I was concerned about was Griff's question. It seems that the realities of the River aren't really the issues that we are talking about -- that maybe we have some other things in mind, and we're holding in abeyance until we get some 'horse-trades' arranged here - if I can use that term - and I would just like to get some of these alternatives and suggestions out.

Now, I'm concerned - as John gave his report - that if we're looking at a '78 date of completion to be of any value to us, the River is just going to keep rolling, and of course we go on with other studies, and studies will never wear it out or develop it, either. And I think a real issue before the Committee is the request to store water at Woodruff Narrows; and this is timely, and pertinent, and I wonder how long we need to defer answering that question? And I am a little disappointed that we are skirting some of the issues that we don't go and answer questions along the way.

CHAIRMAN KUNZ: Mr. Funk, I'll answer that very briefly, I think. Until such time as we get the response from Utah to grant to Idaho something that they want, there will be nothing approved in the Upper Basin, as far as Idaho is concerned. I think

the only reason we're willing to talk about anything new in the Compact in the Upper Division is that hopefully we will get something in the Lower Division. And so we can sit here and knit-pick about what happens above Bear Lake, and how we fluctuate Bear Lake, for ten years; and we won't accomplish a thing. Until such time as we get the response to what Compact modifications we all want, and start sitting down and considering the package as a whole.

Have I spoken for the Idaho group? Or do you want to add something to that?

MR. HIGGINSON: Not as strongly as I would have said it; but I think you have spoken for us.

MR. FUNK: I really appreciate the candor of that response, Ferris. And the real modification that I'm aware of is the one in your October 23rd letter, which we skipped over, and that's Article IV. Now, are there other things besides Article IV that Idaho is concerned about? In connection with Article IV, do you have an amount of water that you want to put in there? You just say a change; it doesn't specify. What beyond Article IV?

CHAIRMAN KUNZ: I think in our original proposal we even put in some figures, Cal, of how we would like to do this. We took an early position; and to date we have not had to change that position at all. We have reaffirmed it, and recalled your attention to it; and this is all this letter of October 23rd does, is re-state some of the things that we said earlier. When did we originally make that? At Malad?

MR. HIGGINSON: At Malad - three years ago.

CHAIRMAN KUNZ: On some date - I don't remember what the date was. You should have that in your Verbatim Minutes.

MR. FUNK: Well, you have not come through with the specifics below the Lake that have been spelled out above the Lake - even considering the Malad proposal.

CHAIRMAN KUNZ: That's right; because to date we have had no indication -- Cal, to be very frank with you, those five little words will kill your Cub River project, too. You just as well forget trying to get Cub River as long as those five little words are in the Compact - "without regard to state lines". That's a big club!

MR. FUNK: I appreciate that candor, because it was understood a year ago following our meeting in Preston, - verbally agreed - that this project could go ahead. Because of the amount of water, there would be no tradeoff required - and go ahead to users in an effort to develop that.

CHAIRMAN KUNZ: We can talk about it; but frankly, it will never be economically feasible as long as some future project below the Utah line can call on this water that's stored up here. This is what those five little words mean.

MR. LAWRENCE: I think I read the Malad proposal quite carefully; and I got a different interpretation from it than you've expressed. I thought it said you were going to go ahead with the project-by-project development of the River, with some control by the three states, but you would try to develop projects. Now you're saying that -- at Logan, I know, there was some of the Committee expressed a different view, and said that they felt that the water had to be allocated before we could do anything; but it's my impression that your Malad proposal talked about projects.

CHAIRMAN KUNZ: I think our Malad proposal listed ways that we saw this could proceed. And these avenues, as far as we're concerned, are still open. But from the discussions that we have had since, it would seem to us that the allocation method is the one that seems to be preferable to talk about. As I recall, we had a response from Utah which said that this entity we proposed could not be considered; that is, the entity that we were proposing to control the River development could not be considered. At one time you thought it could; and then you decided that it couldn't; so we have abandoned that idea until such time as it comes back into reality, I believe, Dan.

There was one question that you raised, Cal, at the last meeting; and I think we answered that for you. Was that satisfactory - on Bear Lake fluctuation?

