

MINUTES OF MEETING OF THE BEAR RIVER COMMISSION HELD
IN MONTPELIER, IDAHO - JUNE 17, 1958

A meeting of the Bear River Commission was held in the faculty room of the Montpelier High School, Montpelier, Idaho, on Tuesday, June 17, 1958 at 1:30 p.m. Vice Chairman Fred M. Cooper presided in the absence of the Federal Representative and Chairman Mr. E. O. Larson.

Commissioners present:

IDAHO:

Fred M. Cooper, Grace, Idaho
Melvin Lauridsen, Montpelier, Idaho
E. N. Humphrey (representing Mark R. Kulp)

WYOMING:

Earl Lloyd, Cheyenne, Wyoming
J. W. Myers, Evanston, Wyoming
S. Reed Dayton, Cokeville, Wyoming

UTAH:

Jay R. Bingham, Bountiful, Utah
A. V. Smoot, Corinne, Utah
L. B. Johnson, Randolph, Utah

Absent:

UNITED STATES

E. O. Larson - Chairman and U. S. Representative

Others present:

Francis M. Bell, Denver, Colorado	Wallace Jibson, Logan, Utah
Leslie Nate, Dingle, Idaho	Albert B. Harris, Logan, Utah
Chas. C. Nate, Montpelier, Idaho	Orson Christensen, Brigham City, Utah
J. Warren Sirrine, Dingle, Idaho	J. L. Weidmann, Honeyville, Utah
Mrs. J. P. Wilde, Montpelier, Idaho	E. K. Thomas, Salt Lake City, Utah
Russell Stoker, Soda Springs, Idaho	Wayne D. Criddle, SLC, Utah
Cecil Quayle, Dingle, Idaho	Donald Norseth, SLC, Utah
Donald Nate, Montpelier, Idaho	W. V. Iorns, SLC, Utah
Jerome Taylor, Montpelier, Idaho	E. G. Thorum, SLC, Utah
Roy C. Taylor, Mt. View, Wyoming	Milo Marsden, SLC, Utah
Emil C. Gradert, Fort Bridger Wyoming	

CHAIRMAN: If there are no objections we will not read the minutes of the last meeting. These minutes were sent to all the Commissioners, and I assume they have read them.

COM. JOHNSON: I move that we approve the minutes without reading them.

COM. SMOOT: Seconded the motion. Motion carried.

CHAIRMAN: I would like to introduce Mr. E. N. Humphrey who has been Mr. Mark Kulp's deputy and has been selected as alternate for Mr. Kulp. I think the Governor of Idaho has appointed Mr. Humphrey as temporary State Reclamation Engineer. Mr. Humphrey, we are glad to have you here, and I think that in deference to, and consideration of our good friend Mr. Kulp, we should observe a minute's silence.

All arose and observed one minute's silence.

COM. BINGHAM: Mr. Chairman, I would like to move that a resolution be prepared which would be spread on the minutes of our meeting and a copy sent to the surviving daughter of Mr. Kulp, expressing the sympathy of this group and the esteem in which we held him.

COM. JOHNSON: Seconded the motion, stating he would also like to propose that a copy be sent to the Governor, including him with the group making the resolution. This amendment to Com. Bingham's resolution was accepted. Motion carried.

CHAIRMAN: There should be someone appointed to draft this resolution. What is your pleasure in making this appointment?

COM. JOHNSON: I move that the Idaho delegation draft the resolution of condolence to the surviving daughter of Mr. Kulp, offering the sympathy of the group, etc.

COM. SMOOT: Seconded the motion.

CHAIRMAN: At the last meeting it was expected that we should have some alternates selected and be prepared at this meeting to present the names of these alternates in case any of the Commissioners could not be present at meetings. It was the order of the last meeting that a letter be presented from the Governors to this

Commission indicating the men who are appointed as alternates. We will call on the states to present their letters. First Wyoming.

COM. LLOYD: We do not have that letter yet. We have not fully decided on the alternates. There are three advisers to the Commission - Attorney General, Thomas O. Miller and H. T. Person. However, before they were appointed we wanted to discuss it with the other members of the commission, so at this time we are not prepared to definitely present a letter.

CHAIRMAN: Thank you. Utah?

