

BEAR RIVER TRI-STATE NEGOTIATING COMMITTEE  
MEETING

April 17, 1972 1:00 p.m.

*Logan-Utah*

A G E N D U M

*No 8*

- A. CALL TO ORDER - Chairman Marion Olsen
- B. REPORT OF TECHNICAL SUB-COMMITTEE - Dan Lawrence
- C. DISCUSSION OF THE PROPOSAL PRESENTED BY IDAHO AT FEBRUARY 3 MEETING  
IN MALAD

1. Utah Power & Light
2. State of Wyoming
3. State of Utah
4. State of Idaho

Note: It is assumed that the participants will want to comment on at least some aspects of the Idaho proposal, although it is unlikely that anyone will be able to respond in detail to the entire document. Open, active, and candid dialogue on a few key points will no doubt clear the way for resolution of other proposal items at later meetings.

- D. DISCUSSION OF STORAGE LIMITATION ABOVE BEAR LAKE

Note: Under this item it is anticipated that Utah and Wyoming will request modification of the Compact limitation. An extensive discussion of this subject would consume a major portion of the meeting.

- E. EAST CACHE (CLUB RIVER) PROJECT DISCUSSION

- F. SELECTION OF DATE AND PLACE OF NEXT MEETING

No 8

MINUTES

TRI-STATE BEAR RIVER NEGOTIATING MEETING  
LOGAN, UTAH

April 17, 1972

Minutes of Bear River Tri-State Negotiating Committee meeting held April 17, 1972, in Logan, Utah, commencing at 1:00 p.m. Chairman Marion Olsen conducting.

THOSE PRESENT:

NEGOTIATORS

IDAHO

Ferris M. Kunz, Montpelier  
Edwin C. Schlender, Malta  
William G. Jenkins, Malad  
Joe Hedin, Preston  
R. Keith Higginson, Boise

UTAH

Marion Olsen, Paradise  
Daniel F. Lawrence, Salt Lake City  
Gordon Peart, Randolph  
Simeon Weston, Randolph  
Calvin Funk, Richmond  
Paul Holmgren, Bear River City

WYOMING

J. W. Myers, Evanston  
S. Reed Dayton, Cokeville  
Floyd Bishop, Cheyenne

Connie Borrowman, Secretary, Salt Lake City

OTHERS PRESENT:

E. O. Larson, Federal Representative, Bear River Commission, Salt Lake City, Utah  
E. J. Skeen, Legal Advisor, Bear River Commission, Salt Lake City, Utah  
Wallace Jibson, U.S. Geological Survey, Logan, Utah  
Dean E. Bischoff, U.S. Bureau of Reclamation, Logan, Utah  
Clifford Alldredge, U.S. Bureau of Reclamation, Logan, Utah  
Paul Willmore, U.S. Bureau of Reclamation, Salt Lake City, Utah  
Thomas O. Parker, Regional Solicitor, U.S. Dept. of Interior, Salt Lake City, Utah  
Robert B. Porter, Utah Power & Light Company, Salt Lake City, Utah

Alan Robertson, Water Resources Board staff member, Boise, Idaho  
R. James Johnson, Water Resources Boars staff member, Boise, Idaho  
Junior Boehme, Geneva, Idaho  
Homer J. Teuscher, Geneva, Idaho  
Norman Eschler, Raymond, Idaho  
W. Kenneth Tarbet, Grace, Idaho  
Wawn Hogan, Grace, Idaho  
Donald S. Rex, Georgetown, Idaho  
Clifford J. Skinner, Dingle, Idaho  
Theo J. Bell, Preston, Idaho  
Daniel Roberts, Preston, Idaho

Hubert C. Lambert, Utah State Engineer, Salt Lake City, Utah  
Dee C. Hansen, Division of Water Rights, Logan, Utah  
Norman E. Stauffer, Division of Water Resources, Salt Lake City, Utah  
Robert B. Hilbert, Advisor to Negotiating Committee, Salt Lake City  
Dennis Geertsen, Utah State University, Logan, Utah  
Edith Morgan, Herald Journal, Logan, Utah

Thomas L. Barker, State Engineer's Office, Cheyenne, Wyoming  
John A. Teichert, State Board of Control, Cokeville, Wyoming  
Richard L. Thompson, Wyoming R.C.&D., Kemmerer, Wyoming  
Marvin Bollschweiler, Evanston, Wyoming

The Chairman called on Daniel F. Lawrence, Chairman of the Technical Subcommittee to give a report.

Mr. Lawrence stated that the technical sub-committee has been meeting between the Tri-State Negotiating Committee meetings, and "we have been active in a technical capacity between states. We feel that the arrangement has been very helpful, and we will continue unless directed otherwise." Two meetings have been held since the Malad meeting. The purpose of the sub-committee meetings is to exchange information which is then reported back to the respective states. Operations studies of the Bear River have been considered using various criteria and conditions which have been set up, and assuming certain conditions might prevail. Mr. Lawrence felt that this information had been very helpful to Utah's group.

The last meeting of the technical sub-committee was held in Boise a week ago where more ideas had been hammered out.

With respect to the main topic on the agendum, Chairman Olsen expressed appreciation to Idaho for starting something specific "where we can get our teeth into something and commence some dialogue of discussion wherein I think we can accomplish something pertinent to the problems that we have."

Chairman Olsen called on Bob Porter of Utah Power & Light Company to respond to Idaho's February 3 proposal.

Mr. Porter read a statement by Utah Power & Light Company which follows, and he passed out copies to the negotiators.

Mr. Bishop had not prepared written comments on reactions to the Idaho proposal submitted at Malad, but responded verbally as follows:

"The first paragraph, the key sentence: 'It is apparent that an agreement on division of water alone would not be sufficient to permit the new uses for which the division was intended.' I honestly don't see why agreement on a division of water could not be sufficient to permit the proposed new uses. I think the reasons for that feeling will be more apparent as I go on through the proposal.

"1.--There may be 'a need to define future projects,' but I see this only as a need in attempting to evaluate the factors involved in dividing the water. Division of the water must come first, in my view, before the projects are specifically defined. Division of the water must be flexible enough to permit the projects to develop aggressively. I see the public acceptance of projects as a separate issue from the Compact negotiations. A program in each area may be needed to promote public acceptance.

"2.--I can agree that upstream storage is for use as supplemental supply to existing irrigation uses. But I think the definition should be flexible enough to permit storage at various locations as the need and the economic justification develops, and these needs become better defined. We honestly couldn't say where and in what amounts we might want to develop storage in the upstream areas in Wyoming at this point in time. But I see no reason why the compact could not be modified in a flexible enough way to permit us to have additional storage and to develop that in such locations and in such quantities as the economics, mainly, will dictate.