MR. FUNK: I think it was satisfactory; but to me there was some ambiguity in it. What is the level of Bear Lake that must be maintained to meet downstream rights?

CHAIRMAN KUNZ: I think we recognize that Utah Power & Light has been doing a pretty good job to date of meeting downstream rights.

MR. FUNK: We think the level is - I think; I'm not speaking for the Utah committee - I think, as a member, that the level is very definitely tied to developing the waters below Bear Lake.

CHAIRMAN KUNZ: Right; we will agree with that.

MR. FUNK: This is of concern to you; and yet, you've not spelled it out. I'm still not clear on what specific level you would like to see Bear Lake. Now, whether we can determine a legal level, I don't know.

CHAIRMAN KUNZ: What we have said is that at the present time we see no need to change the mode of operation that has been taking place. We don't say it can't be; but we do say, if it is done, the beneficiary of that change must assume the legal responsibility. Now, what we're saying is that if the time comes that Idaho wants to raise the Lake a half-a-foot, then Idaho better have some money in the bank to pay all these losses. And if Utah is going to be the beneficiary, or Wyoming the beneficiary, then they'd better be prepared the same way. I think this is what we've said all along.

MR. LAWRENCE: And you're referring to the datum of Utah Power & Light's present operation rather than the 'legal' elevation?

CHAIRMAN KUNZ: I think that's right.

MR. LAWRENCE: In other words, you're saying that there has been a prescriptive right developed there?

MR. HIGGINSON: No; we haven't said that.

CHAIRMAN KUNZ: No.

MR. FUNK: But you strongly imply that there are rights established by recreation interests in some period; and you would lean towards regulation of the Lake level to accommodate recreation development around the Lake?

MR. HIGGINSON: We haven't said that.

CHAIRMAN KUNZ: No; we haven't said that.

MR. HIGGINSON: We have said that we're satisfied with the present operation of the Lake; and if the present operation of the Lake is to be changed in the future, whoever proposes that kind of a change, from the present operation to something different, better be prepared for all of the legal and financial obligations associated with that kind of a change.

MR. FUNK: Well, take two years ago - the Lake was filled to almost maximum. And you have no objection to that?

MR. HIGGINSON: Under its current operation, or the current uses, fine.

MR. FUNK: Now, how does Woodruff Narrows affect that?

MR. HIGGINSON: That's a new operation; and with Woodruff Narrows, the effect of that upon that Lake, somebody would have to assume any legal responsibility associated with whatever change that causes in the Lake.

MR. FUNK: Have you determined what effect that might be?

MR. HIGGINSON: No; nor do I believe you have.

MR. FUNK: That detail, to my knowledge, we have not.

CHAIRMAN KUNZ: Any further discussion from Utah?

I have nothing, personally, at this time.

Keith?

Bill?

Griff?

Okay.

Gentlemen, I have served as the permanent Chairman of this Committee now, and my term expires with the November meeting. At this time I anticipated I would turn this over to the Vice-Chairman. Inasmuch as he is not here, I guess probably I'd better continue with the rest of Item VII at least.

I appreciate the support that I have had. I wish that we could have accomplished more than we have; but I think the groundwork is laid; and with a few of the right breaks, I think this thing could move forward.

I especially want to express my appreciation to the very able and capable secretarial work we have had. I appreciate the offer, and the inconvenience that Utah has gone to, to let Connie do this for us. She's always been very efficient in this job.

At this time I would see that we should elect a new Vice-Chairman; and I think at Evanston, or Cokeville, or wherever this took place, we agreed that this should be rotated between states. Inasmuch as Utah will have the next Chairman, I think that it is very advisable that Wyoming, at this time, nominate one of their members as Vice-Chairman; and I would so ask.

MR. BISHOP: We'd like to nominate Wes Myers.

(Laughter)

CHAIRMAN KUNZ: Thank you, Floyd. Do I have a second?

MR. HIGGINSON: I'll second it.

CHAIRMAN KUNZ: Alright; we have had a Motion made and seconded that Mr. Wes Myers of Wyoming be the new Vice-Chairman of our organization. All in favor say 'aye'.
Opposed?

MR. MYERS: No.