COM. BINGHAM: Utah is not prepared to submit a letter. We have the men in mind, but the procedure to officially designate them would involve a motion by the Water and Power Board and I was out of town during our last meeting and failed to see that this motion was brought before the Board. We will do this next Saturday at our June 21st meeting.

CHAIRMAN: I have a letter from the Governor of Idaho. This letter authorizes the following people to serve as alternates:

Wesley W. Hubbard, Grace, Idaho
E. N. Humphrey, Deputy State Reclamation Engr.
Warren Sarrine, Pingle, Idaho

All in favor of accepting these gentlemen will say "Aye"

All were in favor.

CHAIRMAN: In case there are any of you here who did not know - Mr. E. O. Larson, ^{Cooper} who has served as our very capable Chairman through the years on the Bear River Compact Commission has been selected as federal representative to serve as Chairman on the Bear River Commission. Mr. Larson called me last night and said he would not be able to be here today. He said he would try to be at the next meeting and preside. I told him that I was sure that all of the Commission was glad that he would serve in this capacity.

One of the items for discussion will be the cooperative agreement with the Geological Survey. We have a letter from the U.S.G.S. addressed to Mr. Bingham, which reads as follows:

May 15, 1958

Mr. J. R. Bingham
Secretary-Treasurer
Bear River Commission
425 State Capitol
Salt Lake City, Utah

Dear Mr. Bingham:

In your letter to Mr. Leopold of April 30, 1958 you expressed the desire of the Bear River Commission to enter into a cooperative agreement with the Geological Survey along the general outlines proposed in my letter of January 17. Our area representatives have the responsibility for negotiating directly with our cooperating agencies and I, therefore, would be pleased to have you work out the details of the 1959 cooperative agreement with the Bear River Commission with Mr. Francis M. Bell, the Branch Area Chief at Denver, Colorado, for the Surface Water Branch.

I am sending a copy of this letter as well as a copy of your letter of April 30 to Mr. Bell so that he may be advised of the current status of this matter.

Sincerely yours,

(Signed) R. L. Nace
Acting Chief Hydraulic Engineer

Mr. Bell, are you prepared to make a statement with respect to this cooperative agreement?

MR. BELL: I have a sample here of the standard form used for our agreements. The principal matter for discussion would be the amount of funds that will be provided by the Commission and the position of the Commission as to whether the agreement will be with the Commission or the individual states. Has that decision been made?

COM. BINGHAM: I directed a letter to Mr. Kulp suggesting that if there were any problems it would probably be from Idaho. No reply was received to that letter as to whether the State of Idaho must deal direct with the Survey or not.

CHAIRMAN: I think Mr. Kulp directed a letter to the Attorney General with respect to this, and to my knowledge there has been no statement made.

MR. HUMPHREY: I have not run across any answer in the correspondence in the office.

MR. BELL: For the past several years the work we have done for the Compact Commission has actually been under cooperative agreement with the three respective states. If that system is to be continued for the next fiscal year, we will need a cooperative agreement with each of the three states for their proportionate share of the costs. If the agreement is to be with the commission, one agreement only will be required.

COM. BINGHAM: With regard to the amount of participation, the report of our budget committee detailed that.

MR. BELL: I have these figures and I was wondering if they were computed on the basis of the increased costs that will be brought about by the pay raise for the next fiscal year.

MR. JIBSON: No. It was not included.

MR. BELL: As you know, this Pay Bill in Congress requests raising all salaries 10%, so these costs would be increased 6 or 7%, or by the amount of the personal service item of these respective figures. The figures I have shown the budget committee indicated \$27,000 would be involved in the matching portion of the cooperative program, and that \$29,750 would be involved in the unmatched portion. The personal service item was \$6,000, and I would suggest that that should be raised by about \$450, and that the cooperative program be raised by about \$1,800.

I have here 5 copies of the proposed agreement made out in the amounts I indicated which I will turn over to the Secretary for whatever action you wish.

CHAIRMAN: We will now have a report from Mr. Jibson relative to the Bear River flows. I assume you have all received the first report that was sent out.

COM. BINGHAM: We decided it would be advisable to print in convenient form the Compact and the Bylaws as adopted by the Commission. Mr. Jibson and I have worked on this and were successful in getting from our Congressmen sufficient printed copies of the Compact. We have made arrangements to have the Bylaws printed in the same form so they can be combined in a paper bound booklet. We can now indicate the Federal Chairman and officers of the Commission in this booklet. That will be attended to within a month.