## BEAR RIVER STATEMENT

Utah Power & Light Company has been asked to comment on the proposals submitted by the Idaho Bear River Negotiating Committee at the meeting held in Malad, Idaho, on February 3, 1972. The following matters, we believe, must be determined in advance of many of the items listed in the proposal and we are pleased to have the opportunity of suggesting them to you for your consideration.

In the first instance it must be noted that the powers and the authority of the Bear River Commission and of the individual Commissioners are strictly limited by the Bear River Compact. The first question that must be asked and answered is whether it is intended to broaden these powers and increase the authority to include other matters such as pollution, zoning, land use and recreation. These items are presently of prime concern in the Bear Lake area but are not limited to that area, particularly with respect to future development. And it is not possible to ignore these items even if the Commission's authority remains the same. The designation of some agency to handle these matters is now imperative in the Bear Lake area and we are of the opinion that very little progress can be made in any other field until this agency has been established

and a working relationship made with it.

Next on the list are three questions to which a definite and specific answer is required. The form in which that answer is submitted will make a very great difference in a determination of available water supplies. The first concerns lake level fluctuations and their effect upon recreation uses and the question could be thus phrased: Is the lake to be drawn down for irrigation purposes without any consideration for recreational users or are the irrigators prepared to forego some of their rights in order to provide a more stable lake elevation? Question number two is similar to the first one and can be stated: Do we fill the lake to capacity whenever it is possible to do so, despite the effect that such filling will have on the summer homes or do we leave some room in the lake to give them some protection from flooding and from wave action during storms? And the third question proposes the question as to whether lake operation takes into consideration flood control, both around the lake and downstream from the lake or whether it does not.

And finally we suggest that we need not only a substantially greater amount of technical information but we must also agree upon the manner in which we interpret this information and place it to use. We do not believe that it is possible to plan, let alone build, any single project until these preliminary determinations have been made.

"3.--This is a point that Bob Porter discussed--Bear Lake fluctuation. In my view, Bear Lake fluctuation is necessary and must continue when necessary to supply the irrigation and other consumptive users downstream. Concessions to recreation interests who have no water rights and no legal interest in the operating procedures of Bear Lake, should not be granted.

"4.--I think it is in the best interest of all of the states to insist that the water supplies that are dedicated to the Bird Refuge are, in fact, reasonable. I would hope that the proposals for dedicating water to the Bear River Migratory Bird Refuge as presented are reasonable. I don't have a good feel for whether or not they are; but certainly it is in the best interest of all water users to maintain those quantities at a reasonable level.

"I agree that Compacts are difficult to change. Our activities for the last couple of years are evidence of that fact, and we aren't really even very well started; therefore, I think the Compact needs to be framed in broad terms and will provide for development of a basin plan as time passes and conditions change. It would seem to be very difficult to agree on all of the specifics of a basin plan within a reasonable period of time; but a Compact providing for a division of water which would accommodate the various projects as they develop would be easier to agree on. I believe it is neither necessary nor desirable to attempt to reach agreement on a basin plan before changes are made in the Compact.

"Then getting down to the numbered items in the Idaho statement--

"Again, No. 1.--As stated previously, agreement on a basin plan suggested in paragraph #1 will take a decade of study; and even then agreement will be difficult to achieve. There are just too many details that are difficult to define in a basin plan, far in advance of the actual development of individual projects. I think the primary objective of the negotiations should be to formulate Compact divisions which will make possible the orderly development of projects in all areas.

"No. 2.--Plymouth Reservoir and the division of use therefrom, as I see it, is really a matter for Utah and Idaho to decide.

"I think the same comment holds true for No. 3.

"No. 4.--Increasing the allowable upstream storage in Wyoming is our primary objective in these negotiations. We have already 'spelled out' our needs in this regard, I think, in quite specific terms, as far as quantities are concerned. We are certainly prepared to do that again and support those claims in any way the negotiating members feel is desirable.

"No. 5 and No. 6 are back to items that involve fundamentally the states of Idaho and Utah in the lower part of the basins, and I don't see it as being proper for Wyoming to comment on those items at this time.

"No. 7 is back again to the Bear Lake fluctuations. If any concessions are to be made to the recreation interests, the impact should fall on the true beneficiaries; not on Wyoming water users who are interested in developing upstream storage."

Mr. Dayton concurred with Mr. Bishop's comments, and Mr. Myers said further that Wyoming is prepared to spell out their suggested projects one at a time if that is needed.

Mr. Lawrence read Utah's response to the Idaho statement.

"The Utah Committee has extensively considered the Idaho proposal for the use of Bear River water. That proposal expresses many ideas and attitudes of the Utah negotiators, and could well be the reference document for meaningful discussions leading to agreement between the three states.

"In general the preamble paragraphs are consistent with Utah's viewpoints; however, there will need to be some discussion to clarify the exact meaning of some specific concepts presented.

"Utah is herewith responding in a partial manner to the Idaho proposal with a hope that this response will generate candid, active discussion and lay the groundwork for further, more detailed dialogue on other items not considered herein. With this in mind, our preliminary reaction to the seven points of the Idaho proposal are listed below by number.

"1. We conceive that the basinwide plan would be an umbrella of goals, general objectives, and guidelines--identifying some of the potential reservoirs and projects, but the initial basin plan would not be specific and detailed as to the total development which will take place. Utah feels strongly that a project-by-project approach can be undertaken within the framework of such basin plan. We anticipate that potential projects could be categorized as having extensive basinwide implications, medium basinwide implications, or very little basinwide implications; and the expertise is now available to the states sufficient to delineate those projects which could move into the construction stage prior to the resolution of all of the major allocation problems.

"2. Utah agrees that storage at the Plymouth site should be included in the plan. We are not prepared to comment at this time on the water levels and percents of depletion. Agreement on allocation between Utah and Idaho will undoubtedly be reached on the basis of depletion, but the project would probably have to be operated on a diversion basis equated to corresponding assumed depletions.

"3. The manner in which exchange agreements would be incorporated in the Plymouth plan will be studied further by Utah and discussed at a later date.

"4. Utah proposes that Article V of the Bear River Compact of 1958 be modified and the limit of 35,500 acre-feet of storage for Utah and Wyoming, and the 1,000 acre-feet of storage for Idaho, be lifted. We recommend that future storage be based on project proposals within the states, and be subject to approval by the State Engineer and an appropriate Tri-State authority, possibly the Bear River Commission. Such storage would be compatible with the basinwide plan. Protections and assurances for the effected states should be the subject of more detailed discussion.