CHAIRMAN KUNZ: You're out-voted.

MOTION CARRIED

MR. HIGGINSON: Mr. Chairman, do we need a Motion to elect Mr. Olsen as the Chairman for this coming year? Or is this automatic?

CHAIRMAN KUNZ: I think this was automatic, the way I remember the Motion. Was it not?

MRS. BORROWMAN: I think it was so that the Vice-Chairman automatically became Chairman.

MR. HIGGINSON: Fine.

MR. LAWRENCE: The record maybe should show that we approved.

MR. HIGGINSON: The consensus, anyway.

MR. MYERS: Mr. Chairman, I would like to bring up one thing here. I'm not satisfied with the way that we are cutting off the discussion on Items VI and VII. I don't think we have any agreement as to where we're going next. And I think before we leave here we better have such an agreement; so that each of the three states are going to submit a comprehensive plan on what they want to do with this Compact. Or, the least we can do is reaffirm, taking up Idaho's letter. It seems to me that we're going to be forever if we do this one jump at a time -- like, Idaho presents a letter on one subject; and then we take two or three meetings to answer that. I think that, instead of doing that, each of us should write down, or rewrite -- because we've done more or less of it -- exactly what we'd like to see done about a modification of the Compact. And actually get 'on the ball' and get something done. I don't like to just go home, saying, 'well, we're sorry we didn't do this this time', with no future direction

CHAIRMAN KUNZ: Mr. Myers, on Item VIII, I was going to turn this meeting over to you; and then I was going to move that you set the date of the next meeting thirty days after we receive a like letter from Wyoming and Utah.

MR. MYERS: Well, I didn't ascertain that that was the proper way to handle this. I thought Marion Olsen was going to take over; and I just didn't want to leave it with nothing but loose ends. That's all I'm talking about. If you've got something in mind, you go ahead and bring it up.

CHAIRMAN KUNZ: Well, I was going to let you handle Item VIII now that you're the Vice-Chairman of it; because I think that probably that should come under your jurisdiction; so at this time - you're 'it'!

MR. MYERS: Now, you have already made your suggestion?

MR. KUNZ: Yes; I will put that in the form of a Motion.

VICE-CHAIRMAN MYERS: That the next meeting will be called 30 days -

MR. KUNZ: Yes; if there is a next meeting, that it be called 30 days after a letter similar to Idaho's October 23 letter is received from Utah and Wyoming.

VICE-CHAIRMAN MYERS: Well, that's fine. I see nothing wrong with that. You've heard the Motion.

MR. JENKINS: I'll second it.

MR. MYERS: You've heard the Motion. It has been seconded. All in favor say 'aye'. Contrary, 'no'.

MOTION IS CARRIED.

That leaves the location and date. The date is optional with our Chairman, Mr. Olsen, when he receives the three letters. Then he calls the meeting.

MR. KUNZ: Right.

VICE-CHAIRMAN MYERS: But the location is yet in limbo.

MR. KUNZ: That will be Wyoming.

VICE-CHAIRMAN MYERS: Is it Wyoming's meeting?

MR. KUNZ: Yes.

MR. LAWRENCE: Not really. Wyoming's meeting was last time; and I think this is Idaho's meeting, isn't it?

MR. KUNZ: No; Idaho held their meeting at Fish Haven.

VICE-CHAIRMAN MYERS: And we held our meeting in Salt Lake.

MR. KUNZ: No; I think this is Utah's. You held the one in April in Salt Lake; that was your meeting.

VICE-CHAIRMAN MYERS: Well, then, the next meeting is Utah's meeting.

MR. KUNZ: No; this is Utah's meeting.

VICE-CHAIRMAN MYERS: Utah's meeting today. Wyoming again. Next meeting will be Wyoming. Remember, you were all going to Cheyenne, but we decided it is too far away.

MR. KUNZ: So we came to Salt Lake.

VICE-CHAIRMAN MYERS: What is your pleasure? Do you want to come to Salt Lake again?

MR. KUNZ: You set it. You can notify Mr. Olsen where you want it.

MR. BISHOP: It is probably easier for everybody involved to hold it in Salt Lake; or somewhere in this general vicinity.