MR. JIBSON: I have additional copies of the Minutes of the last meeting. According to the Bylaws, the minutes are to be circulated only to the Commissioners until approved, so copies were sent to them. Before we adjourn I will hand out the additional copies.

I have several items to discuss today, but the most important is our current situation on the river. I have made up the third in a series of reports which is being distributed today. Incidentally, this was made up last Saturday and the river is changing fast, so we are not entirely up to date even now.

I would like to say a word about the Water Commissioner situation on the Upper Bear River. At the present time Wyoming has temporarily detailed the Water Commissioner in the Cokeville area to assist Mr. Brown who has been Water Commissioner in the Evanston area for some years. We have worked with Mr. Brown with the current meter and stream gaging techniques, and are pretty well agreed--and he has agreed with us-- that it is a little beyond his ability to be able to make satisfactory current meter measurements. Mr. Francis who is working with him at the present time has had considerable experience and I believe that with what assistance we can give on the Upper River we can get through this season and take care of the necessary regulation. We should have

more suitable arrangements before next season so that the Commissioner, doing the actual regulating, will use a current meter and make necessary measurements.

Last week, on June 11th and 12th, we concentrated several men in the Upper Division. The Water Commissioner from Wyoming was assisted by our personnel. We made a complete round of measurements to get an accurate check on the divertible flow. As indicated in the table, this was 1950 cfs. Yesterday I had a report from Woodruff from one of our engineers and we find that the situation has changed considerably over the weekend. My plans are to proceed directly to Evanston from the meeting today and spend the next two days in that area with the Water Commissioners. As close as we can tell, the Upper Division is about to the point of regulation today.

The table (in the report) gives the total diversions in the four Sections of the Upper Division and the amount passing Pixley Dam, the sum of which is the total divertible flow in the Division. This was 1950 cfs as of June 12. Since interstate regulation does not go into effect until it drops to 1250 cfs, we were well above this point Thursday night. I have also computed the percentage of the total in each of the Sections. The figures show that, though a water emergency did not exist, Upper Wyoming was diverting about 20% less than would have been allowed under the Compact. We found many canals have been opened up earlier for a short time and now decreased, partly due to decreased supplies and partly by choice of the water users. I would say from the report received yesterday from Woodruff Narrows that most of the Wyoming canals have increased their diversions considerably the past three days. We hope by tomorrow night to have a new figure of divertible flow in the hands of the Water Commissioners, and if regulation is called for, the respective Commissioners can proceed with such regulation.

COM. BINGHAM: What is the present content of Bear Lake?

MR. JIBSON: Elevation of 5920.38 feet.

In moving the Water Commissioner up from Cokeville, some sacrifice is made in the diversion record program in the Central Division, but our feeling is that we will not reach the point of regulation in the Central Division prior to July 10th, so the diversion records are not of material importance at this time. He has been keeping accurate record of all diversions in the Central Division so that we can reproduce a record from about the first of June, but it is necessary to reduce that program at the present time in order to try to keep abreast of the situation in the Upper Division where supplies drop so rapidly.

MR. GRADERT: Asked about regulations in the Sulphur Creek Reservoir.

MR. JIBSON: The Sulphur Creek Reservoir, of course, will add complications to our program in the Upper Division, but it is a relatively simple matter to compute the reservoir releases. I have discussed with your Commissioner the procedure which he should follow. There has been no recommendation by your reservoir committee as to how they plan to compute losses as water is released and goes down Sulphur Creek Channel. It would seem to me that there should be some loss computed. Our problem on an interstate basis is not particularly complicated. I think your complications will arise from local distribution of the water to the shareholders in the reservoir.

At the present time it seems most expedient to have Mr. Brown do the actual regulating and also serve as gage reader with Mr. Francis doing most of the measuring. The extent of our measurements must be on a spot-checking basis of checking adherence to standards. I do not think the period will last over two to three weeks at the most the way supplies are dropping off. When total supplies become quite low, interstate regulations will become very impractical.

Late season regulation has been tried within the Wyoming section itself between the upper and lower users and they found it rather difficult within their own Section.

