

PUBLIC HEARING

BEAR RIVER COMPACT COMMISSION

NOVEMBER 23, 1976

PRESTON, IDAHO

PUBLIC HEARING

Preston, Idaho

November 23, 1976

Public Hearing held in Preston, Idaho, on November 23, 1976, concerning the proposed modification of the Bear River Compact. The meeting was held by the Bear River Commission, as required by law, and was presided over by Mr. Wallace N. Jibson, Chairman.

CHAIRMAN JIBSON: Ladies and gentlemen; it's time that we call to order this Public Hearing conducted by the Bear River Commission. We regret that some of the newspaper coverage stated that this meeting would be tonight, but we note that most of your south Idaho newspapers had the correct time. From the size of the crowd here, it looks as though you 'got the word'.

I would like to begin by introducing members of the Commission, who are in charge of this Hearing today.

COMMISSIONERS PRESENT:

William G. (Griff) Jenkins, Idaho

Dan Roberts, Idaho

Clifford Skinner, Idaho

Daniel F. Lawrence, Utah

Paul Holmgren, Utah

Calvin Funk, Utah (sitting for Gordon Peart)

S. Reed Dayton, Wyoming

George Christopulos, Wyoming

J. W. Myers, Wyoming

Also present:

Keith Higginson, Idaho State Engineer

Clem Lord, Wyoming

Norman Stauffer, Utah Water Resources

E. J. Skeen, Legal Counsel to the Bear River Commission

Connie Borrowman, Secretary to the Commission

This is a public hearing, ladies and gentlemen, required by law, prior to recommending revisions to the Compact. Its soul purpose is to get input from you to assist this Commission in the decision that the Commission members have to make to accept or reject the proposals for amendment, which would revise a number of sections of the Bear River Compact. I would like to say that I have been working with this Commission for a period of about 19 years. I know that the members are dedicated - unsalaried - representatives of the various river divisions.

You may have noticed during our introductions that every segment of the Bear River Basin is represented with the 9 Commissioners in the three states. Legal notices were published in all area newspapers in which was printed a summary of the proposed revisions, pertinent information concerning the time and place and date of the various hearings, and stating that copies of the proposed revised Compact were available in each County Clerk's office in each of the counties in the Basin. Copies of the summaries that were published, and legal notices, are here today. I'm sorry I didn't get them laid out for distribution. Perhaps we could pass those out at this time.

We also, as you noticed, had these slips of paper handed out. They will serve as a roll call today, and also will serve for us to call on those who have indicated that they would like to give statements of testimony today.

In Idaho, we have had three public information meetings in each of the three counties. I assume that most of you here today have attended one or more of those meetings; and we don't want to take the time to discuss the amendments; but before we do take testimony, I would like to state in just a very few words a little background on the Bear River Compact and the how and why we are meeting here today.

As most of you know, Bear River has been administered under terms of the Bear River Compact since March, 1958, when President Eisenhower signed it into law. This Compact was the culmination of many years of negotiation, and its provisions were zeroed-in on two major areas of conflict, at that time. The first was the area of allowing additional storage upstream above Bear Lake that would not be junior in priority to the rights that the Power Company has in Bear Lake granted by the Dietrich Decree. As you know, these rights, in total, exceed the total flow of the River, so in effect, additional upstream storage after the rights became effective, could not be constructed.

Now the second area, or problem, at that time was a division of natural flow water during the irrigation season among the various state sections above Bear Lake. The natural flow water, as you know, runs off quite rapidly from those rugged Uinta Mountains, and within a few weeks the bulk of it is gone where storage is not involved. The provisions of the Compact took care, at least in part, these two major areas of controversy.

Bear Lake, at that time, and still, supplied most of the supplemental needs for irrigated acreage below the Lake. For this reason, there was no particular controversy in this area of the River system; and after so many years of negotiation

the Negotiating Commission felt that it was not advisable to attempt to make a division here between Idaho and Utah. Also, that Negotiating Commission felt that they should stay away from this very complicated issue of future groundwater development.

We have a provision in the Compact that gives the Commission authority, at intervals not exceeding 20 years, to review the provisions of the Compact and to make recommendations for any revisions to the respective state legislatures. As you have been told in your public meetings here, the Negotiating Committee has been meeting for at least six years to study this review, and to come up with amendments that could be agreeable to them, as they represented all three states, and then could be presented to the Bear River Commission.

Of course, that's why we're here today, is to get your input on these proposed revisions.

Now in our meeting today, we would like to hear from each person who desires to make a statement in way of testimony to this Commission. In so doing, there will be observed certain formalities that are necessary to accomplish the purpose of this type of hearing. Witnesses will give formal statements to the Commission, in the order called by the Chairman. Witnesses should come forth, to this end of the table, where the mikes will pick you up for recording of the testimony; state your name, address, whether or not you are affiliated with a group and if so, which group. Written statements should be filed with the Secretary after they have been given. In case a written statement is to be given that you prefer not to give orally, it can also be filed with the Secretary. Testimony should be pertinent to the proposed revisions. Following each statement, Commission members only may ask questions of the witnesses for the purpose of clarification of their statements. The Commission will not respond to any statements at this time at this hearing. No debate will be permitted relative to the statements.

Now with that introduction, we would like to devote the remainder of the hearing to statements. We have those slips that have been turned in to us. If there are any who would like to give testimony, whose names I don't call, you will be given an opportunity after this group. It has been requested by the Last Chance Canal Company that they be permitted to give the first testimony. We have Randy Budge, the attorney for this Company, with us today:

RANDY BUDGE: Associate Attorney for Last Chance Canal Company, read into the record the following statement:

November 23, 1976

Bear River Compact Commission

RE: PUBLIC HEARINGS ON PROPOSED MODIFICATION AND AMENDMENT
TO THE BEAR RIVER COMPACT
PRESTON, IDAHO, NOVEMBER 23, 1976

Gentlemen:

The following statement of position is submitted on behalf of Last Chance Irrigation Company, Inc., it's stockholder's and irrigators. Last Chance Irrigation Company owns the water rights and diversion system on the Bear River and provides water to some 36,000 acres of fertile agricultural property in Caribou County, Idaho. It provides water to the following lateral canal companies:

- North Extension Canal Company
- West Branch Canal Company
- ~~Turner Canal Company~~
- Tanner Canal Company
- Cherry Allen Canal Company
- Bench Canal Company
- First West Lateral Canal Company
- Hansen, Peterson Canal Company
- Brown Ditch Company
- Niter Canal Company
- (Honest Ditch and VanDenAcker Ditch)
- East Branch Canal Company

Last Chance Canal Company strenuously objects to the modifications and amendments proposed to the Bear River Compact. The amendments proposed by the Compact Commission on their face jeopardize water rights vested in this company for nearly sixty years, and therefor the very existence of the irrigators serviced by this company. Last Chance Canal Company owns 657.76 c.f.s. of water decreed by the "Deitrich Decree," which are direct stream flow rights, and an additional right established by nearly sixty years of user in the waters of Bear River which are stored in Bear Lake for release and use during the annual irrigation season, averaging in excess of 19,000 acre feet.

There are no unappropriated waters in Bear River. For the Compact to propose any water on the Bear River for appropriation by the three signatory states or appropriators within those states they must of necessity violate the vested water rights of other persons including this protestant. The proposed compact alleges that the

waters owned by Utah Power & Light Company are nonconsumptive only and are considered to be the waters which the commission considers "developable". In fact, only a portion of those waters are put to nonconsumptive use. The waters stored in Bear Lake and drawn for irrigation and power purposes are in fact consumed by this protestant and other downstream irrigators. The misappropriation of those waters by the proposals of the Compact Commission violate the vested rights of this protestant.

The proposed definition of "developable water" states that waters applied to beneficial use prior to January 1, 1976, will not be interfered with, while in fact, to make any water available for division as proposed, the vested water rights of Utah Power & Light Company and this protestant are violated by declaring a nonconsumptive use not within the definition of beneficial use, and by ignoring the fact that the waters which are allegedly nonconsumptive are in fact consumed during the irrigation season.

Article IV Section 3 of the proposed Compact Agreement grants waters to the State of Idaho and Utah based upon a maximum depletion formula which has yet not been formulated and grants a direct diversion of 120,000 acre feet of water to the Bear River migratory bird refuge. It further makes a division of additional water assuming that there is any. This water can only be made available through the misappropriation of existing vested rights certainly contrary to the laws of the State of Idaho and we assume contrary to the laws of the States of Utah and Wyoming.

Article IV Section B provides for the appropriation and storage of an additional 74,500 acre feet of water above Stewart Dam. This water is designated as junior in priority to direct flow rights and other existing upstream storage rights but it is declared superior to any other water rights or storage rights in Bear Lake or anywhere else below Stewart Dam. The protestants use right is among those waters stored in Bear Lake and released seasonally for irrigational use and which are hereby declared junior in priority to this new water and storage right proposed. All in our opinion contrary to the laws of this state. The storage of this water is tied only to a maximum depletion of some 28,000 acre feet of the Bear River Water with this amount of storage given a priority date superior to downstream vested water rights and determined by an unformulated maximum stream flow of depletion leaving the waters of Bear Lake and of this protestant in absolute jeopardy. The storage of Bear Lake could be drawn down without any realistic restriction to the point that the waters are not there for irrigation and vested rights of no value. The depletion level of 28,000 acre feet is without reason or basis and allows too great a depletion of the stored waters of Bear Lake. At the 28,000 depletion level in dry years, Bear Lake could be so seriously drawn down that the downstream irrigation rights would be in jeopardy for years. This would have happened in the 1930's and again in the 1960's. We

propose that the present depletion figure be substantially reduced and that a minimum elevation be established in Bear Lake to insure a 2-3 year irrigation reserve below which no new storage or depletion whatsoever should be allowed upstream.