VICE-CHAIRMAN MYERS: I would say one thing. I do appreciate it being rotated; I do appreciate having it in Wyoming part of the time. I think that during the winter months, if this is to be called in the winter months, I would prefer to come to Salt Lake. If it's in the summer time when things are pretty good up there, we'd like to have you come. Maybe we could trade around a little. We'll get in touch with you.

MR. KUNZ: Whatever your wishes.

MR. BISHOP: Mr. Chairman, before we adjourn, let me 'needle' Idaho just a little bit.

(Laughter)

It seems to me that Idaho's proposal, commendable as it is, is awfully general in nature; and I feel certain that Utah will come back with an equally general proposal that agrees that we should have an allocation between the two states. But we're not really much further ahead at that point in time than we are now. If you're talking about an allocation between Utah and Idaho in the Lower Division, at some point in time we've got to get down to specifics; and we've got

to get down to figures; and we're just not there, even with Idaho's proposal. And I grant you that you did come up with a proposal; and we didn't. But I would like to see something much more specific, informally negotiated between Utah and Idaho, as far as the Lower Division is concerned, before we have another meeting; or I don't think we're going to be a whole lot further along than we are right now.

MR. KUNZ: Very possibly we won't, Floyd. But what I was hoping to get accomplished today by letters similar to ours was probably a committee of three to start working on language to accomplish the modification of the Compact. Because I don't think this group as a whole is ever going to get together on language. I think it's going to have to be a committee of 'yea' number; possibly three, to start working on language to accomplish what we think will accommodate the three states.

MR. BISHOP: I agree. You don't think it would be possible to present something more specific for consideration at the next meeting? You'd rather pursue this generalistic approach until the next meeting, and then try to proceed from there into the more specific?

MR. KUNZ: I would certainly listen to any other suggestions that might be forthcoming, Floyd. I would like to see this thing move; but I see us at a stalemate until such time as we can get some general idea from all three states to work on. We're spinning our wheels. I see no further way to go.

MR. BISHOP: I agree with that.

MR. LAWRENCE: Floyd's point is well-taken; that if Utah responds as a statement as general as Idaho's, you would certainly have to have another listening, either by the committee of three, or another go-around before you got down to -

MR. HIGGINSON: Mr. Chairman; let's be realistic about this for a moment. Suppose Idaho were to be very specific? You know very well that if Idaho's going to be very specific at this point in time, we're going to say 'we want an allocation of 1 million acre-feet in the lower Bear River'. And we know that Utah and Wyoming are not going to be willing to give us that. And I suspect that if you're going to be specific, you're going to ask for a million acre-feet of storage above Bear Lake, or some such figure. And we're not going to be willing to give you that.

So, at this point in time, I don't think specifics are important. But what we had agreed to do, we thought, was that each state was going to point to those Articles and Sections of the Bear River Compact that they wanted to see

modified in order to meet some state goal that they had in mind. Now, we think that we have done that. We have identified Article IV, Section 3, the Lower Division provision, and particularly two items in that. One, the language with regard to 'without regard to state lines'. We have suggested some modification of that in our letter - very specifically. In addition, we have suggested that this modification ought to be coupled with an allocation. Now, we could give you a figure if you want; you know we'd agree to a million acre-feet with anybody. We could throw it out on the table, but it's not going to mean anything at this point in time. What we're suggesting is that that specific Article modification should be coupled with an allocation of water below Bear Lake.

Now, we think from there - if we could get those kinds of items laid out on the table from each state - articles identified - then that information can be handed to some kind of a committee -- maybe it's the Attorneys General of the three states, or somebody; and say 'these are the three Articles' or 'these are the kind of things; you prepare language that would accommodate those various interests, and leave the figures blank, and then we'll negotiate the figures to put in the blanks'. But at least we've got some place to start from.

As of right now, we don't know where we are; we don't know how to accomplish what you want above Bear Lake because you haven't told us that you think the Compact ought to be modified above Bear Lake. Now, if you think it should, and that's something you want to negotiate on, we want to know that -- I think we're entitled to know that. If you think you can accomplish everything you want above Bear Lake without Compact modification, then you see, you've got nothing more to say; and we know where we sit. But until we know that, we haven't got any place to start.