MR. GRADERT: How are we going to keep up the allocation to different people in the reservoir?

MR. JIBSON: That is primarily a local problem, but I would suggest that a check measurement or two be made to ascertain the losses. Beyond that it is just a matter of your Commissioner knowing how much water is released and with the help of the canal rating tables, which are in the process of preparation, he should be able to pro-rate it out to the individuals under the reservoir.

(At this point the Chairman returned from taking a telephone call, and stated that the call was from Tom Newell in Chicago expressing his regrets that he was unable to attend the meeting, and congratulating the Commission on the appointment of Mr. E. O. Larson as Federal Representative and Chairman of the Bear River Commission.)

MR. JIBSON: As the business of the Commission, we will have to determine the reservoir releases in order to arrive at the total divertible flow, but the actual distribution under the reservoir is a local problem which should not be under the jurisdiction of this Commission.

We have another item or two that I would like to discuss. At a meeting in Logan, of the Chairman, Secretary-Treasurer and myself, it was decided that I should contact the three State Engineers requesting information in compliance with two Articles of the Compact.

The first is Article X. On page 9 of the small printed copies is stated, "Applications for appropriation for change of point of diversion, place and nature of use, and or exchange of Bear River water, shall be considered and acted upon in accordance with the law of the State in which the point of diversion is located, but no such application shall be approved if the effect

thereof will be to deprive any water user in another State of water to which he is entitled. The official of each State in charge of water administration shall, upon the filing of an application affecting Bear River water, transmit a copy thereof to the Commission." On May 6th the three State Engineers were contacted relative to that Article. We have received a reply from Mr. Lloyd in which he brought up the question of applications for stock water and culinary uses and other rather minor uses which would not materially affect Bear River water. He wondered if we should not discuss that matter today - as to where we should draw the line with regard to what type of application should be forwarded to the Commission office, and what the application should include. An application consists of rather complicated forms accompanied by maps, tracings, etc.

COM. SMOOT: I have noticed in our state that there is an increasing number of these small stock water reservoirs, etc. and in some cases I have noticed that they get to be overnight reservoirs for irrigation, etc. Where is the defining line there?

COM. LLOYD: I realize there is quite a question there.

MR. JIBSON: With regard to stock water reservoirs, Section C of Article V dealing with storage states, "Subject to existing rights, each State shall have the use of water for farm and ranch domestic, and stock watering purposes, and subject to State laws shall have the right to impound waters for such purposes in reservoirs having storage capacities not in excess, in any case, of 20 acre-feet, without deduction from the allocation made by paragraph A of this Article". Section C of this article does not give a blanket limit of 20 acre feet as the size of the reservoir to come under storage allocation, but only when confined to stock water reservoirs. Therefore, if we have application for a 10 acre-foot reservoir showing a pipe outlet for irrigation, it would not be excluded under this Article and should be included in the States storage allocation.

THE CHAIRMAN: In that event, it looks like all applications should come to this Commission so that there could be a determination and explanation made of what they intended to do, and the design of the reservoir.

COM. JOHNSON: I would like to offer a warning with regard to stock watering ponds. A 20 acre-foot pond for stock watering is just ridiculous. I think we can wreck any one of these mountain basins if we have too many stockwater ponds.

MR. JIBSON: One other point in connection with Article X--the date from which we should provide the Commission with this information. You will recall that the Compact was signed February 4, 1955 by the Commissioners, but did not become law until March 17, 1958. Our interpretation of that Article is that applications from the date that the Compact became law would be required, but applications for appropriation which came in between February 4, 1955, and March 17, 1958, would not be required in the Commission office.

COM. LLOYD: We have one now, received May 29th. It is a small reservoir to store about 91 ac. ft., and I will furnish you a copy, but I would like to know if there is any reason why that should not be approved?

MR. JIBSON: This question brings up the second letter requested which I have not yet mailed to the State Engineers pending discussion at this meeting. Article V of the Compact recognizes existing storage rights prior to the date of the signing of the Compact. In order to make provision for determining subsequent rights, certain facts should be filed with the Commission. This information should include name and location of reservoir, legal description, date of completion, source of supply, capacity tables or curves, etc. The reservoir you just mentioned, Mr. Lloyd, would be in this category. The question I want to bring before the Commission today is if they have any suggestions as to how much information we should secure from the State

Engineers on these reservoirs - whether we should secure copies of every form that is submitted in connection with the filing, or just enough information to give us the location and the capacity of the reservoir.