"5. Utah joins with Idaho in the suggestion that a project should be developed along the lines of the East Cache segment previously studied by the Bureau of Reclamation; and Utah further recommends that the staffs of the Idaho Water Resources Board and the Utah Board of Water Resources join with the Bureau of Reclamation in developing a plan of study to determine the feasibility of a project.

"6. Utah agrees with the Idaho proposal to include additional storage units downstream from Bear Lake as named, with the understanding that the proposal is to have the technical staffs of Idaho, Wyoming, and Utah work together in the analysis of these potential projects as a part of the framework basin plan, but detailed studies which would require substantial time can be a part of a long-range project-by-project development approach.

"7. The Utah Committee is not prepared to commit extensive technical time in the study of recreational uses for Bear Lake. We take the position that Bear Lake is a storage reservoir and must be permitted to fluctuate its full limit within the existing water rights and Compact.

"We agree that there are other important environmental, economic, and social questions which will have to be considered; however, we submit that these include not only the concerns of the general public, but also the present users of the water--and especially, the fact that the present water users are already being forced to use water polluted by the public."

The meeting was then turned over to open discussion by the delegates and visitors.

Ferris Kunz asked if Wyoming would object to a study by the Bureau of Reclamation, for example, of some potential projects in the interim before agreement on any change or modification of the Compact was reached.

Mr. Bishop responded that he saw no reason to object to on-going studies. However, Wyoming would hope that consideration of Compact matters would not be held up because of project investigation.

This would not be the intent, Mr. Kunz answered. He said he thought there was a need for a general idea of what they were going to try to accomplish so that the necessary modifications could be put into the Compact. "We have gone into some of these things in our technical review with our staff boys and some of the things we need to do would require very minor changes in the Compact; others would require more," he stated.

Mr. Kunz also asked a question in regard to Bear Lake and the recreationists: If irrigation chooses to let recreation have some of its rights, how can reimbursement compensation be collected from recreation?

Mr. Porter said he supposed "You just tax them a little more, and then everybody pays it. But I think you can't just write it off the books because it gets a little more sticky every year. You can't just say, 'no, we're not going to do it.' That isn't going to work anymore."

Mr. Bishop commented that the recreation interests really don't have any legal right.

Mr. Porter agreed wholeheartedly but said that doesn't make any difference anymore, either.

Chairman Olsen felt the necessity of making a stand concerning recreation interests so that there will be no doubt of the committee's feelings in the matter.

Mr. Higginson asked a question concerning Utah's comments on Idaho's proposal. "You say you recommend that future storage be based on project proposals in the states, subject to approval of the state engineers and appropriate tri-state authority, possibly the Commission. Would you define for me what you are saying when you say 'project proposals?' We, every six months, report to the Commission on applications filed with the various state engineers. Each of those individually could be called a project proposal. Are you suggesting that all such project proposals be approved by the Commission before they become a matter of a legal water right?"



Mr. Funk asked Mr. Higginson if he felt that the water right picture on Bear Lake is so fixed and inflexible that it would not permit additional development above Bear Lake?

Mr. Higginson responded that he thought the water right on Bear Lake is fixed; but is flexible, depending upon Utah Power & Light Company and what they choose to do in the protection and the exercise of their rights. Idaho hasn't been concerned about the effect of upstream storage upon the rights of the Utah Power & Light Company because the Power Company, as well as all of the states, agreed to the Compact limitation of storage above Bear Lake. As storage was built above Bear Lake, it was within the limitation of the Compact which had been agreed upon. If there were no limitation, then if someone proposes an initial storage reservoir and a protest is filed by the Power Company or some other entity, there is an immediate clash on water rights, Mr. Higginson added.

Mr. Funk said the hydrology determines how much the River could be depleted and used and is probably within the range of flexibility above Bear Lake.

Mr. Higginson responded that as far as he personally was concerned, he would be happier with something that has a limitation, rather than an open-ended thing with each proposal being considered by the state engineer in light of the effect it has upon somebody else's water right.

Mr. Funk suggested that these things have to be spelled out in logical sequence. "For example, you could reserve 10,000 acre-feet above Evanston, but if no one would every buy the project, there it sits reserved forever. And the question that Mr. Lambert raised is, in effect--'are you going to put it in Smiths Fork or on the West Fork?' These things, rather than just a certain arithmetic figure, have a bearing on the rest of the system," he said.

Mr. Bishop stated that he has a problem with a procedure that requires a Wyoming irrigator to get approval of the State Engineer of Utah and Idaho before he can go ahead with his project. He felt that it imposes a very difficult burden on the state engineer of one state to evaluate whether to approve a proposed project in another state. "It isn't really clear to me what you are saying when you talk about a procedure that involves a three-state approval of any project proposal. Do you mean the Wyoming state engineer would have veto power over Plymouth reservoir? Would I have to approve your projects in Utah and Idaho? And do you think that's good?" Mr. Bishop asked.

Mr. Olsen answered that they felt each state would like a say in the matter, and they did not want to exclude anyone.

Mr. Bishop personally preferred an approach that 'spelled out' the division of water on a broad basis without trying to define specific projects. He said the problems of trying to 'spell out' specific projects on a basinwide approach initially seemed almost insurmountable to him.

Mr. Funk felt that it wasn't necessary to spell out the entire basin initially; rather an acceptable project that users were willing to pay for could go ahead. Wyoming probably would want to be sure that anything that was done at Plymouth, for example, wouldn't adversely affect Wyoming.

"Of course," Mr. Bishop said, "when you build Plymouth, it does affect us."

Mr. Lawrence suggested that if the limitation were lifted without any control whatsoever, agreement might not be reached among the states; and perhaps lower basin states would want some protection. "Maybe there ought to be some authority or some agreement that a tri-state authority would actually approve project-by-project as the states developed under the umbrella of the basin plan which we hope is a framework plan rather than a specific."

Mr. Lawrence said each state has existing water rights where projects can conceivably go ahead right now without three state approval. Utah would like to develop a basis of mutual agreement for lifting the storage limit, with whatever constraints are appropriate to make it amenable to all of the states.

"Are you talking about individual applications for a well, or a small diversion from a drain? Are these project proposals? --or are you talking about a large Bureau of Reclamation type project?" Mr. Higginson asked.

Mr. Lawrence replied that the larger projects were what Utah had in mind when they wrote their comments. However, he could see that a well is a project according to the closest definition. Perhaps the language of the agreement could place some project size, below which the other states wouldn't be concerned.