MR. BISHOP: Well, Keith, I think we have. I think we have presented specific suggestions for language changes in the Compact, as we see them; so perhaps we've already told you -

MR. HIGGINSON: Fine. Could you reiterate those, in line with the agreement that we thought we had? We understood we were going to have it. We've said this before, too.

MR. BISHOP: You feel it's necessary to go through this interim exercise in order to get general agreement on the approach, and then move into the more specific areas? If that's necessary, that's alright.

VICE-CHAIRMAN MYERS: Do you have some rebuttals, Utah?

MR. FUNK: Just speaking as one - I thought we had said what we wanted above Bear Lake; and we could accomplish it without Compact modification. And Idaho's response was that 'we would attempt to block that unless there's some tradeoff', and that would be their effort. Now, Wyoming really hasn't been that specific; and Idaho hasn't said how much storage above Bear Lake they desire.

VICE-CHAIRMAN MYERS: Well, they have pretty well said. I think Thomas Fork is all that we have mentioned.

MR. BISHOP: If you think we haven't been specific, Cal, you haven't read what we've sent out. We've mentioned figures; we've been just as specific as we can be.

MR. FUNK: Well, an equal amount that we are talking about for Utah; and your figure has been higher than that. Does that imply that you would agree to Utah having as much as you're requesting?

MR. BISHOP: Not necessarily.

VICE-CHAIRMAN MYERS: Providing they share with Idaho.

(Laughter)

VICE-CHAIRMAN MYERS: I'm intrigued with this idea of setting up a committee at the next meeting. If a committee is worth setting up, why don't we do it at this meeting? Why don't we just go on with it, and get it done, then? We'll be in just as good a shape this meeting as we will next meeting.

MR. KUNZ: Turn the three letters over to the committee, you mean, to give us a preliminary report or something on it at the next meeting? Is this what you've got in mind, Wes?

VICE-CHAIRMAN MYERS: No; I just mean set it up. I mean set up a working committee so that when we get the letters we have some place to go with them. So they both come at the same time; instead of setting up a committee afterwards. Is that wrong?

MR. KUNZ: Well, I can see what you're driving at, I believe.

VICE-CHAIRMAN MYERS: I'm just trying to get ahead a little faster.

MR. KUNZ: At this stage I would certainly assume that it would be our representative from the Attorney General's office that we would want on this committee.

VICE-CHAIRMAN MYERS: Well, the first thing you would have to do is make a Motion that we set up a committee of three, or six, or something; and get it put, and -

MR. LAWRENCE: I think it might be appropriate to get the letters and see what the committee's job is.

VICE-CHAIRMAN MYERS: Get the letters first?

MR. KUNZ: We just waste one more meeting, I think, is all we do. We've done that pretty consistently.

Nathan - Whoops, I'm not the Chairman; excuse me -

MR. HIGER: I don't think really that the committee you are talking about is going to be able to do much, if anything, without the three responses you are speaking of.

VICE-CHAIRMAN MYERS: I'm sure they wouldn't be able to do anything; except possibly the chairman would draw them in when he got the three responses so that they'd be prepared to do something at the next meeting.

MR. HOLMGREN: Mr. Chairman, I'm a little confused on these three responses. I first started out thinking Utah and Wyoming had failed because they hadn't brought a response to this letter from Idaho, which I surely think we should have had. Now you're talking about three responses. I was under the impression that Utah and Wyoming were to respond to this letter that Idaho sent out. It looks to me like all we could do would be either agree with your leaving five words out of Paragraph 4, or Section 4, or whatever it is; or we could disagree, and make an alternate proposal in a letter. Is that the understanding?

VICE-CHAIRMAN MYERS: Well, I think what happened here - we started out with two responses to an Idaho proposal. Within the discussion around the room it came up that we should have, rather than two responses, three submissions of Compact change suggestions - one from each state - to set up for the next time.

MR. LAWRENCE: Idaho contends that they have submitted theirs; and so you want two more. They don't really want a response to their letter, Paul. In our committee meeting I may have misled you. What they want is a list of the Compact changes that we want made.