We further object to the proceedings of this commission and the participation therein by the various agencies of the State of Idaho and the Idaho delegates to the commission until the studies and water plan of the State Water Board have been made public in the manner prescribed by the laws of this State so that the peoples of this state, including this protestant, may be properly informed of the consequences of such a compact revision.

We further object to the effective destruction of existing hydroelectric generating capacities on the Bear River. Such a result must surely be the effect of the proposed compact revisions. As pointed out by the Idaho Energy Office, hydroelectric energy is still the most feasible source of energy for the State of Idaho. We are not abundant in fossil fuels. We have existing hydroelectrical facilities on the Bear River and the expansion of such facilities should be considered rather than their destruction.

In conclusion we take this opportunity to register our protest and strongest objection to the adoption and ratification of the compact agreement modifications as proposed in that they without doubt jeopardize the vested water rights of this protestant which can only result in loss and injury to the stockholders and irrigators served by this company.

To protect our rights and interests we propose the following:

1. We propose that the existing maximum depletion level of 28,000 acre feet be substantially reduced.
2. We propose that a minimum elevation of 5916.17 feet, Utah Power & Light Company datum, be established in Bear Lake to insure a three (3) year irrigation reserve below which no additional storage or depletion whatsoever be allowed upstream.

LAST CHANCE CANAL COMPANY, INC.

Don W. Gilbert
Don w. Gilbert, President

Kenneth Tarbet
Kenneth Tarbet, Vice-President

John J. Thomas
John J. Thomas, Board Member

Glen Allen
Glen Allen, Board Member

Merrill Hubbard
Merrill Hubbard, Board Member

Orrin Harris
Orrin Harris, Secretary

CHAIRMAN JIBSON: Do Commission members have any questions of Mr. Budge? If not we will accept the statement into the record. Thank you, Mr. Budge.

The next witness is Homer J. Teucher, of Geneva.

HOMER J. TEUCHER

My name is Homer J. Teucher; my address is Geneva. I'm president of the Board of Directors of the Faucett Irrigation Company, which includes nearly all of Thompson's Fork; also a commissioner of the Thomas Fork Flood Control District #12. The Flood Control District has spearheaded this action. Their Chairman was to have been here and given a statement, signed by the Thomas Fork water users, but he is ill, and unable to come. He said he would mail it to the Commission, if that is alright. I'm just pinch-hitting here today, to get a statement into the record.

The group that came, we are here to state that we favor changing the Compact. We feel that we need more water in our area to make a dam feasible. We feel that we were left out in the original Compact - at least the younger generation feels that way. We suffer extensive flood damage every spring, and lack of water in the summer. We also feel storage and water uses in our area would benefit not only Thompson's Fork valley, but everyone down the River, to hold the flood back in the spring and the return flow in our valley is very substantial - around 70% that goes back into the spring.

Thank you.

CHAIRMAN JIBSON: Do Commission members have any questions of Mr. Teucher?

MR. JENKINS: You are in favor, then, of the proposed numbers that we are indicating up on Thomas Fork and in that area? These would be adequate for your needs?

MR. TEUCHER: We are in favor of more, if we can get it; but yes, we would like to have a dam up there to hold that water back.

CHAIRMAN JIBSON: Thank you, Mr. Teucher.

Our next witness will be Mervin J. Bodily, Secretary-Manager of the Cub River Irrigation Company.

MR. BODILY: Mr. name is Mervin J. Bodily. I'm the Secretary-Manager of the Cub River Irrigation Company.

The following statement is submitted by the Cub River Irrigation Company which has pumping rights on the Bear River totaling 20,000 acre feet annually.

We support the feeling of others on the vital importance and need for water in this area and its imperative that our water resources be developed to the maximum potential. We support the revisions in the Bear River Compact that will make possible these developments. However, we feel that existing water rights must be protected. Even though the revision states that rights prior to January 1976 will be honored we share the concern of some of the lower division water users that the language of the proposed revision to the Compact does not adequately protect storage rights in the Bear Lake. We understand that records indicate that in the proposed changes in the Central and Upper divisions would not create any water shortages, but this is of concern to us at this time. We feel that any risk of a shortage should be borne by those requesting the increase in storage and not by those with existing storage rights in Bear Lake. We realize the risk of such a situation is remote but nevertheless is possible and established rights should be protected.

Wording in the proposed revision could be changed to state that should Bear Lake reach a level critical to the storage of water for downstream usage, water stored in the Upper and Central division areas must be released to meet the needs of downstream users based on prior rights.

CHAIRMAN JIBSON: Any questions?

MR. CHRISTOPULOS: This 20,000 acre-feet that you speak of, is that storage water ?

MR. BODILY: Yes; we get it from Utah Power & Light Company, out of Bear River, and of course it comes from Bear Lake.

MR. CHRISTOPULOS: Through annual contracts, or what?

MR. BODILY: Yes; we have an annual contract with Utah Power & Light that allows us that much water.

CHAIRMAN JIBSON: Mr. Bodily, you haven't suggested a level, then?

MR. BODILY: No.

CHAIRMAN JIBSON: But you are suggesting that one be set.

Any other questions? Thank you.

Our next witness will be Russell Stoker, Bear River Water Master, Soda Springs, Idaho.

I'm Russell D. Stoker of Soda Springs, Idaho. I've been a licensed professional engineer for the past twenty-six years, and have served as watermaster and deputy commissioner on the Bear River in Idaho for the past twenty-three years.

In the interests of the present owners of water rights on the River below Bear Lake, I am protesting the following sections of the Proposed Revised Draft of the Bear River Compact.

Under Article V, Paragraph B, I would propose the addition of the following provision: "Water may not be stored under this paragraph when the elevation of Bear Lake is below 5914." My reason for this proposal is:

The table herein was taken from the U.S.G.S. Water Supply Papers as historically recorded since 1952, a period of twenty-four years. I believe this period represents a realistic picture in the light of present day usage. Let us consider the eight year period of 1954 through 1961. I started with 1954 as 1953 was the last year for some period of time that Bear Lake was above the 5917 elevation which Utah Power and Light Company uses as the elevation below which they do not take out water for power purposes only. If the 36,500 acre feet storage allowed under the present compact had been in existence prior to 1954 and using a realistic figure of 40% return flow - not the unrealistic 62% return flow used in the proposed Revised Draft of the Compact - and the present irrigators in Lower Wyoming and Upper Idaho above Stewart Dam use 40% of this return flow, which I have observed personally since the present Woodruff Narrows Dam was built, you get 28,000 acre feet depletion each year. Now take the proposed 28,000 acre feet upstream storage if it had been constructed prior to 1954. The years 1956 and 1957 were good water years. As you can see from the table the flow in Rainbow Canal was over 300,000 acre feet, while the ten year average was 207,000 acre feet;

and the twenty-four year average 1952 to 1975 was 289,000 acre feet. The flow in Hainbow Canal is probably the best indicator we have as to a good or bad water year. The flow in Rainbow Canal in the year 1955 was only 90,000 acre feet and in 1961 only 52,000 acre feet. In 1956 and 1957 we'll say none of the proposed 28,000 acre feet was used, since these were good water years, and they needed no supplementary water from this storage. They would have drawn from the present 36,500 acre feet to cover the new land being irrigated and for any industrial and other consumptive uses. In the years 1956 to 1959 the elevation of the lake raised for short periods to 5917 and Utah Power and Light Company took small quantities out for power during the non-irrigation season. According to the U.S.G.S. Water Supply Papers this amounted to 71,000 acre feet, certainly not the 295,000 acre feet which the compact hydrologists show. This present 28,000 acre feet for eight years and the 28,000 acre feet proposed for six years equals 392,000 acre feet minus the 71,000 acre feet actually used for power equals 321,000 acre feet. As shown in the table, at the end of the 1961 irrigation season there was only 476,000 acre feet left in Bear Lake. If we subtract the 321,000 acre feet, there would have been only 155,000 acre feet storage left in the lake. In the water year 1961 the lake was depleted 295,000 acre feet. If 1962 had been a repeat of 1961 the water users below Bear Lake would have been 140,000 acre feet short of their needs. Last Chance Canal Company would have been cut out of all of the 43,000 acre feet of storage which they used and would have been reduced to only 36,000 acre feet of natural flow. This would have been 46% of the already reduced amount of 79,000 acre feet, yet normally they use about 90,000 acre feet. West Cache Canal Co. would have received none of the 11,000 acre feet of storage which they used; Cub River pumps

would have received none of the 15,000 acre feet which they used; and the Utah-Idaho Sugar Canals would have been 71,000 acre feet, or 37%, short of the 190,000 acre feet of stored water they used.

This Proposed Revised Compact certainly is not protecting the present water users below Bear Lake who have been using this water for over 65 years. The only way to protect these users is to put a floor in Bear Lake of 5914 below which no upstream storage will be allowed. This only represents 754,000 acre feet or a 2 1/2 year supply for present users in dry years.

Now as to the division of the water in the lower section between Idaho and Utah.

Under Article IV, Paragraph A, Section 3, Lower Division, a (1) and (2) I would propose that the figure in (1) be changed from 125,000 acre feet to 175,000 acre feet for Idaho, and the figure in (2) be changed from 275,000 acre feet to 225,000 acre feet for Utah; for the following reasons:

In the table I've presented, the flow at Bear Lake Outlet Canal represents water not developed in Idaho or Utah below Bear Lake, of course, and will always be subtracted from the flow at the other stations since we are now only interested in water developed below Bear Lake and not used by the present irrigators. I took the flow from the Bear River near Preston gaging station because it is the nearest to the Idaho-Utah line with a long continuous period of records. It is about 600 feet below the West Cache Canal headgates and is below the diversions of all Idaho present users except Cub River Pumps and is below most of the tributaries in Idaho. Cub River Pumps uses approximately 15,000 acre feet annually, but this would easily be offset by the inflows below the gaging station such as Battle Creek, Deep Creek, and other small streams on the west side along with Cub River on the east side which enters the river in Utah; but most of the water is developed in Idaho. As we can see, this gaging station represents the water developed

in Idaho below Bear Lake, and not used by the present users, if you subtract the flow from Outlet Canal. The flow below Cutler Dam near Collinston, Utah is the last gaging station before the River enters the Great Salt Lake which has a continuous record. I wanted to use the gaging station near Corinne, but there were no records for 1958 through 1963; however the water developed between Cutler and Corinne as shown by the 18 years of record that is available during my 24 year period is just about the amount needed to supply the Bird Refuge their 120,000 acre feet. It is my understanding that they have a filing dated somewhere around 1948, so we would have to recognize their rights first.