Mr. Funk commented that Utah's negotiators are not in agreement with granting the right to a block of water above Stewart Dam irrespective of where it might be developed. They would like to look at projects and their effect on the entire basin, rather than just grant the block that Wyoming is perhaps seeking. "I think hydrology indicates that there is ample water above Bear Lake, without adversely affecting the rest of the system, to grant a full supply to lands now being irrigated, and maybe a few additional acres. I think it is our intent that we look at development of that rather than say we are going to reserve another 35,000 acre-feet above Bear Lake, irrespective of how and where it is developed. We'd rather take it on the basis of a project at a time," Mr. Funk said. He suggested that state engineer approval would protect water rights, consider existing rights, and how new rights can be approved.

Mr. Higginson felt that the two concepts mentioned were in conflict with each other. "You can't protect existing water rights, and allow additional development; because additional development is at the expense of storage in Bear Lake, which is a water right. The present Compact provides for resolution of that conflict by the limitations on the storage that are agreed upon. If you remove the limitations on the storage you've got the direct conflict, that you are passing on to the State Engineer, of interference of water rights," he stated.

Mr. Lambert thought Mr. Higginson had a good point; however, the State Engineer probably has that responsibility anyway. If there is water that can be stored above Bear Lake (or anywhere else in the system) that storage has to be a consideration of the water rights which the State Engineer would protect. Considerations of where and what might be done is essential. "You might be able to create a reservoir, say, on Smiths Fork where you couldn't create one on the West Fork of the Bear River, in the protection of water rights. Whether this is double talk or not, I don't know, but I think if there is any hope of opening up this River to additional storage, it has got to come through this channel. I think the State Engineers themselves have the responsibility of protecting those prior rights against any additional storage. I think if it can be done as a three-way street, it might be worth it. This is only a proposal; I don't know that we are guaranteeing that it will work. It seems to me that if we are going to have storage, it's got to come this way," Mr. Lambert said.

Then too, Mr. Funk continued, the Compact reserves the amount above Bear Lake, and it hasn't been used. He felt it was not wise to reserve a block of water that might never be put to beneficial use.

Chairman Olsen said that if water is allocated and the allocation is not used up, it might stand for "50 years" in a lump allocation somewhere without any development tying up the water without beneficial use. "What we had in mind was a basin proposal, or project proposal, as it relates to any area within the basin; including your area, and upper Utah as well; that would open the door for this type of encouragement for people to develop the water," Mr. Olsen added.

Mr. Myers' analysis of the old Compact was that it controlled everything in the upper area and nothing in the lower area. "Your proposal says that perhaps the whole basin should be considered at once, and even those of us who live upstream should maybe have something to say about what goes on downstream. You are purporting to bring everything more or less into the picture?" he asked.

Chairman Olsen responded that they should protect what they now have as it now is, and then look at future development and other developments on the River within the basin.

Mr. Myers asked if the actual allocation of water rights would depend on each state, as it always has.

Mr. Bishop responded that under this concept it would also depend upon approval of a three-state entity of some kind; the three state engineers, or a compact commission, or whatever. He asked if Utah weren't fearful that Wyoming would be reluctant to approve downstream projects until their upstream projects were defined and ready to go.

Chairman Olsen responded in the negative, if Wyoming knew that the lid was off so that when Wyoming got ready to go, she could take water.

"Yes, but if the lid is off and you develop all the water before we get ready to go with ours?" Mr. Bishop questioned.

Mr. Higginson made a similar comment, that as an upstream state insofar as Utah is concerned, Idaho would be a little fearful of the lid being off without having a reserve block of water. It might not be needed at the moment, but some future project in Idaho might require it. He thought Idaho would be interested in the same kind of protection that Utah enjoys in the Upper Colorado River.

"Then let's negotiate that protection into it," Chairman Olsen said. "If you have a figure, and you have a figure, and we have a figure upstream, let's negotiate this figure and ask that the lid be raised, not to exceed a specified amount."

Mr. Funk pointed out that the hydrology indicates that with full irrigation above Bear Lake it would not damage things, although a little of the operation of Bear Lake would have to be contended with.

Mr. Higginson pointed out, however, that that premise assumes that it's supplemental water only; that it's in-basin only; and that there is no M & I development.

Mr. Stauffer commented that a detailed study of the upper Bear River down to, and including, the Border gage had been done. Giving all lands above the gage at Border a full water supply of three acre-feet per acre would deplete the system by 35,000 acre-feet. If Bear Lake is run to its full limit of 21.55 feet of fluctuation, the total depletion above Bear Lake would be 40,000, on the average, before Bear Lake would be completely drawn down. This does not take into account water for power, but merely water for irrigation.

Mr. Jibson stated that "Keith says any additional use above Bear Lake that is not within the Compact is, essentially, in violation of rights in Bear Lake. Cal says that hydrology shows that we have water available. Keith, of course, is assuming non-consumptive as well as consumptive use, which is correct. Cal is thinking of consumptive use, primarily, because obviously any additional storage above Bear Lake beyond the Compact limits is a violation of non-consumptive use rights in Bear Lake. Norm's statement that we are speaking of irrigation use without regard to power rights, should be kept in mind here."

Mr. Lambert stated that he sat through most of the original Compact deliberations, and they found that there were only 35,500 acre-feet of storage water available above Bear Lake under any kind of concept. They felt that was a "darn good" estimate. Mr. Lambert said he was against abandoning that figure unless everybody observes what is being done. For example: if Idaho wants to build Caribou and neither Utah nor Wyoming are affected, then they could agree that Caribou should be built. Some other reservoir might be strictly adverse to the interests of our state, and they should be able to stop it. However, if blocks of water are allocated, control is lost. The state that receives that block of water can do what they please regardless of its affect on others. "If I were a Box Elder County user, I would want to have at least a chance to analyze every project that went on above there. Utah Power & Light may have changed their procedures, but has there been any more use of water in the Bear River system since the other Compact? No, there hasn't been anymore. What has really changed? except maybe what Utah Power & Light itself has changed. They have rights there. Now whether we agree with power, whether we agree with birds, or ducks, or mineral extraction, is immaterial. I think everything has got to be considered basically on its effect on any individual unit--not an effect of an additional block of water," Mr. Lambert stated.

In response to a question by Mr. Lawrence as to whether all of the water has to be allocated before anyone can go ahead with individual projects, Mr. Higginson said it would be his personal preference that there be an allotment to the states before any projects are built; that use of an interstate stream such as the Bear River is agreed upon and that there be an allotment to each state and that state determine its own destiny as to the use of its water.

Mr. Lawrence said the states have been trying for four years to develop such an allocation, and felt that they weren't getting off 'dead center.' He had interpreted the Idaho February 3 statement to say that Idaho felt such a procedure was impractical, and that Idaho was proposing a format where developments on a project-by-project basis could take place and allocations could be made for the projects as they were presented.