We have not as yet received anything from the State Engineers. Sulphur Creek Reservoir is constructed and we do not have capacity tables or curves on this reservoir. This information should be in the Commission office - not only to check on storage allocation, but also to make recommendations for increasing the Bear Lake reserve as it becomes necessary.

COM. BINGHAM: I would like to call on Mr. Wayne D. Criddle, Utah State Engineer.

MR. CRIDDLE: I would not like to see the requirement come in for all stock watering applications because I do not think it would mean anything to the Commission office. There are so many of these springs that are filed upon, and they are perhaps for 5 g.p.m. and they would just burden the Commission with a lot of paper work which may not mean anything to them. However, it does seem that it should be up to the discretion of the State Engineer to determine whether an application will affect the flow of the river or not, and, of course, we do go into that anyway for our own purposes. With regard to applications for appropriation for change of diversion we would interpret that to include reservoirs.

MR. HUMPHREY: I would like to ask one question of the State Engineers - what is their interpretation of the 20 acre feet? Is that only one storage, or a continuing storage from a spring?

MR. CRIDDLE: One filing is our interpretation.

THE CHAIRMAN: Does the Commission desire to take any action with respect to this?

MR. JIBSON: Is it agreeable to the State Engineers to provide the information about as I described it here for new reservoir construction? That would include Location, Source of supply, Capacity tables or curves, Contour maps,

and other general technical data, so we would have the information needed.

MR. CRIDDLE: We would object to that for reservoirs below 20 ac. ft. because we do not have the information. We can see very little advantage. We do ask for the size, but for contour maps it becomes involved. We can give the capacity figures we have on record.

MR. LLOYD: In our case we would have the information regardless of size.

MR. HUMPHREY: In Idaho any dam or impoundment that impounds over 100 acre feet of water must have the approval of the State Reclamation-Engineer, and in regard to the filings on that, if they desire to protect their rights and take advantage of the proper method they are required to file, but if there was some uncontrolled water that was not of any particular interest to anyone they would be permitted to put in a small reservoir without anything further being done. There is a provision under the State law that provides for waiving of requirements on small reservoirs, and a special provision providing for ranch stock watering.

MR. JIBSON: The other question originally asked is - where do we draw the line on applications for appropriation, change of place of diversion, & place and nature of use as it applies to natural streams? Does the Commission desire to require that applications come to the Commission office regardless of size, or does it wish to set some limits?

MR. LLOYD: In the case of point of diversion, that might affect rights in our state, but I would not see much point in filing them with the commission.

MR. CRIDDLE: If stock is allowed to go down to the stream and drink we require an application to be filed. It seems that if all these applications were sent through the Commission it would become burdensome. Limitation would probably be welcome for some of the detail.

COM. JOHNSON: Every reservoir is going to enter the terms of the Compact as

we develop the 35,500 ac. ft. According to the findings of the Geological Survey, over the years, supposing 100 ac. ft. is held back in any one particular region for stock watering, most of it will go by evaporation. For many months of the year there will be no stock there. It seems to me just 100 ac. ft. of water that will never reach storage. Storage is so limited in that upper region that we must not deplete our ability to store. That was one great objective of the Compact. I am worried about it. I just think you can wreck a river basin storage for irrigation purposes with too many stock watering ponds.

COM. BINGHAM: I wonder, Mr. Chairman, if it would not be wise for the three State Engineers to consider this matter from the stand-point of uniformity between the States and carrying out the intent of the Compact, and make some suggestions to the Commission.

I move that this question be put in the hands of the three State Engineers for the purpose of making a determination of the position they take with respect to the stock watering ponds, and any other small reservoirs, and report to the Commission at a subsequent meeting.

COM. JOHNSON: Seconded the motion. Motion carried.

THE CHAIRMAN: We have some old friends with us here today. Mr. Weidmann has been a regular attender of the meetings, and Mr. Iorns and Mr. Christensen. We would like to hear from Mr. Weidmann.

MR. WEIDMANN: I appreciate sitting here, and have found all the meetings we have held over the years very interesting.