From the table, if you take the ten year average from 1952 through 1961, a relatively dry cycle, and subtract the 266,000 acre feet at Outlet from the 518,000 acre feet near Preston you get 252,000 acre feet gain in Idaho; and subtract the 518,000 acre feet near Preston from the 783,000 acre feet below Cutler, you get 265,000 acre feet gain in Utah. This is 49% made in Idaho and 51% made in Utah. What about the gain in Utah below Cutler? For the six years of record that is available during the ten year period it shows 112,000 acre feet of gain, not quite enough for the 120,000 acre feet for the Bird Refuge.

The next ten years, much better years for water supply, show 348,000 acre feet developed in Idaho and 371,000 acre feet developed in Utah; or 48% in Idaho and 52% in Utah. Then came four unprecedented years of high water supply, and if you average them in to make the 24 year period you get 322,000 acre feet developed in Idaho and 358,000 acre feet in Utah; or 47% for Idaho and 53% for Utah. It seems the better the water year the bigger the percentage developed in Utah. During the eighteen years available record at Corinne it shows 135,000 acre feet gain between Cutler and Corinne, plenty for the Bird Refuge.

From the circular published by the Utah Department of Natural Resources, which I picked up yesterday at the Logan hearing, the figures show 324,000 acre feet at the Wyoming-Idaho state line. If we subtract the average used by the irrigators between the state line and Bear Lake of 80,000 acre feet, we get 244,000 acre feet which would be the figure supplied above the lake or the equivalent of Outlet Canal. From the figure shown at the Idaho-Utah state line of 517,000 acre feet subtract this 244,000 acre feet and we get 273,000 acre feet the amount developed in Idaho below Bear Lake. From the 923,000 acre feet shown at Corinne subtract 120,000 acre feet for the Bird Refuge and the 517,000 acre feet crossing the state line and you get 286,000 acre feet developed in Utah. These figures were taken from a 39 year period from 1927 to 1965 which included the dry years of the '30's, but missed the very wet years of the '70's. These figures work out to a percentage of 49% developed in Idaho and 51% developed in Utah which agree exactly with my percentages for the period of 1952 to 1961.

When we realize that the least average flow produced in Idaho during a dry ten year period is 252,000 acre feet, and the worst percentage produced in Idaho during a 24 year period which included eight very wet years is 47%, why would Idaho want to settle for only 125,000 acre feet or only 31% of the division of waters and give Utah 69%. The division of 175,000 and 225,000 which I have proposed would only equal 44% for Idaho and 56% for Utah.

Certainly, if we in Idaho are interested in the future growth of Idaho we can not afford the proposed division unless we are willing to give up all growth in Idaho, not only for ourselves but for future generations. We must remember that even though this is a "first right", if the water is not in the River in Idaho, Utah is not going to pump it back uphill to us. Water given away will never be returned.

FLWS IN THOUSANDS OF ACRE FEET TAKEN FROM U.S.G.S. WATER SUPPLY PAPERS

Water Year	Bear Lake Elevation October 1	Storage in Bear Lake October 1	Rainbow Canal into Bear Lake	Bear Lake Outlet Canal	Bear River near Preston (Below West Cache Canal)	Flow Below Cutler Dam	Bear River Near Corinne
1952	5919.29	1,115	517	572	966	1,608	1,775
1953	5915.65	864	191	413	655	975	1,077
1954	5913.21	700	108	215	390	510	610
1955	5911.73	616	90	169	364	584	688
1956	5914.75	804	331	175	507	869	970
1957	5917.66	1,002	341	198	545	970	<u>1,064</u>
1958	5917.35	981	201	244	583	883	<u>1,031</u> 6 Yr. Average
1959	5916.27	907	106	174	376	536	
1960	5914.25	771	136	238	426	530	
1961	5909.75	<u>476</u>	<u>52</u>	<u>266</u>	<u>370</u>	<u>364</u>	
Ten Yr. Average		<u>824</u>	<u>207</u>	<u>266</u>	<u>518</u>	<u>783</u>	
1962	5913.44	717	334	143	437	808	
1963	5912.93	683	124	165	412	576	
1964	5915.23	836	275	129	462	832	936
1965	5921.83	1,293	514	157	610	1,074	1,182
1966	5918.29	1,046	278	533	795	1,018	1,154
1967	5920.34	1,189	409	214	523	942	1,054
1968	5920.01	1,166	237	252	693	874	1,059
1969	5919.78	1,150	318	324	641	1,046	1,215
1970	5919.23	1,111	166	177	423	729	876
1971	5920.95	<u>1,231</u>	<u>531</u>	<u>537</u>	<u>1,113</u>	<u>1,922</u>	<u>2,068</u>
20 Yr. Average		<u>933</u>	<u>263</u>	<u>264</u>	<u>564</u>	<u>882</u>	<u>1,193*</u> 8 Yr. Average*
1972	5920.83	1,223	562	672	1,223	1,848	2,071
1973	5919.84	1,154	331	474	839	1,309	1,485
1974	5919.15	1,106	408	478	843	1,402	1,505
1975	5920.72	<u>1,215</u>	<u>374</u>	<u>289</u>	<u>721</u>	<u>1,300</u>	<u>1,457</u>
4 Yr. Average		<u>1,174</u>	<u>419</u>	<u>478</u>	<u>906</u>	<u>1,465</u>	<u>1,630</u>
24 Yr. Average		<u>973</u>	<u>289</u>	<u>300</u>	<u>622</u>	<u>980</u>	<u>1,236*</u> 18 Yr. Average*

CHAIRMAN JIBSON: Are there any questions for Mr. Stoker?

MR. JENKINS: Mr. Stoker, I missed one point. What was the 24-year period of record you were using?

MR. STOKER: 1952 through 1975.

MR. JENKINS: Were these historic records, or were these corrected records?

MR. STOKER: These were historic records - just as they come. No juggling has been done with them.

MR. ROBERTS: Could I ask - are you considering, when you give these figures, that our figure was a consumptive use figure, and yours is a river-flow figure?

MR. STOKER: I don't see that there can be any difference in them. If you mean the amount Idaho is going to get, and the amount Utah is going to get - is that what you mean?

MR. ROBERTS: Yes; and the thing I refer to is the fact that so much of our irrigation now is being done with sprinkler irrigation, and there is no return flow to the River. Now, we've got to get down to a figure of depletion to the River from gaging station to gaging station, and if you have two different methods of irrigation, you have to have one common method of measuring and that's consumptive use. How much water is used between one gaging station and the next. And until we all get to irrigating with sprinkler, then you could come back to a common denominator of use. But where part of our people are flood irrigating and part are sprinkler irrigating, then we have to go to a depletion to the River from one gaging station to the other.

MR. STOKER: I think that is probably one of the reasons why this modern day record - you might could say that I took the 24 years from '52 through '75 reflect more nearly these present changes in irrigation, and reflect present changes in return flow. I have averages figures here - 10-year average, 20-year average, the 4-year average, if you are interested in those. You could look at them. The last 4 years, or the last 14 years, certainly reflects pretty much modern-day usage, as far as sprinkler systems, or whatever type of irrigation is being used, don't you think?

MR. ROBERTS: Well, we're in this transition period between all-flood and maybe all-sprinkler.

MR. STOKER: Last Chance Canal System is about 95% sprinkler, and has been for at least 10 years. They started to develop this 20 to 25 years ago. I have understood the figure used is at least 95%, and has been for 10 to 15 years. So this would reflect the modern-day depletions, or return flows, from the Grace area, which is the biggest single tract of irrigation in Idaho.

MR. ROBERTS: Well, I think this is right. But this isn't true from one end of the River to the other. Other areas of the River haven't made the changes that Last Chance people have because of their potato program.

MR. STOKER: I understand from Keith Higginson that he doesn't figure it matters what type of irrigation is used. Because if you irrigate with sprinkler irrigation you only use half the water, perhaps, that you get through flood irrigation. So that half will go on down the River. If you flood irrigate, it would end up in the River as return flow. Therefore, it really doesn't materially matter which type of irrigation you use, if that is true. Well, we know that's true as far as sprinkler irrigation. We only apply about half the amount of water.

MR. CHRISTOPULOS: Don't you change the time when that water comes back? Won't that have an effect on who gets the water at what particular time?

MR. STOKER: That could be true; you would have to take that into consideration, I think, alright. True, some of that water I guess couldn't get back maybe for a year, to the riverbed. I don't know whether a study has been made thoroughly enough to have that determined, has it?

CHAIRMAN JIBSON: Gentlemen, I think we should confine our questions to questions of clarification regarding Mr. Stoker's statement.

MR. CHRISTOPULOS: Early in your statement you mentioned the present development in the Upper portion of the Basin. I didn't quite follow your figures. You started out with 36,500 presently allowed under the Compact; and then it seems to me you took the present situation, talked about return flows, then then arrived at some depletion. I wonder if you could run through that again?

MR. STOKER: Very easily. I took the 35,500 acre-feet allowed under the present Compact - if that had been all developed. Then I used the figure of 40% return flow; but that return flow - and I have observed it since the Woodruff Narrows Dam has been built - part of that is used in lower Wyoming and upper Idaho. It's again, one of those hard things to ever tie down - any return flow is; but I know for a fact there is some of that return flow has been used by lower Wyoming

and upper Utah; and I used the figure of 40% of that return flow was used by these present irrigators. Therefore, if you will work those figures out - the 40% return flow - 40% of that return flow is used by these other irrigators - it's just a coincidence that it comes out 28,000 acre-feet, which is the proposed figure today.