"I think there is a little paradox in the statements we are making here. We are saying that we don't want to wait for an ultimate basin plan; and yet I don't think we can arrive at block figures without some very specific details. I think that if we go the block-figure route, things will have to be spelled out quite detailed in amounts and locations and uses of the water," Mr. Funk commented.

Chairman Olsen asked Mr. Dayton his interpretation of the original Compact. The Chairman remembered that at that time they allocated in good faith what the Idaho people felt they could use. Now there is a change. Engineers have made surveys and arrived at consumptive use figures on all of the area within the basin for a full water supply for the lands affected, and it will require more water than was allocated. If the other states were willing to give Wyoming that water, and the depletion of the stream itself is a reasonably low amount, and the effect down river would not be serious, should not these developments to conserve additional water to give a full water right to the lands be permitted? Mr. Olsen asked.

Chairman Olsen mentioned the need to be fair to rights that are established and fair with each other.

Mr. Dayton thought every state would have to approach it with the attitude, what is fair? and what is just?

Mr. Peart made the comment that at the time Woodruff Narrows Dam was ready for consideration, the Compact had to be passed in order that it could be built. "And I think they got in a hurry and, like Reed says, we got shorted on the amount of storage in that area," he said.

Mr. Hedin questioned the three acre-feet per acre amount. In Cache Valley, he said, if they had two acre-feet per acre they had a good water right. However, Mr. Peart said, their three acre-feet per acre was available for one month. Cache Valley has two acre-feet per acre for the whole season.

Mr. Jibson stated that during the last three or four years of Compact negotiations he had served as Chairman of the Engineering Committee. The 36,500 acre-feet was not an exact figure of all the water that was available, or all the water that is needed, or, the fairest, most equitable amount of storage. "Idaho started out somewhere in the range of 20-25,000 acre-feet as a maximum upstream storage allowance they would permit. Wyoming and upper Utah started out with about 50,000 as what they would accept. So somewhere between the 20,000 that was offered, and the 50,000 that was asked--36,500, and actually 35,500 for the basin in Utah and Wyoming was a final negotiated figure. It was based a lot on negotiation; it was based somewhat on what our studies then showed to be a supplemental need of presently irrigated lands. It was not the limit of the water that was available, nor did we think so at the time as far as the amount of water that could be developed above Bear Lake without interfering with our direct flow irrigation rights below Bear Lake," Mr. Jibson said.

Mr. Dayton responded that it was the limit as far as the Compact was concerned at that time, and all they felt that they could grant.

In commenting on Mr. Hedin's inquiry of what constitutes a good water right, Mr. Dayton said that the land around the Cokeville area is a gravelly soil, and it takes much more water than do deep soils.

Mr. Jibson said further that the gravelly soil that takes out three acre-feet per acre in a matter of a month gets a return flow of from 60-70% in that period. The gravelly soil in the Smiths Fork area has a tremendous return flow, and the water is used in a relatively short time. It actually takes somewhere in the neighborhood of 3/4 acre-foot per acre in extremely high meadow land to produce a crop of meadow hay, and this would be considered consumptive use to produce the crop.

Mr. Funk asked how valuable the use of that water is for power generation.

Mr. Porter replied that it is worth quite a bit to them. Those plants would have to be replaced by steam, which is very expensive.

Mr. Lawrence extended Mr. Funk's question, and asked, "Isn't it a foregone conclusion that before we could do anything in the way of lifting the storage limitation above Bear Lake we would have to work out some way of compensating the Power Company, or changing their procedure in some way with their permission before we could do anything at all? Isn't that what Keith Higginson has said, that their power rights take the limit now, and if we develop we have to work something out with the Power Company?"

Mr. Porter said that is partly right. He felt another careful look at irrigation rights below Bear Lake was needed, with a consideration of what would be done with them during dry years. "You can't afford to go to the type of expense that Floyd (Bishop) is talking about if you are going to have no water every so often. I think there is an awful lot of preliminary negotiations with a lot of people that haven't even been considered yet. I think you need to start with the irrigators before you start with us. You will have lots of years when you are either going to have to prorate the Sugar Company canals, or West Cache, or any number of those irrigators in Cache County and in Franklin County if you are going to go to the expense of running an extensive reservoir above Bear Lake. You can't afford to do it," Mr. Porter concluded.

In response to a question from Mr. Olsen, Dr. Stauffer stated that "Total consumption is no water for power."

Mr. Olsen then asked Mr. Porter how long before Utah Power and Light would be out of business on the Bear River.

"Oh, another 50 years," Mr. Porter replied. There was a long period of time when there was no water released from Bear Lake for power. If the Lake is depleted another 35,000 acre-feet, how would the water be replaced to the irrigators down below? he asked. Mr. Porter said the Lake is fully subscribed to the irrigators below. They have direct flow rights, too; but the Lake is their guarantee that they will get a full water supply under the Compact and under the court decrees.

He said that during the last two years several hundred acre-feet of water for power alone had been drawn from the Lake as a cushion for summer stream flow.

Mr. Jibson stated that most of the release in the last four years has been for the purpose of bringing the Lake down, rather than generating power; although they did generate power with it. Out of the 35,500 acre-feet, he said, some 31,000 or 32,000 have been developed to date. The study that he had made for the Bear River Commission in 1968 showed a figure of between 18- and 20,000 acre-feet of that development as an annual depletion of Bear Lake. This is what the depletion, compared to the total storage, has been over this past 10 or 12 years.

"From what I gather listening to this discussion here of the 35,500 acre-feet, the way we are talking the lid is going to be taken off of this; and this is not my understanding. My understanding was that we were going to propose a project-by-project. Anything that was developed above Bear Lake would be on this basis. But in listening to this discussion I am beginning to believe that you are working on the assumption that we are going to lift this 35,500 and let 'the sky be the limit.' I certainly wouldn't go for that," Mr. Holmgren stated.

Mr. Funk responded that this was not an attempt for 'the sky to be the limit.' They wanted all three states involved to make sure that everyone's rights were protected, and that they developed as far as they reasonably could.

Mr. Bishop said Wyoming has several alternatives. They could 'spell out' a specific limit or they could go on project-by-project approval.

Historically, Mr. Bishoff said, there is roughly one million acre-feet of water running into Great Salt Lake annually. The Bureau of Reclamation study made for the period from 1927-1965 shows that this one million acre-feet has reduced to an average of 824,000 acre-feet annually; which accrues below Bear Lake and runs into Great Salt Lake unused consumptively. There are also 35,000 acre-feet of water that would be depleted above Bear Lake. In addition to that from 1927-1965 an additional amount of about 70,000 acre-feet spills or is used for power.