MR. CHRISTENSEN: It is interesting to sit in on these meetings with the officials of the Commission, and all the experts who are determining the information necessary to have the Compact administered in the right way. I think the compact should be interpreted rightly and righteously according to

the wording and the intent. I am pleased with the progress that has been made in this matter.

MR. IORNS: I might say that it is quite a pleasure to me to come back and sit in at this meeting. I know there are going to be a lot of headaches in trying to make the Compact operate, just as there were in trying to write an instrument we thought would operate.

MR. E. K. THOMAS: I do not know whether I am here for the Bureau today or not, but of course I am here for Mr. Larson, who wanted to be with you today, but could not come. He did want me to come up and sit in with you and I am enjoying it very much. Mr. Larson is getting much better, and we think he will soon be back with us full time. I am sure he would have enjoyed it if he could have been with you here today, and I am sure also that he will plan on attending the next meeting.

One other item - some time following the signing of the Compact back in 1955, the Bureau of Reclamation ran a line of precise levels into the lift and pumping plant which will be the controlling elevation point for the irrigation reserve. The line was run from the bench marks in the vicinity of St. Charles and the first level line was run down there and the bench mark was set in the concrete wall just about in the center of the metal gate. That bench mark can be used for the control for the Bear Lake irrigation reserve.

MR. JIBSON: (Displayed a map showing a new diversion out of the Chapman Canal)

COM. BINGHAM: I took the opportunity to speak to Mr. Dan Freed who manages the operation involving this diversion. He indicated to me that this diversion was for stock watering and they probably would not use it this year.

One other item of concern was the fact that they were contemplating increasing storage in Neponset Reservoir and that would be an item of concern to the Commission.

MR. JIBSON: This diversion comes out just ahead of our recorder station, and we cannot move our recorder above it because of Wyoming turnouts. In order to properly gage the stream and get records equivalent to our past records and check on compliance with provisions of the Compact, it will be necessary to gage that diversion separately and add it to our station flow.

COM. SMOOT: In a case like that, it is certainly a consumptive use that would have to be taken out of the allocation of that particular water right.

COM. BINGHAM: What is the situation? Would that require a change in point of diversion, and would not the user have to provide measuring facilities?

COM. LLOYD: It looks like it would require a new application.

MR. JIBSON: We have two measuring stations on Chapman Canal. This one in question is to determine the water going to Utah lands. We have another station upstream which includes all of the water diverting from the Bear River into the Chapman Canal and from that record we determine divertible flow. There are several Wyoming diversions between the stations. This ditch would not change the point of diversion, it is merely an additional outlet from the canal. It does, however, change the place of use.

COM. SMOOT: This is a problem between the canal company and the user. It would not affect the total consumption or the Compact in any way.

MR. JIBSON: It would not affect the Compact except as existing return flows might apply. Unless it is a new application it would not change the amount of water diverted from Bear River, but it does change the place of use and as such, under Article X, becomes the concern of the Commission.

MR. JORNS: Neponset Reservoir has a storage right for land in Utah and other purposes. I fail to see where there can be any question on this water. I think the Deseret Land and Livestock Company has the right to use that water so long as they have a diversion right from the river.

MR. JOHNSON: I think it is quite common to exchange water for lands which are adjudicated, but if they have no adjudicated right for the area on which the water is being used for irrigation, then should they not file an application? Deseret Land and Livestock Co. should make application in Wyoming for change in place of use. Then it becomes the concern of the Commission.

MR. IORNS: The Compact recognizes the Chapman Canal has certain rights for diversion in the State of Wyoming.

CHAIRMAN: Are there any further statements or questions?

COM. BINGHAM: I would like to observe that I think we have already asked the State Engineers to study Article X and this would have some connection with the matter, and I assume they would consider it.

COM. JOHNSON: I feel that any extension into new land by any of us would violate the spirit of the Compact, and I think careful study of Article X of the Compact by the Deseret Land and Livestock people themselves would help to clear up in their minds where they stand.

THE CHAIRMAN: The bylaws provide that the annual meeting of the Commissioners will be held on the fourth Monday of October*. If something of a pertinent nature comes up previous to that time we can hold a special meeting. Otherwise we will stand adjourned until the fourth Monday of October*.

The meeting adjourned at 3:30 p.m.

* Corrected