MR. LAWRENCE: This 28,000 acre-feet is the increased consumptive use as a result of Woodruff Narrows Reservoir? Is that what you are saying?

MR. STOKER: No, I'm saying if all of the storage in upper Idaho were constructed, the 35,500 allowed under the present Compact, which we know isn't all constructed yet, - had it been all constructed prior to this 1954 period I was taking, that would have been the effect on Bear Lake in the year 1961. Which would have been drastic for the present water users. It's what the people have been talking about. You say you are not going to; you say there is an item in there that you are not going to hurt the present water users - but you take a series of years - that's just one, you take your '30s, and it would have been worse than that, probably - but take just the year 1961 - had that year not been followed by a pretty good water year, these present people would have all been short. Last Chance would have had no water; West Cache no storage water; Cub River pumps no storage water. It would have come out about 37% reduced storage water to the Utah-Idaho Sugar people. Therefore, I think to be fair at all, to protect the present water users, you have got to put a 'floor' in that Lake somewhere - below which that upstream storage cannot be stored. You say that isn't fair; and yet when those upstream people develop that storage - build those reservoirs - if they do it, knowing that fact, you can't cry for them, because they knew it when they did it.

I agree with you - let's develop the water that is getting down into the Lake. But it would probably be only a couple of years in ten, maybe, that they wouldn't be able to store water in those reservoirs. If they want to take the 80% chance, and still protect the present water users that law does in Idaho; law does in Wyoming; and law does in Utah - the present water users rights shall be protected - you say that right in the Compact.

MR. MYERS: Mr. Stoker - this redistribution you suggest below Bear Lake, between Utah and Idaho - you quoted a lot of figures and I'm a little confused. Is that based on the philosophy that Idaho is producing more water than Utah - not more water than Utah, but a larger percent than they are getting?

MR. STOKER: They certainly are; 31%, you are proposing.

MR. MYERS: That's the philosophical view.

MR. STOKER: I don't think there's anything philosophical about it. You want to give Idaho 31% when they produce 48%, 49%, -

MR. MYERS: You answered my question. Thank you.

MR. STOKER: Well, along - wait a minute. Maybe part of that you've missed is the fact that the dry 10-year period was 252,000 acre-feet average produced in Idaho. And we're only asking for 175,000 is all I'm suggesting - when the average of the dry 10 years of the last 24, the driest 10 years - that's the reason I broke it down that way - we still produce 252,000. Why in the world would you want to settle for a stinking 125,000 when we produce 252,000.

MR. MYERS: You've cleared it up for me. Thank you.

MR. CHRISTOPULOS: By the logic you used in upper Wyoming and upper Utah of the water being stored, and then return flows being reused by other people in that area, wouldn't you have the same thing in Idaho? If you had a right to consumptive use of 125,000 you would store more than that. Wouldn't some of those return flows be again used in Idaho? By the same logic you used in Wyoming and Utah?

MR. STOKER: It would depend, of course, on what was stored. You could be right; that the water went down and you considered it natural flow to West Cache or Cub River pumps. That's possible; I think that's one of the headaches the Compact Commission is going to have in administering this thing of not stored water, but the other water that is consumptively used.

MR. DAYTON: In any adverse water-shortage year everybody is going to be affected anyway. Storage does protect to some extent; but any time you get a severe shortage, everybody on the River is going to be affected.

MR. STOKER: That's true; but because of Bear Lake there, and these people below it through the years - take that dry year of '41, for instance; and the Last Chance people used 43,000 acre-feet of stored water when, as they said today, the average is about 19,000 acre-feet of stored water used. So that Lake is sitting there such that the year '61 it provided so that we could use up to 79,000 acre-feet that year, when ordinarily their average is about 90,000 acre-feet. They were affected; but not nearly as much as if they hadn't had Bear Lake up there with some water in it.

CHAIRMAN JIBSON: Gentlemen, I think there's a fine line between when we get into debate and when we answer questions.

If we have no further questions of Russ, then we will accept your statement, and thank you for it.

Our next witness will be Floyd Monson, Manager of Floyd's Union 76 in Preston.

FLOYD MONSON

Mr. name is Floyd Monson. I'm from Preston, Idaho. I want to congratulate those who are interested in preserving our water. I have a prepared statement to read. Robert Geddes, who recently got elected to office, asked me to represent him today, and also my father, Charles H. Monson.

I was raised on a farm and my father was the local water master for years in the valley. I was raised here in Idaho. I have studied government for many years and want to protect Idaho's water rights.

In the years 1933-'34 there was a water shortage here in Idaho right after the depression. I can remember when Bear Lake was very low and it took several years to fill it again because there is only a few streams that flow into it. Bear Lake serves as a beautiful water reservoir for us here in Idaho. It would be good for Idaho to keep Bear Lake full for water-short years and not divert part of the water upstream, high in Wyoming and Utah before it even gets here.

In Idaho we have to develop our water filings or lose the filing. Utah is different. Utah's water filings can be renewed year after year for up to 50 years. As long as the Power Company has major control of Bear River all Utah people can do is just keep renewing their water filings year after year, waiting for us to do some dumb or foolish thing. If Utah's water filings against our Idaho water were doing any good, that have been pending for years, they would already have our Idaho water. This proves we in Idaho already have first right on Bear River water now. As it is now, Utah's water filings cannot touch our Idaho water as long as the Power Company controls the River the way they do now.

Under the proposed new river agreement we in Idaho would lose our first rights on developing all the water for Idaho except for minimum flow for the fish and game that has to be let down the river, even during irrigation season, and the 125,000 acre-feet proposed for our future needs. The reason we would lose first rights is because the Power Company could not control the water for their own and our Idaho needs.

We already have first rights on Bear River water now to develop it in Idaho for our own and our future generations needs. Why voluntarily place controls on ourselves? Even now irrigation wells not on the river in the whole Bear River drainage area would have to go through the new river compact and be counted against the 125,000 acre-feet proposed for our future needs. It is now law that irrigation wells have to have water meters on them. We have a good thing going for Idaho by keeping the water here in Idaho by keeping the river agreement closed the way it is now.

There is no reason to open the door to Utah and honor all their water filings before 1976, which contain demands for more water than we have water in Idaho, and voluntarily place strict controls on our future generations. Under the proposed new river agreement state lines would have no boundaries during a water-short year in Uta. Governor Andrus said 2 years ago, there would be no exportation of Idaho water. Our water in Idaho is our life blood for our future. This summer and fall has been water short. We must be prepared for our future, for who knows that the dry seasons will not continue.

Union laws specify that the Power Company must hire full-time employees to run their generators on the river. Idaho is a Union state and if the Power Company loses control of the river they will not be able to run the power plants part-time on the river they will just have to shut them down. The power rates will go up and what sprinkler irrigation farmer could afford this expense with the economy in the condition it is now for the farmer?

With Utah below us on the river the only way to protect ourselves is to only let minimum flow down the river for the fish and game and store all the rest of the water up in Bear Lake for our future needs, and during irrigation season this is the way the Power Company has been handling things. The Power Company has been doing a good job, and it will not do Utah people any good to file on power water or minimum flow. Any intelligent person knows this is the way things must be kept going to keep ourselves in Idaho prepared for water-short years. Let me repeat - Utah's water filings below us have been trying to get our Idaho water for years and have not been able to touch it because the Power Company controls the water for our and their future needs. This proves we already have first rights on developing the water for our Idaho people with the river agreement closed the way it is now.

The water Mr. Budge's company sold Utah Power is land-use water and according to Idaho's laws must remain this way and cannot be used for anything else and only about 1/3 of it can be used for around the new proposed power plant for settling ponds on the land and the rest will still have to be used for agricultural usage. For Idaho it was a good thing he did what he did.

Under the new proposed river agreement all Idaho water above the decreed rights except for 125,000 acre-feet "we will lose all future first rights on for developing the water for us and our future Idaho people". This includes all the water in the whole Bear River drainage area here in Idaho, including water for our future irrigation wells not on the river which now must be metered. We cannot ratify the new proposed river agreement and be fair to ourselves and our future generations here in Idaho.

I thank you.

CHAIRMAN JIBSON: Do you have any questions from Mr. Monson? If not, thank you.

Our next witness terms herself as a 'Mother'. Mrs. Bowers.

MRS. BOWERS

My name is Coselle Bowers. I'm a citizen from Preston, Idaho. I want things to be kept the way they are now - to keep Bear Lake full, and our water here in Idaho. Thank you.

CHAIRMAN JIBSON: Thank you, Mrs. Bowers.

Cal Alder, President of the Grace Equipment Company, is next.

CAL ALDER

My name is Cal Alder. I'm president of Grace Equipment Company in Grace, Idaho. We are dependent upon farmers for a livelihood, and farmers are dependent on water. Meteorologists tell us, and have been for three years, that we are just about ready for a dry cycle. We have been through wet years, and we are going into a dry period; and I believe this is true.

If the Lake is lowered, and we don't have ample water, in a dry year our customers will be without water; we will be put out of business; even our community will be hurt very drastically. Also, Utah Power will have to curtail electrical production at a time when we need more electricity. And this will just be an added expense and burden.

I don't think the Lake should be lowered any lower than it has been; I don't think the Compact should be changed. I think it is very foolish even to consider it in our area.

Thank you.

CHAIRMAN JIBSON: Do you have any questions of Mr. Oliver?

Thank you.

Our next witness is James S. Hooper, Superintendent of Power; Utah Power & Light Company.

MR. HOOPER: Mr. Chairman; members of the Committee; ladies and gentlemen. I am James S. Hooper, Superintendent of Power of Utah Power & Light Company, residing in Salt Lake City, Utah.

I have a prepared statement for the Utah Power & Light to present.