"This brings up the point of the Plymouth site and why we are so interested in it. Because of the immense capacity that we might build on the Plymouth site that would bring us some carry-over storage as a cushion against these years when we will be short. This would also supply rights now existing to Box Elder County that could be incorporated into the Plymouth site from Bear Lake if necessary," Chairman Olsen said.

Mr. Funk thought the three states agree that there is additional water which could be developed above Bear Lake; however, Mr. Porter apparently did not concur in this belief.

Mr. Porter asked how big a reservoir would have to be built to catch that 70,000 acre-feet of spill.

Mr. Funk felt the need for some agreement on how to go about storing water there. He asked if the technical sub-committee should spell out specific locations and specific amounts as a basis for negotiating with Utah Power & Light. He thought the three states seemed to be in agreement that there is storage water available, and it was just a matter of whether to store it or develop it by projects.

Mr. Thompson of the R.C.D. program said the Soil Conservation Service of both Utah and Idaho are in the process of working on the Type IV studies of the Upper Bear River Basin. They just completed a study of the Wind River in Northern Wyoming. RC & D has asked those SCS people to look into storage sites on the Upper Bear River. This study will go into quite a bit of detail as to amount of water that is produced in the upper Bear River; and probably downstream as well. This study should shed quite a bit of light on a possible water storage project as far as detail, size, and capacity are concerned.

Mr. Bishop asked Mr. Porter how much of the several hundred thousand acre-feet used for power generation in the last several years could have been stored in Bear Lake if there had been no recreation concerned.

Mr. Porter replied that it was not very much. They have tried to keep a minimum cushion of about 1/2 foot above absolute spill. There is a physical barrier that determines the elevation of spill. Last year for the first time in the memory of anybody in the Power Company, Mr. Porter said, they had to open the gates at Stewart and let some flow go down the practically non-existent stream channel.

Mr. Jibson commented that last year the Lake got up to 1,384,000 acre-feet and stayed up there for a number of days. The Lake has exceeded last year's elevation a number of times in earlier years and once in recent years. They consider the Lake full at the dike at 1,421,000 acre-feet.

Mr. Funk said Utah seemed to feel that there are rights in Bear Lake for storage use; and if recreation interests were to supersede these rights they would have to buy them out or make some other arrangements. He thought Wyoming shared this feeling. Of course, Utah Power & Light bears the brunt of protests in fluctuation. In the Malad proposal Idaho indicates that recreation problems should be anticipated with apparently some adjustment or preparation for it. Mr. Funk asked if Idaho could be more specific as to what she had in mind in anticipating recreation conflict.

Mr. Kunz had no solutions, but said it was something that had to be considered. Since recreational uses became so great on Bear Lake, there had never been the drawdown of the '30s. If there were a big drawdown now the recreationists would start screaming their heads off: legally they have no right; but they are there and must be accommodated in some way.

"You are talking about a multi-purpose project going through Congress without considering the recreationists? Let's not put our heads in the sand and ignore the recreationists. I recognize that they don't have a water right; but you aren't going to get a project through Congress without considering them. Let's be practical about it," Mr. Higginson advised. There are several uses of exchange water out of Plymouth. Storage could be used to supply the Sugar Company canal in Box Elder County, and in exchange water upstream from Bear Lake would be used for other purposes; perhaps to maintain Bear Lake; or maybe for development in Idaho and Utah.

Mr. Funk said Utah is suggesting that we get beyond 'maybes' to concrete steps; so that Wyoming, for example, could build a dam up there. "We want to get the road-blocks out of the way so that we can develop," he said.

Mr. Porter said that Mr. Kunz had brought out a good point. Following it just one more step, he suggested that if the Lake ever went much below elevation 5915, they could be faced with lawsuits from everybody around the Lake; and the Lake would be tied up in litigations until the elevation were again raised.

Mr. Olsen asked if the recreationists established a right through use. Mr. Schlender responded by saying that they have had the use of the water for a long time. They have no legal right to it; but they have an established right. Mr. Schlender did not think another dam would be built in Idaho for a long time, unless the recreationists felt they were going to be helped by it.

Chairman Olsen asked what was being done in the counties as to master planning and getting the water regulated. The thing has got 'out of hand,' he said, and wondered if in order for developments to proceed, recreationists would be allowed to come in and develop and pollute the Lake. "Rich County is right in the middle of this big hassle, and it's a big job for a little county to measure up to the responsibilities of a master plan wherein they can control this thing which is so depressing to them so far as management is concerned," he said.

Mr. Olsen thought that understanding and agreement should be reached among the three states in order to move forward together. He suggested that by moving together there would be a much better chance of conserving the water, building projects, and developing the River.



Mr. Schlender thought that there might be a way to get the recreation people to pay some of the development costs. These people cannot be ignored; and they could be invited to share in a project in order to insure protection to themselves on the Lake. "Give them a chance; then we can at least say that we considered them and they didn't want to go," Mr. Schlender suggested.

Mr. Porter commented that there is no possible way of guessing what is going to happen. These people could sue for any reason; and the way the courts have been going, they could probably win for the same reason.

"You mean we would have to guarantee that that Lake would be at a certain level so that these people can swim and boat, when they know that historically we can prove that that Lake has fluctuated as much as 20 feet? They came in with their eyes wide open and built these homes, knowing that that Lake has fluctuated 20 feet; and now at this late date we have to guarantee that that Lake has to stay at a certain height, jeopardizing all the crops and fields and municipalities below that Lake so that these people can swim and pollute the water? I don't believe it," Mr. Holmgren stated.

Mr. Porter said the negotiators have a good case; the environmentalists don't have any. "But that isn't the way these things have been decided lately; that is what worries me, and the rest of you, I think," he concluded.

Mr. Holmgren said he thinks the "worm is going to turn."

Mr. Peart responded that it isn't going to turn, if a definite stand is not taken now.

There was continued discussion concerning Bear Lake development and concerns.

Mr. Porter suggested that a little negotiation might be very helpful.

Chairman Olsen added that at least the negotiators know where "we" stand.

Mr. Jibson in commenting on people "coming in with their eyes wide open," said that in all the years that he had been on the River, there was only one occasion when a developer asked how much the Lake fluctuates.

Chairman Olsen stated the negotiators have a vast amount of territory and ground to tread upon in order to come up with something that will prove beneficial in the future. He felt there had been a lot of good contribution made to this meeting. "If there is any way that we can firm up an understanding or start to firm up one, I would be very happy to think that we hadn't wasted our time today in coming to the meeting," he said.

Mr. Teichert commented that developing water is something that requires cooperation among the three states.