MR. HOLMGREN: Well, this is definitely one they want made.

MR. KUNZ: We want something similar to this from the other two states.

MR. HOLMGREN: Like I say - you either want us to agree with this one; or we have to come up with something else.

MR. LAWRENCE: No; we don't need to even respond to that one.

MR. HOLMGREN: No; I'm sure that you're not asking for that specific thing; but that is one thing we could do - either agree; or disagree, and come up with -

MR. HIGGINSON: I think what we're saying, Mr. Holmgren, is - we are just asking, are there sections of the Compact that Utah and Wyoming want modified? If there are, we'd like to know what sections. That's all we've asked.

VICE-CHAIRMAN MYERS: It seems that the group is not interested in setting up a committee at this time; which is perfectly alright -- because the only thing they could do is get together with the chairman and be a little better prepared to go into this at the next meeting.

So -- if there's any further discussion --

MR. LAWRENCE: Mr. Chairman, we might take home to each state the concept of a 3-man committee versus some other mechanism; so that at the next meeting we could discuss the mechanics of changing the Compact. Is it the consensus that a representative of each state be assigned the three letters and say 'you go write a new Compact'? Is that agreeable? Does that fit in with what you have in mind?

MR. KUNZ: Mr. Chairman, I think I probably brought this idea; so I'll respond here, if it's alright. What we anticipated is this would be one way this could go. If there were other ideas then we could discuss them at this meeting. So, I think your suggestion is very much in order. If other states have different ideas of how to approach this, then can certainly suggest it. I don't know as Idaho is particularly hung up on a three-man committee to do it; but it just seems that this is the more practical way to go.

VICE-CHAIRMAN MYERS: Any more discussion?

If not, the meeting is adjourned.

MR. KUNZ: Your prerogative; not debatable.

Meeting adjourned at 3:10 p.m.

BEAR RIVER COMMISSION

P. O. BOX 413

LOGAN, UTAH

April 17, 1974

TO: Bear River Commissioners and Advisers
FROM: Assistant Secretary
SUBJECT: Corrections in Minutes and Report of Ass't Secretary

Minutes of the Regular Meeting held November 19, 1973 should be corrected on the first two pages under the heading of "THOSE PRESENT". In the rough draft of the minutes submitted to us, John A. Teichert was listed as one of the Wyoming Commissioners present, and Floyd Bishop was included under "ALTERNATES AND OTHERS IN ATTENDANCE". We did not catch this oversight when editing and reproducing the minutes, so their names should be interchanged on pages 1 and 2 of your copy. Our apologies to Floyd and John.

On page 6 of my report to the Commission, dated April 15, 1974, is an error (noted by Mr. Jenkins) in budget allocation for the 1976-77 biennium. Allocation to Stream Gaging should be double that allocated to the Geological Survey as this item is on a 50-50 basis. A corrected page 6 is attached, and the correction will be included in the minutes. Allocation to the States and the total budget are not changed.



Wallace N. Jibson

<u>Allocation by Source</u>	<u>Estimated Budget 1976-77 Biennium</u>
U.S. Geological Survey	\$ 82,200
Idaho	33,200
Utah	33,200
Wyoming	33,200
Total	\$181,800
 <u>Allocation by Program</u>	
Stream Gaging	\$164,400
Compact Administration	17,400
Total	\$181,800

The above estimate, which includes an additional rental factor in 1976, represents a six percent increase to the States over the revised 1974-75 biennial budget, as summarized earlier.

Applications for Appropriation

Errors in two of the Wyoming applications presented to the Commission last November have been corrected in the minutes of that meeting -- as was an error on page 7 of my report. The Wyoming State Hospital application, number 211/223, was reduced from 35.21 cfs to 0.6 cfs; application 215/220 was increased from 4.46 cfs to 8.96 cfs. Several other corrections submitted by Mr. Bishop were made in the file copies of the reports and, other than minor changes, have been included in the attached listing.

Again, several underground irrigation filings in the 2.0 to 3.0 cfs range were received from Idaho, relatively small underground filings from Wyoming, and the usual large number of rather small underground filings from Utah. We note no particular filings that should be called to the attention of the Commission.