Utah Power & Light Company

TESTIMONY

James S. Hooper/Superintendent of Power

Public Hearings
Bear River Compact Revision
November 22, 23, 24, 1976

In 1909, the Telluride Power Company commenced construction of facilities to divert Bear River waters into Bear Lake. Utah Power & Light Company in 1912 acquired the Telluride Power Company, as well as certain Utah-Idaho Sugar Company Bear River water rights, and continued with the diversion project. In 1918 Utah Power & Light Company finished construction of Bear Lake Project which consisted of an inlet canal, pumping plant, outlet canal and dike. Subsequently, additional power plants and canal facilities were constructed, the last of which was the Cutler Generating Station and Reservoir, completed in 1928. The total original cost of the Utah Power & Light Company Bear River hydro facilities was approximately \$24,000,000. To date the Company has accumulated book depreciation in the amount of approximately \$7,000,000, leaving a net book value of approximately \$17,000,000.

Utah Power & Light Company's water rights on the River are recognized by two court decrees. In Utah Power & Light Company v. The Last Chance Canal Company, Limited, et al, the District Court of the United States for the District of Idaho, Eastern Division, on

the 14th day of July, 1920, ordered that Utah Power & Light Company had the right, subject to certain prior rights, "to divert at Stewart Dam ... and to impound and store in the Bear Lake Reservoir, consisting of Bear Lake and Mud or North Lake, in Rich County, Utah and Bear Lake County, Idaho, all of the waters of Bear River to the extent of 5500 cubic feet per second, together with the waters naturally flowing into or arising in said Lakes, all said waters to be stored in said Reservoir, and to be thereafter released from said Reservoir at the said plaintiff's (Utah Power & Light Company's) pleasure ... for use at various points of diversion now existing or which may hereafter be established by plaintiff (Utah Power & Light Company) for the generation of electric power and for such irrigation or other beneficial purposes, recognized by law, as the plaintiff (Utah Power & Light Company) may devote or dedicate said released stored waters, by use, sale, rental, or otherwise." Additionally Utah Power & Light Company was decreed the right to divert and use special amounts of water at the Company's various hydro electric generating stations along the River in Idaho.

In Utah Power & Light Company v. Richmond Irrigation Company, et al, the District Court of the First Judicial District of the State of Utah in and for the County of Cache ordered that Utah Power & Light Company had the right, subject to certain prior rights, to divert and store in Bear Lake 5500 cubic feet per second of water from the River. "The quantity of water released from such storage

and to which the plaintiff (Utah Power & Light Company) is entitled in Bear River at the Utah-Idaho State Line at any given time shall be determined as provided in the final decree of the District Court of the United States" in Utah Power & Light Company v. Last Chance Canal Company. Additionally Utah Power was decreed the right to divert and use specified amounts of water at certain of the Company's hydro electric generating stations along the River in Utah.

Under the present operating conditions the water stored by Utah Power is subsequently released and used for irrigation and power generation purposes.

The Company has entered into contracts obligating it to provide continuous amounts of water for irrigation. These include the Utah-Idaho Sugar Company contract requiring the delivery of 900 second feet during the irrigation season and 150 second feet in the non-irrigation season; the West Cache Irrigation Company contract requiring the delivery of 150 second feet during the irrigation season; the Cub River Irrigation Company contract requiring the delivery of up to 20,000 acre feet annually. The Company is obligated under annual agreements to provide water to the Last Chance Canal Company and Twin Lakes Irrigation Company. The Power Company's operation on the River is greatly influenced by these agreements.

Utah Power & Light Company has constructed five hydro electric plants downstream from Bear Lake with a combined generator

rating capacity of 125,500 Kw. The Company's peak generating requirement for its system occurs in the summer. With the heavy release of water from Bear Lake for irrigation during the summer period, the water passes through the generating plants to provide the necessary capacity to meet a portion of the Company's daily load requirements. This hydro generation, while only a small percentage of the total required on Utah Power & Light Company's system, has great value because it can be used for generation through the daily peak of the heavy summer load period. The generating facilities on Bear River provide a normal peaking capability of 100,000 Kw with an average energy supply of 53,000 Kw based upon the past 10 years' of record. Under the present operating conditions, the generation of Bear River is very compatible with the irrigation requirements providing a capacity source along with energy generated through the heavy load period in the summer months and the ability to use surplus water as available during the fall and winter months.

If the Bear River Compact Amendments are adopted in their present form and additional storage is fully developed thereby depriving the Company of its present use of the subject waters the Company will be faced with shutting down the Bear River generating Plants due to lack of economic justification of operating on a reduced basis. This lost energy and capacity must be replaced by the construction of additional steam electric generating plants which would cost Utah Power & Light Company customers \$7,500,000 annually for the 35-year estimated life of the hydro plants based

upon current costs. This annual amount does not reflect an adjustment for inflation. Additionally the loss of the remaining net book value of \$17,000,000 for the Bear River generating facilities must be borne by Utah Power & Light customers. Accordingly, the total cost to Utah Power & Light Company customers, if the hydro plants actually shut down, would be \$280,000,000.

In the event the Utah Power & Light Company's Bear River System is retained with reduced water available resulting in a change of operating plan, the capacity during the summer period would still need to be replaced. While some energy from the hydro plants would be available, the continued expense of operation along with the necessity to replace summer capacity would result in an annual increased cost to Utah Power & Light Company customers of some \$12,000,000 per year for the 35-year estimated life of the hydro plants based upon current costs or a total of \$420,000,000.

Utah Power & Light Company, in addition to those water rights specified, has an interest in what is known as the Caribou Project Filing, which Filing is for the development of 40,000 acre feet of water at or near Soda Springs, Idaho. In light of the Company's continued load growth, the \$100,000 investment in the Filing and possible need to construct coal fired electric generation plants in Idaho, the Caribou Project right is essential to the Company's future needs and must be protected.

In conclusion, we emphasize that Utah Power & Light Company

has long standing water rights on the Bear River and pursuant to those rights has invested and plans to invest considerable sums of money in generating facilities. The replacement costs to Utah Power & Light Company's customers, in the event the hydro electric generation system is shut down, would be \$280,000,000 based upon current costs. In the event the system is operated partially requiring continued operating expense on the hydro system as well as replacement generation the cost to Utah Power & Light Company's customers would be \$420,000,000 based on current costs. We would emphasize that these are current costs. They do not take into consideration inflation which based on history could double these figures. These costs should be given careful consideration before adopting the proposed Amendments in their present form. Utah Power & Light Company's objections to the proposed Amendments could be alleviated by further amending the Compact to recognize the Company's water rights, thereby shifting the cost of replacement generation from Company customers to those displacing the Power Company's use of the water.

CHAIRMAN JIBSON: Questions for Mr. Hooper?

MR. JENKINS: What are the Federal Power Commission licenses that you have for the five plants on the river - what are their expiration dates, at the present time?

MR. HOOPER: I don't have that information available right now. Mr. Forsgren may have that. He could give you that information. He's an attorney for the Company.

MR. FORSGREN: The Power Company plants are operated under Federal Power Commission licenses. The license at Soda, Federal Power Commission license #20, is an annual license. We filed for a long-term license, but while they are considering this we are on a year-to-year license. The license for Grace, which is Federal Power Commission #2411 is a license for a period running from May 1, 1965 for 25 years. Cove, which has Federal Power Commission license #2401, is a license running from May 1, 1965 for 25 years. Oneida, which has Federal Power Commission license #472, is an annual license for a period from July 1, 1976 to June 30, 1977. This, again, is a license that is issued annually customarily until a long-term license is issued. Cutler has Federal Power Commission license #2420, and runs from May 1, 1965 to December 31, 1993.

CHAIRMAN JIBSON: Do you have any further question there?

MR. JENKINS: No. Thank you.

Mr. Hooper, I am confused by your handling of depreciation. You said you have a 35-year life on a hydro-plant. Now, is this 35 years from now?

MR. HOOPER: From now. We assume that we can continue to operate this plant with proper maintenance for at least another 35 years.

MR. JENKINS: I see. So we are looking at a life expectancy on these facilities somewhere near 100 years? Do you foresee major improvements necessary on the plants? To continue with this additional -

MR. HOOPER: There will be improvements from time-to-time. We don't foresee any major improvements at this time; but we will continue to keep them in good operating condition. We have made improvements from time-to-time through the years.

MR. JENKINS: This is how you still have so much depreciation left?

MR. HOOPER: Yes.

MR. JENKINS: Presumably. You had another term in your presentation that I would like you to elaborate a little on. What do you mean by 'fully developed' storage - when you were talking that if the storage - possible by this revised Compact

were fully developed - now what specific storage do you visualize you are talking about here?

MR. HOOPER: We have attempted to determine what storage would take place to develop all of the waters on Bear River, and have not been able to find that out. So we have assumed that storage could take place that would require us to shut down our facilities.

MR. JENKINS: What I'm looking for, is what storage are you talking about? Where? In this assumption.

MR. HOOPER: We have had to take a general look, assuming that there would be no generation at our Cutler plant; there's the possibility that the Oneida plant might be inundated; and that the water available from the Oneida plant would eliminate the generation required at the Grace and Soda plants.

Now, we have tried to determine the exact effect as proposed in the development of these changes in the Compact. We have not been able to determine any definite position that has been taken - so we had to take this assumption.

MR. LAWRENCE: And now, Mr. Chairman, the assumption is that all of your plants will be off the line as the result of this Compact change?

MR. HOOPER: The developments from them.

MR. LAWRENCE: Is that your testimony today?

MR. HOOPER: Yes.

MR. LAWRENCE: I'd like you to elaborate on your answer to Mr. Jenkins. I don't understand how you have explained to us why that will happen.

MR. HOOPER: Well, assuming there will be no generation at Cutler - and I believe this has been pretty well assumed in many of these cases - possibility of eliminating Oneida, which has been proposed in the past, which may or may not come about -

MR. LAWRENCE: Would Oneida come about as a result of this Compact?