As another item of concern, he mentioned the hearing to be held in Salt Lake tomorrow (April 18) regarding China Meadows in Wyoming. He said they felt that if they have to "back down" on this, it will probably be the end of the reclamation projects in the West. He thought it would be good if the Bear River Commission and others concerned could make a statement for that meeting.

Mr. Thompson of the Wyoming RC & D program suggested that as far as the hearing is concerned, the thing that would add the greatest strength, would be for the Commission as three states to sign a resolution in support of the China Meadows project.

However, Mr. Lawrence said that Governor Rampton would make a statement. Since Utah's members of the Tri-state Committee operate under the guidance of the Utah Board of Water Resources and the Governor, Mr. Lawrence felt it would be inappropriate for the Utah delegation of this Committee to make an independent statement knowing full well the Governor is going to make a statement for and in behalf of all the people who represent him. As the Director of the Division of Water Resources, he had already submitted a statement urging the Governor to speak favorably for China Meadows.

It seemed to Mr. Kunz that today's discussion covered things that must be resolved. "One clarification for Cal, here, we have said: 'It is apparent that agreement on division of water alone would not be sufficient,' but we haven't abandoned the division of water: we think it should be tied to proposals if possible for basin-wide development. In other words, we don't think either one is sufficient alone: we think they have got to go together," he added.

Mr. Funk hesitated to agree to a block division since developments "irregardless" may unfavorably affect another area. The proposal of project-by-project development would ultimately be more efficient and fair to everyone.

Mr. Jenkins said there would be a variation in what water would be available for anybody depending on how and where the water were used. He felt the need to have fairly well defined ideas of where and how the water would be used. "We have got to have a pretty common understanding that this is going to be available, but it is only available if this, and this, and this are done," he concluded.

Mr. Funk stressed the need for a starting point; and mentioned project-by-project development as the starting point.

Mr. Bishop stated that a combination of the two approaches might have some merit. Perhaps the initial block allocation could be done with an initial provision for additional storage in the upper part of the drainage, above Bear Lake; with a provision that the allocation could be extended on a project-by-project basis. He felt that without a specific allocation at the outset they would not get anywhere.

Mr. Funk suggested "that this specific allocation be your request for 10,000 acre-feet of storage, say, on Smiths Fork, or the West Fork of the Bear, or Yellow Creek; to be used at such and such a place. This first initial block should be given based on consideration of a specific project."

Mr. Bishop commented that the technical studies show that it doesn't make any difference where water is used above Bear Lake--there would still be about the same depletion. He could not see why a specific reservoir with a specific capacity in the area above Bear Lake would be preferred to an allocation.

The discussion continued at some length and considered pros and cons of the two approaches, including the need to ask for an appropriation or for clearance of a certain amount of water for a certain project; the need to consider projects individually as requests are received; the need--or lack of need--for modifying the Compact; the economics of a project, and the availability of funding; the need to consider feasibility and economics of proposed projects; and demands for release of water in dry years to cover depletions on the Lake.

Mr. Higginson pointed out that the present Compact does not require carry-over storage to supplement rights downstream. "If you are going to continue to expand storage upstream, I would hope there would be some limitation as to how much we are going to affect the Bear Lake water right; so that the State Engineers of each state, in allocating water and approving applications filed by some entity or individual for a project, will know how much water is available for appropriation.

Mr. Bishop felt that before the next meeting a more clear definition should be pursued of the rights on Bear Lake as far as Utah Power, the Sugar Company, and the irrigators are concerned. He felt he didn't really understand that.

Mr. Higginson suggested that Bob Porter would be in a position to discuss what these rights are because of the inter-fingering of the Dietrich Decree rights with the contract Utah Power holds with the Sugar Company. These are tied up in the history of the acquisition of that project; and there is a contract obligation under which the rights were acquired.

Mr. Bishop asked if Mr. Porter could separate out the irrigation rights from the power rights, and explain that in an understandable way.

Mr. Porter responded that he could try.

Chairman Olsen suggested that specific assignments should be made for discussion at the next meeting.

Mr. Bischoff said there are two flow rights that go into the Lake that are held by the Power Company; there is a reserve in the Compact, and there is a contract between the Sugar Company and the Power Company on Bear Lake. There are three entities that should be considered.

There are also the annual contracts with certain other companies, Mr. Higginson said.

Mr. Bischoff felt these, too, should be defined.

Mr. Jibson said he thought there were only two decreed rights in Bear Lake. The Dietrich Decree says the rights held by the Power Company can be used for irrigation 'or other beneficial use.' The other decreed right is a private contract between the Power Company and other individuals or companies.

"I think you are forgetting the beginning; and that is the right-of-way which the Power Company has with the Department of the Interior to bring the water from Bear Lake; and that establishes what the Lake is to be used for," Mr. Porter said.

Mr. Jibson responded that the Dietrich Decree spells out Utah Power & Light Company's right to store water in Bear Lake. It doesn't specify a delivery of water to the Sugar Company canals or anything of that nature.

Mr. Porter said the West Cache Canal is also covered by the Contract.

Mr. Jibson asked if that is a right in Bear Lake, or a direct flow right.

Mr. Porter responded that it is both. It is a guaranteed direct flow right.

Chairman Olsen expressed the need for some research on this matter. "If you will assume that responsibility, Bob, we would appreciate it; and make it a matter of the Agenda for our next meeting," he said.

Mr. Weston suggested that they ask Mr. Myers to come up with a proposed change in the Compact, get a proposal on the floor, see if they can negotiate it through after they get the Compact changed.

Mr. Holmgren asked Mr. Myers if Wyoming has stored all the water that has been allocated to them under the Compact.

Mr. Myers said on the upper River they have within 400 acre-feet; on Smiths Fork they have not. The Forest Service cut them down 400 feet on Whitney Reservoir because they said it wouldn't fill. He said they have a deficiency in the Taylor Flat area of 41% and in the Woodruff-Randolph area at around 30%. They have facts and figures that they could use that additional water.

Mr. Bishop said Wyoming has presented some figures regarding her needs for future use in the Wyoming area, and he would like to have a better feeling of what Utah's needs are in the upper River above Bear Lake.

As far as agriculture needs, these people feel they need as much water as Wyoming does, Mr. Olsen said.

Mr. Bishop asked if there had been any technical study to determine how much storage Utah needs to have a water supply in the upper area.

Mr. Olsen replied that there had not.

Dr. Stauffer said that the Utah State study is on the total Bear for Wyoming and Utah.

Mr. Funk suggested that a major item for the next meeting should be a factual report of the actual needs and possibilities above Bear Lake with the Power Company interests also taken into consideration.