MR. HOOPER: As a result of the development of the waters of this Compact.

MR. LAWRENCE: Well, now, I think what your testimony is that as a result of this Compact, directly, all of your Power Plants would be off the River.

MR. HOOPER: I have testified that the development of the waters of this Compact would do that.

MR. LAWRENCE: Well, there's a difference. Which is it that you are saying?

MR. HOOPER: In the testimony, I stated that if the Bear River Compact amendments are adopted in their present form, and additional storage is fully developed, thereby depriving the Company of its present use of the water -

MR. LAWRENCE: Okay, you are changing, then. You did not say the adoption of this Compact change would require all of your plants to go off.

MR. HOOPER: No; it would be the development of the water - not the Compact itself, but the development of the water indicated in the Compact.

MR. JENKINS: In your studies did you postulate a time period that this development might take place?

MR. HOOPER: I have no idea what time period this would take place.

MR. JENKINS: It could conceivably be beyond the 35-year period, then, that you are talking about.

What do you propose as an alternative to Compact revision, when we are continuing to deplete the river daily with the applications that are taking place. Every six months, as we sit at Compact committee meeting, we are presented with a list of filings on all parts of the River - where there is the effect of continuous depletion of the River in some amount; and the cumulative effect of this goes on without limit. Do you propose any alternative to this uncontrolled depletion?

MR. HOOPER: The depletion that has taken place so far has reduced the energy available. To date, it has not affected the capacity of our plants. We will continue to review, and review very carefully, this depletion.

MR. FUNK: Do you feel that the present Compact precludes development on the River that would interfere with your power production?

MR. HOOPER: The present Compact, as I understand it, would not permit as much development as the proposed.

MR. FUNK: What limits are there in the present Compact that would protect your power?

MR. HOOPER: The present Compact, I don't believe protects our power.

MR. FUNK: Further question. Have you abandoned in recent years any hydro-plants?

MR. HOOPER: Yes, we have.

MR. FUNK: What was the approximate size of those plants? Individual plants? Say, the largest one?

MR. HOOPER: The largest plant that we abandoned would be the old side at Grace, which had a capacity of 10,000 kilowatts. We did abandon the old side at Grace. There are five units there; we abandoned two of them.

MR. FUNK: What is the size of the Cove plant, for example?

MR. HOOPER: The Cove plant is a 7,000 kilowatt plant.

MR. FUNK: And why was the one at Grace abandoned?

MR. HOOPER: The old side at Grace were the old units that were installed originally. There were extensive costs in replacing pipelines, and the units were not suitable to continue to operate - they were the early-type units - and the water available indicated that we could, by using the three newer units, provide the capacity and energy for the water that was available.

MR. FUNK: Are there any generating units remaining in your system at present that are of comparable age to the ones abandoned?

MR. HOOPER: Yes.

MR. FUNK: No further questions.

MR. DAYTON: If these present plants were abandoned today, do you have the facilities to take care of your power needs? Say, if some catastrophe happened, and they were abandoned.

MR. HOOPER: We would have to find some way of replacing this, either by purchase of energy, or by building new steam electric plants, which would have to be planned many years ahead - 4 or 5 years ahead.

MR. HOLMGREN: Do you feel that hydro-electric power on the River can be produced cheaper than steam electric - per kilowatt?

MR. HOOPER: Yes; it is much cheaper. The only costs involved are the operating costs and fixed costs associated with the remaining value of the plant.

MR. HOLMGREN: If that's the case, then why would you abandon the Logan plant, and the Blacksmith Fork?

MR. HOOPER: The Logan plant was abandoned a few years ago - before the rapid increase of fuel costs took place. At that time, it appeared that the cost of operation of the Logan plant was higher than fuel replacement costs. It was a small plant; it required as many operators as one of our larger plants on the Bear River; and the economics did not look good some years ago. Under present economic conditions we probably would not have abandoned it at this time.

down to a very low level to take care of irrigation requirements, there would then have to be a plan worked out, or formula worked out, based upon the irrigation rights along the River.

MR. ROBERTS: Isn't it true that you have changed your operation since the '30s? And with the irrigation reserve, now you do not pull the Lake down for hydro-electric only; and so it isn't likely that we are going to pull this Lake down in the same pattern we did in 1934.

MR. HOOPER: We have studied the Lake, based upon our current operating conditions, using the hydro-plant just for peaking, and backing up the base supply of steam generation. We still see the possibility where the Lake would be pulled down, even using the present operating conditions, through a series of dry years.

MR. FUNK: What months are your peak demands for power?

MR. HOOPER: Our peak demands are in July and August; sometimes the first part of September, and the last part of June.

MR. FUNK: Do you know approximately how much water you have spilled since October 1 - drawdown on the Lake - to make preparation for next spring's runoff?

MR. HOOPER: I wouldn't have the figure, right off hand, to be very accurate. This water is being pulled down to permit the spring runoff, which is unpredictable - but we must provide room in the Lake.

MR. FUNK: And that's being done at a season which is not your peak demand season.

MR. HOOPER: The purpose of pulling it down is to provide room in the Lake for next spring's runoff.

MR. FUNK: I understand.

MR. SKINNER: What changes would need to be made, if you had a series of dry years, in regard to the people that are pumping out of the River directly at the present time?

MR. HOOPER: This would have to be very carefully reviewed as to their rights, and by proper regulation and use of the various commissions on the River. The ones that had the prior rights certainly would get the water.

CHAIRMAN JIBSON: At the present time do you have any summer water to speak of, through Cutler, during your peak months - July, August.

MR. HOOPER: During wet years we do; and we do include that in our capability. We attempt to cover it. During the wet years, we use it; during the dry years,

we use other sources to cover it, but it is included in our system capability.

MR. HOLMGREN: Mr. Hooper, then we would assume that from this time until next May when we start irrigating again, that you would use these hydro-electric plants to full capacity?

MR. HOOPER: We would use them at the capacity to bring the Lake down to a reasonable level for the spring runoff.

MR. HOLMGREN: I know; but for your export of power - for your creation of power. Wouldn't you use these to create power, if they are so much more economical than a steam power plant?

MR. HOOPER: No; we will use them based upon the water in the Lake. If the Lake level is high, we will bring that water down; if the Lake level is low, we would not bring water out of the Lake.

MR. HOLMGREN: Right now you are bringing water out of the Lake; so I assume you are using the power plant?

MR. HOOPER: We are using the power plant. That is correct. And the Lake is still higher than the level that would provide adequate space for the spring runoff in a normal year.

MR. HOLMGREN: Then we would assume that any time there is ample water to run these power plants, that is going by the power plants, you would use the plants?

MR. HOOPER: We would use the power plants.

MR. MYERS: You use them around the clock, or just peaking?

MR. HOOPER: It depends on the water that is available. If the water is available to use them around the clock, we do it; otherwise, we use it just during the heavy load period. And this is watched on a daily basis - watching a trend through the entire period of the year.

CHAIRMAN JIBSON: Anything further for Mr. Hooper?

Thank you, Mr. Hooper.

Our next witness is Don Clegg of Grace.

DON CLEGG

I don't know why I should have signed that I wanted to make a statement, unless I wanted you people to know how old I am, and a few things like that.

I have been down this road we are talking about for a long, long time. Fifty years ago, I started with a Cat and a ditcher to clean the canals. I have the last two or three years - I haven't got sense enough to quit - I have cleaned the East Branch Canal in that kind of a way.

What I'm trying to say to you people here, I know quite a lot about what the human beings have done in this country to appropriate water, and dams, and get them out. And the last few years I have been battling a little. We got a permit to dig a well or two, and later on some people protested us using it any longer; because they were convinced we were using their water. Well, that costs you money to get a lawyer and fight that thing. And we got through with that, and straightened it out; we didn't happen to be using their water, because the State water reclamation came in and made certain tests and they were convinced beyond a doubt that we weren't using their water. They did certain things to prove that. And they were so sure that we were using their water, that they got up and took an oath that thus and so - what happened, and what didn't happen, and so on - in saying this I'm trying to point out to you people here that the State water reclamation people indicated to us that the water doesn't belong to anybody - even though you have a decreed right, or ditch stock, or a water right, for wearing your life away to get it out there, unless you use it for a beneficial purpose. Then you have a claim on it.

Now, I own some land - that's the reason I look so tough - from Grace down to Laigle(?) - different places. We didn't get it in a day; but I found, and people laughed at me many years ago when the first war was on - my two brothers were in the Service - one of them never got to see my mother, and the other passed on a few years ago, he didn't live as long as I did. But we found, irrigating with a shovel, that we just couldn't keep our water for the purpose that it was created for. We would lose it. It would go down the crevices, and here, and there. One or two ranchers almost had to give it up - their water rights.

But then something came along and we found these sprinkler systems; and still, this water was going somewhere. It was going to people that didn't own it. It was our water, out of the East Branch of the Last Chance Canal - that was going to them and supplying their springs. Those fellows - maybe some of them are here - they were so lazy; they never cleaned a ditch; they never did anything; and they got so they thought the world owed them a living. So they got mad; and we were mad, with a lawyer - and lawyers don't work for nothing; so they got up and held their hand up that they knew that thus and so was the case. And the way they proved it - they went up when we got through irrigating, and out of the East Branch Canal they got permission to run so many feet of water down and run it in a crevice, and they found out that was the water the East Branch Canal that my old dad and those old men, with their shoes buckled on them and then tied on - you couldn't buy anything else - they got that water out and earned it. And all they proved by raising their hand was that the water that was supplying what they had been using for years, by us using a shovel, was our water in that canal. Well, they ought to have us arrested because when I bought the first sprinkling system that came in the valley, and when we started to use the sprinkling system, then that water didn't go down those crevices anymore - and they thought it was the Lord that had stopped it - but it was a sprinkler.

Now, I'm telling you gentlemen here today that I have two neighbors that never raised over 13 bushel, dry-farm grain, in their life hardly. It's gravelly ground, so don't think I'm not telling the truth. One of those neighbors got a decreed right for 80 acres of ground. Would you believe it if I'd tell you today he's watering 200 acres? With the sprinkling system? Would you believe it if I'd tell you if you want to conserve water and use it for a beneficial purpose, put it in a sprinkling system and you can water twice as many acres with half the water.

That's all I have to say. Now if we have to go to court, if we have more water than we need, I haven't heard of it. I still have 200 acres I'd like to rent, thanks to Utah Power & Light. I'd like to rent some water because we have been saved a time or two in our operation because they were able to pump water for us when we were in that terrible drouth. And then we did something else - we went and bought cattle from fellows over in Montpelier country, next to that Lake, and their range rights, because they weren't under your pumping system, we bought their range rights, but now our range fees are so dang high we can't afford to keep the cattle. So I haven't got any more to say .

CHAIRMAN JIBSON: Do we have any questions of Mr. Clegg? Thank you.

Our next witness will be Keith Higginson, Director of the Idaho Department of Water Resources.

KEITH HIGGINSON

I'm Keith Higginson, the Director of the Idaho Department of Water Resources.

I was a little surprised and disappointed yesterday in Logan, and even more surprised and disappointed today to hear the statement of Utah Power & Light Company with regard to the effects of the proposed Compact amendments upon the Company's power system. Their position, if the Company is, in fact, serious - and I have to believe that they are - is a complete reversal of the traditional role that they have played in Bear River. Because of this and because of the misunderstandings encountered in Idaho in bringing these proposed revisions to the public, I would like to comment on several matters:

1. The only real change from the present situation which would result from the adoption of the proposed amendments would be the imposition of a 28,000 acre-foot per year limitation on new depletions above Stewart Dam. It is important to recognize that new depletions are being added to the system continually, and will still take place without a Compact revision. In fact, as Mr. Jenkins pointed out earlier, each six months east state engineer advises the Commission of the number of new applications, permits, and licenses filed or issued. Since the present Compact was signed in 1955, hundreds of new developments and depletions have taken place under permits issued in each state. This has been with the full knowledge, blessing, and even the encouragement of the Power Company. I don't know of a single instance in which the Company has been unwilling to hook up service to a new use on the basis that it would decrease streamflow and interfere with the Company's rights for hydro power. This, despite the fact that it is well-known that the Company has storage and non-consumptive rights which include the entire flow of the stream.

In reality, all the 28,000 acre-feet depletion provision does is to impose a limit upon a situation which is now taking place without limit.

We have studied the effects of this limit of depletion and found that it would result in a net loss of energy from present conditions of less than 5% per year. I question the Company's motives in telling you that if the Compact revisions go into effect they will lose their entire system, valued at \$17 million, and will also lose \$8 million per year in power. They have failed to tell you that the alternative is no Compact amendments - in which case they will continue to be a partner in encouraging new uses of Bear River drainage water, which will still result in the same loss of power.

It is important to establish the policy that decisions as to quantities of water and extent of future developments in each state be decisions of the State Legislatures through approval of such interstate compacts and not be left to the whims of the Power Company.

2. Mention has been made of the Caribou filing. My only comment is that if the Power Company's rights include all of the flow of the Bear River, and if new developments do deprive them of water with loss of power generation, why would they pay \$100,000 to buy a water right permit from a private company, which permit was issued subject to all prior rights, including those of the Power Company. They have, in fact, bought their own water.

3. I have previously questioned whether the limitation on new depletions above Bear Lake ought to be as high as 28,000 acre-feet. We have discussed three reasons for Idaho's concerns: a) the possible environmental consequences and effects upon Bear Lake itself; b) the ability of the Lake to continue to supply water for contract rights in the low water years - and that has been thoroughly discussed here, today, and also yesterday; c) loss of the cushion, if you will, to provide for the new uses. I urge this Commission to again consider these issues. It may be that the best means of protecting Contract rights in Idaho and Utah would be insertion of a provision in Article V which would prohibit new uses under the 28,000 acre-feet limitation, or some modification of that number, at any time the Lake was below a specified elevation.

4. Some mention has been made of the Idaho state water plan. The difficulty the Department of Water Resources and the Water Resources Board have had in preparation of the draft plan has been the lack of an agreement on Idaho's share of the unconsumed flows of the Bear River. It has been obvious that new uses are taking places; but the present Compact offers no guarantee that we can plan and carry out any long-range program with protection. The Compact must be revised first - before the state water plan can allocate our portion of the developable water to new uses. In this regard, I would call your attention to publicity in recent months in the State of Utah with regard to the concerns of Great Salt Lake. The Bear River drainage furnishes approximately half of the input to Great Salt Lake. Great Salt Lake has been increasing in elevation, and there has been considerable effort in Utah - the Great Salt Lake board has authorized, according to press reports, additional studies to be made, leaning toward potential future diversion of water out of Great Salt Lake because of the effect upon the mineral industry there. I think we all recognize that there are unconsumed flows of the Bear River, totalling nearly 1 million acre-feet annually, that run into Great Salt Lake; and there ought to be some opportunity for a concerted program of the development and utilization of those flows.

5) Some have questioned the figures used to explain the hydrology of the River. They have attempted to discredit the negotiators by suggesting that they have not honestly considered the best interests of their respective states. I want to express my confidence in the technical subcommittee's work and in the integrity of this Commission. You have made a good beginning, and with only slight revisions the Compact draft ought to be adopted and submitted to the respective Legislatures.

Thank you.

CHAIRMAN JIBSON: Do we have any questions of Mr. Higginson?

Thank you, Keith.

We have one more witness, and then several undecided. R. K. Nelson, President of the Preston-Montpelier Irrigation Company.

Mr. Chairman, State Officials, Members of the Commission, Ladies and Gentlemen,

I feel some more consideration should be given on the Bear River above Stewart Dam; I would like to point out that lying along the 26 miles of Bear River from Border to Stewart Dam, there are a lot of acres of good, fertile land that could be improved and grow fine crops if they had water. These lands lie adjacent to the Bear River and would be very easy to water by sprinkler irrigation. The lift from the river or underground water supplies would be very little, and the productivity of this land would be multiplied many times were water available. I bring to your attention, as an example, the potato crop grown by Dennis Stevens above Stewart Dam in Banks Valley in the year 1976, yielding 200 to 250 sacks per acre, which is possibly a much better crop than was produced in much of the potato country north of us. Even though this crop was frost impaired early in the season, just as were crops in the Snake River Valley, it bounced back because of irrigation, and produced a good crop. Similarly, on an adjoining farm, the production of grain was boosted from 35 bushels per acre to 145 bushels by the application of water. Another farm in the area boosted production of alfalfa from 1 ton to over 5 ton by applying water.

I believe that in the future, more demand will be made of these marginal lands for the production of needed foods that will be required in this country; especially after considering the amount of prime agricultural land that is being used steadily for housing and business projects along with our highway systems every year, and there seems to be no slowing down of reduction in productive land.

In view of these items, I would like consideration of water being allocated for this area. A considered judgement of this area from Border to Stewart Dam would direct that there are at least 10,000 acres of this potentially productive land that could and would be brought into production if water was available. Imagine the stimulus to the economy of this and

related areas if the necessary 20,000 acre feet of water were available for the development of these lands.

I realize that if this area of Idaho were in the lower division of the Bear rather than the Central Division, this request would not need to be made because it would automatically be taken care of, but as I understand it, due to this being in the Central Division, it requires separate consideration. Therefore we respectfully request and suggest that 20,000 acre feet or more be allocated for the development of this area.

Very Truly Yours,

Rick Nelson for Preston Montpelier Irr. Co.
Halter Diamond for West Fork Irrigation Co.

Kary Dwyer
Murray Canal
Murray Canal

Henry Dwyer
Murray Canal
Murray Canal

Golden B. R. Letcher
Plymouth Irr. Co.

Paul D. Letcher
Leg Leg Irr Co.
Kent LaRosa Irr Co.

Levit Letcher
Dwight Letcher Co
Ream Crockett Letcher Co.
Black Otter Letcher Co.

MR. NELSON: I might state that since this was prepared, I received an answer to my request from the Soil Conservation Service, and the Extension Service, as to the amount of water required for the production of grain, alfalfa, and potatoes in our area; and they suggested that rather than the 2 feet that we had assumed here, that it should be boosted to between 3 and 4 feet per acre - which would, of course, increase the need.

We desire to be fair in our request, and that is the reason for this conservative request; but it is imperative for the development of lands in our area that some consideration be given to this to take care of these lands.

CHAIRMAN JIBSON: Any questions for Mr. Nelson?

MR. LAWRENCE: Mr. Nelson, could you explain the name - Preston-Montpelier Irrigation Company? What is the connection? Is there a Preston up near Montpelier?

MR. NELSON: At one time the small community that is now designated as Warburough was named Preston. At a later time, it was determined that this Preston was also in Idaho, and it became necessary to change the name. By this time, a family by the name of Preston that had founded the area had moved away, and a group by the name of Ward had bought out Prestons and moved in. Mr. Preston was the original founder, and in the Dietrich Decree it indicates that Mr. Preston established certain rights and took out canals here and spread water. Later, of course, with the change of the community and the extension of the canal, it took on the name Preston-Montpelier Irrigation Company.

MR. HOLMGREN: Did I understand you to say - if this 10,000 acres were in the Lower Division it would automatically be taken care of?

MR. NELSON: Well, as I understand it, there is an acreage allowed for development of new lands in the Lower Division; but I find no such provision for this development of new lands in the Upper Division - in this area, at least, and therefore, of course, we place this request.

MR. HOLMGREN: I would say we have 40,000 acres in our area in the Lower Division that we can't get developed.

CHAIRMAN JIBSON: You are assuming that you would need storage development to utilize this 20,000 acre-feet?

MR. NELSON: Well, I'm not sure. There are suitable storage facilities available right at the present time in this particular area between Border and the dam. However, we are very much interested in Geneva storage, and from our standpoint.

There's some question, apparently, as to how Geneva would feel about us joining with them; but from our standpoint I think I'd be safe as representing this group, that we would be glad to be cooperative with them were they willing to cooperate with us.

CHAIRMAN JIBSON: It occurs to me that if you did not have storage in the picture, there would be a serious question of violation of prior rights if you utilized any of this 20,000 acre-feet during the irrigation season.

MR. NELSON: Naturally, in short years. This would be true. Any rights would be subject to this.

CHAIRMAN JIBSON: In answer to Paul's question, I think the situation is that any land above Stewart Dam which is the point of diversion of Bear Lake, in the winter-time would be subject to the rights of the Power Company, and in the summertime, as I mentioned, would be subject to the rights of Last Chance Canal Company.

MR. JENKINS: Are all these lands located in Bear Lake County?

MR. NELSON: Yes; these would all be adjacent, or near, the River from Border to Stewart Dam.

MR. JENKINS: Did people from these companies which you represent participate in the studies in 1968 on the lands desiring water in that area ?

MR. NELSON: I'm not sure. Ferris Kunz represented us; and unfortunately we were not informed as completely as we might have been as to exactly what participation there was. However, each of these companies were contacted individually, and we attempted to obtain estimates from these companies, that brought us to this figure of 10,000. I wouldn't be surprised as to what it's low; but then, we prefer to be conservative.

MR. FUNK: Do these 10,000 acres lie within the service areas of the companies that you have enumerated?

MR. NELSON: Or above. That is, this would be covered by sprinkler irrigation, and lie adjacent to these, above the canal.

CHAIRMAN JIBSON: Any other questions? I appreciate one thing, Mr. Nelson - I have been measuring water in the Bear River system for over 30 years, including an occasional measurement on Preston-Montpelier Canal, and I have never known until this time where that name came from. Thank you.

Now we have a number who have been 'Undecided' about testimony. I will call them and those that wish to testify may do so.

DEAN HARRIS

I am Dean Harris, president of the Gentile Valley Irrigation Company. I didn't come with a prepared statement, but while this meeting has gone on I have been thinking.

I would take the liberty, since I am president of our canal company - which, as I understand is one of the oldest water rights on Bear River in Idaho - I would like to recommend to the State - not to the Commission; I have no quarrel with you, as Commissioners - Mr. Skinner, and Mr. Roberts, and Mr. Jenkins - I think you're doing a remarkable job -- but I would have one recommendation to make.

I think we have here maybe a slight case of 'taxation without representation'. I note that we don't have a man from our area; and I feel that since Last Chance Canal Company is the biggest water user on the Bear River - and yet, the Governor, through his appointments, has left them out, and left our whole area out. So I feel that maybe we should have some representation on this Commission; because there are some things here that need to be ironed out. And the men from our area understand the problems better than anyone else from an area far away.

So I would make that recommendation; that either we throw out the revisions and revert back to the old Compact as it was - I feel like it has been doing us a good job; I don't really feel that it needs any revision - but if it must be revised, I would recommend that our area have some representation, since we are prime users of the Bear River water in Idaho.

Thank you.

CHAIRMAN JIBSON: Any questions of Mr. Harris? Thank you.

We will now hear from Virge Jensen, President of Cub River Irrigation Company.

VIRGE JENSEN

Mr. Chairman, members of the Board, ladies and gentlemen. I'm still undecided; but the reason I'm here - I think maybe that I have some input to put into this water development here, because of my experience in the last 15 or 16 years.

I would like to go back to about 1963 - when I first started thinking in terms of water. I think since 1963 we have had in our area an organized opposition to any development on Bear River. It seems like whenever there is any development started there is always opposition to it. And it's not always the same. Prior to 1963, the opposition to this was that we should further study this proposition. In 1963, when they could no longer stop with that, they said, "We don't need any more water." And a great many of these people who have opposed this testified before different commissions that we didn't need any more water. Then when they couldn't stop it that way, they later decided we need all the water.

But I have one input to put into this, and I would like to bring it to your understanding, as how I understand it. I believe in Bear River we have three kinds of water. We have, first, the water in Bear River that is decreed - there are decrees on it, and that water right is decreed and we know who gets the first water and who gets the last. Then I think we have another kind of water in Bear

River which is that water which is controlled and governed by Utah Power & Light - which they store and which they run down the River. I don't think any development that we have done over the last 15 years, we have ever tried to interfere with either one of those water rights. What I think we are trying to do is develop the third water right in this Bear River - and that is the water that flows down Bear River from the first of October to the first of May. I think it has been said that there is 1 million acre-feet that flows down there. My estimation is not quite that much - I understand that there is at least 700,000 acre-feet of water pass Corinne every year and goes into Great Salt Lake, that is not being consumed by anybody.

Along with that, I think the Power Company, according to my estimation, dumps about 70,000 acre-feet of water every year that is not used for anything but power.

My question to the Commission and to all of us, is - will we be as history once said, that Nero fiddled while Rome burned? Are we getting to the point here where we are quarrelling about this every time we talk about it? We don't like this; and we don't like that; and every year 700,000 or 800,000 acre-feet of water flows down the Bear River and nobody gets any use of it.

I think this is something that we, the people on the Bear River, should have to develop. I think we have to think about it, and not think about it in terms of what it means to me, or whether somebody else is going to get some. I spent four or five years - or whatever time that the Bear River was coordinated and organized to do something with this water. We met with other people from other counties and with those in Idaho. At no time in any of our discussions did we find where Utah was trying to take advantage of us. In fact, the Bureau of Reclamation came out with a program covering this whole area, and it was a very thorough investigation and they estimated that we, in Idaho, should get 35% of the water. That was enough to take care of our needs. But we thought we should have more; so we went to Utah and said, "We need more." And they told us to take half of it. And we divided it up in half, and got the thing going.

As much water as is going down that River, there is only one place to put it. Whether you like it or not, or whether you knew anything about it - and that's in the Oneida Narrows. And if by putting a dam at Oneida Narrows and one at Cub River we can utilize this 800,000 acre-feet of water, who's going to gain on it? We're all going to gain. But if we just keep going around here and fiddle while Rome burns, that is just what we are going to do. Thank you.

CHAIRMAN JIBSON: Any questions of Mr. Jensen?

We have Stanton Hawkes, Water Master.

STAN HAWKES

I don't have a written statement, gentlemen. But I would like to go back just a little bit further than we have - 50 years ago, in 1926.

1926 was the last year that the Bear River was full. From that time on, it started to shrink. And it shrank down; and I have been there many times when we have had to walk a half-block out to the water's edge. It took that somewhere close to 30 years to get back up to normal.

What I'm trying to say is that it seems to me like we're working off the top of the Lake instead of the bottom. These things can happen. We can get into a dry cycle and it can last for some time. I know in 1934 I lost 50 acres of good sugar beets because I wasn't smart, and how low the Lake was. I would suggest that if any changes are made, that we put a limit on the height of Bear Lake, as low as it can be.

Other than that, I would say that Bear Lake should be left as it is, and we should take a chance on the ups and downs of the water cycle. We know they happen. Thank you.

CHAIRMAN JIBSON: Any questions of Mr. Hawkes? Thank you.

We'll now here from Heber J. Beme, of the Thomas Fork Irrigation Company.

HEBER J. BEME

Mr. Chairman and Members of the Commission;

I just want to take a few minutes. In my dream; I guess my father's dream, and the dream of many of the people in Thomas Fork valley - is a dam up the canyon. Through the years I have seen this thing, with Thomas Fork coming down with terrific force in the spring. I don't know the amount of water it might carry, but any of you who have traveled through there in the spring of the year and have seen the water across the road, this is some of the best land in the whole state of Idaho, where they can raise up to 5 ton an acre without irrigation - which I don't think you can do down in this part of the country. We are a high valley and we don't get the decrease in the water like you do in hotter places.

But this is a beautiful valley that we have. It's bad to come in the spring and see some of our best land being washed away. So we have always dreamed of a dam up the canyon. We are allowed 1,000 acre-feet -and 1,000 acre-feet is not even feasible to build; you all know that. So we are allowed something that is absolutely no good to us.

We would like this increased. We would like to have as much as we could. We're hot hogs, but we would like it increased. By opening this Bear River Company and some of these provisions, of course would allow that. And that's what we're after. We're very much in favor of this. If we could go along with the people between Border and where they propose this increase in the land and water and so on, it would help us all. And I don't see how it would hurt the people down below; I don't see how a high dam hurts anybody down below. We don't infringe on anybody; we can't infringe on anybody.

So I just want to say this for the record - We are in favor of opening up the Compact and maybe be allotted some water that would do us some good. Thank you.

CHAIRMAN JIBSON: Any questions? Thank you.

CHAIRMAN JIBSON: This is all the slips I have, ladies and gentlemen. Is there anyone else in the audience who would like to make a statement?

As I stated at the beginning, the Commission is not making response at this time to these statements. Each one will be studied in detail before any further action of the Commission is taken.

If we do not have anything further - if the Commissioners don't want to bring up anything further - we will stand adjourned.

Meeting adjourned at 3:30 p.m.

Preston, Idaho 83263
November 23, 1976

Bear River Compact Commission
Public Hearing - Court Room
Franklin County Courthouse
1:00 p.m. - November 23, 1976
Preston, Idaho 83263

Chairman - Wallace N. Jibson and Compact Commissioners

We, the undersigned water users of Franklin County, Idaho, have reviewed the attached draft of proposed amendments and revisions to the 1958 Bear River Compact, and by and over our signatures, declare our approval and support for the revised and amended Bear River Compact, as prepared and presented at the public hearing held at the Robinson Fair Building at the Franklin County Fair Grounds at 8:00 p.m. October 18, 1976 in Preston, Idaho.