Mr. Porter said that if the technical sub-committee would submit to him, sometime before the next meeting, what they propose to report, the Power Company would certainly look at it. He said if they were told when the sub-committee was going to meet, they would try to have someone in attendance.

Mr. Funk thought a third item for the next meeting might be Utah's No. 5 response to Idaho's proposal, which suggests that the Water Resources Boards of the two states give some direction to necessary development and possible development in East Cache. By East Cache he was assuming the valley, irrespective of state lines. He thought perhaps the next meeting should be called as soon as they were prepared to discuss these items rather than wait until the Commission meeting next fall.

Mr. Higginson needed more clarification as to what the technical sub-committee would be expected to come up with for a report of needs above Bear Lake. He asked whether this should cover only supplemental water needs on existing lands, potential for new irrigation lands, or M & I needs.

All three, Mr. Olsen said.

Mr. Robertson commented, "Since I would probably be working on this assignment, I would be interested in knowing what kind of constraints you would ask us to consider relative to Bear Lake fluctuations? Full range, some restricted range, or range under the present operation."

"I would suggest this word 'reasonable' that Idaho proposes be a consideration of the technical sub-committee. Such items as if you have to fluctuate the Lake a lot, or eliminate stream flow, or provide long-term storage carry over--anything that is not reasonable should be pointed out, because ultimately this would have an economic bearing and would enter into the feasibility of any development," Mr. Funk said.

Mr. Robertson responded that everyone has his own definition of what is 'reasonable.'

Mr. Bishop said he thought it was vitally important that the full range of fluctuation of Bear Lake be used as the primary approach. Following that an alternative using some reasonable level of fluctuation might be considered.

Mr. Robertson said, "The Lake has not been full for 50 years, do you call that full range, or the maximum of the last 30 years, or what? Do you want to consider planning for something which would involved Power Company operating problems for summer homes?"

Mr. Funk asked for some alternatives; and Mr. Olsen concurred in this request and suggested that they ask the Power Company to assist in any way possible to set up guidelines of study for the technical sub-committee.

Mr. Eldredge (Bureau of Reclamation) mentioned that the figures that Mr. Bischoff had presented were based on 'full range' and if that is not used the figures would be quite meaningless.

Mr. Porter felt that they could consider the full range, but they ought also to consider some alternatives.

Chairman Olsen recommended leaving it to the judgment of Utah Power & Light Company and the technical sub-committee to go as far as they felt necessary to present a picture that would be enlightening.

Mr. Kunz felt with the computer studies that Idaho's staff had done, they can give a graphic depiction of what the full range of drawdown would mean in development.

Chairman Olsen thought it would be well to discuss briefly the Cub River and the possibility of a project there.

Mr. Roberts had acted as temporary Chairman at a meeting held in Preston on March 30 which involved Utah and Idaho, and commented that in a 'nutshell' there is some needed water development along the East Cache front which would solve many of their problems. The Bureau of Reclamation made a study last year for the City of Preston. Estimates for a drainage job for the Town were \$600,000. They feel that the East Cache development might take care of some of these drainage problems, along with providing a firm water supply for all of their lands without interfering seriously with other water users. At the request of the Franklin County Water Users in 1969 when the Preston-Riverdale-Mink Creek group allowed their filings to go delinquent, the Bureau of Reclamation made a filing on the unconsumed flows of Cub River in Franklin County for a development of the East Cache segment to supply water for the Preston bench which would bring water to Smithfield, Utah, in the East Cache Canal. Dean Bischoff showed them another proposal with water coming down to Blacksmith Fork with a dam on the Blacksmith Fork; they would put a highline canal along the Provo level of Lake Bonneville and put the water in pipelines around East Cache

from Blacksmith Fork and around north of Preston, Idaho. "At first this sounds a little bit fantastic," he said, "but it would provide water for municipal, industrial, and agricultural use by gravity sprinkling. The Bureau of Reclamation holds a filing on Blacksmith Fork, at the request of the State of Utah, for some 35,000 acre-feet of water. This is a firm right. Franklin County Water Users have a similar amount on Cub River. This could tie together to serve the East Cache area from Blacksmith Fork. This canal would come around the USU campus on the Provo level at 5100 feet, go back north, and be siphoned across the canyon. There would be some pressure from 100 feet of elevation from the Blacksmith Fork Reservoir, and there may have to be some pumping stations. There could be water added from these mountain canyon streams into the pipeline. This was Dean Bischoff's proposal and is in the dream stage yet." Mr. Roberts said his group at the Preston meeting, made up of municipalities and agricultural users along the East Cache front, passed a resolution asking the Idaho Water Resources Board, the Utah Board of Water Resources, and the Bureau of Reclamation to make a feasibility study of this proposed project. It would have multi-benefits, including drainage along the whole front, municipal water by gravity pressure, industrial water by gravity pressure, and gravity sprinkling along the whole Cache front in east Cache Valley. "We would like to propose at this time that this group go on record asking Region 4 of the Bureau of Reclamation (and I'm sure this goes along with the two state water boards, because they have indicated that their resources might not be adequate at the present time to make such a feasibility study) if they would make this feasibility study in our behalf to see if this project has any merit," Mr. Roberts concluded.

Mr. Funk referred to Item 5 in Utah's statement, "Utah joins with Idaho in the suggestion that a project should be developed along the lines of the East Cache segment previously studied, and Utah further recommends that the staff of the Idaho Water Resources Board and the Utah Board of Water Resources join with the Bureau of Reclamation in developing a plan of study to determine the feasibility of a project." He asked for a response from the Idaho Resource Board. "Did we commit ourselves and request a formal study on this specific project from the Bureau? or do the staffs of the two states want to get together and make this request after some investigation of their own?" he asked.

Mr. Kunz responded that there was no one at this meeting who could commit the Idaho Resource Board to any study. They would have to go to the Board for any authority of this kind; and knowing the budgeting situation, he didn't know whether or not they could come up with cooperative funds for something like this.

Mr. Kunz agreed to the need for a study of this kind, although perhaps not of the magnitude being considered. He felt they would have to have a little more information, and that the staff should discuss it a little more before making a recommendation to the Board.

Mr. Funk said he was not asking for a commitment, but just an opinion of whether to make a formal request to the Bureau now or take it under advisement.

"I would not want to make a request at this time. I would want some advise from the staff before I requested this authority from the Board," Mr. Kunz answered.

Mr. Funk said he thought this is the way Utah feels. He suggested that the two state planners get together and 'carry the ball' from here.

Mr. Kunz thought the staffs of the two states should be involved a little before they make any recommendations to do anything else.

Mr. Lawrence surmized that if a request were made to the Bureau of Reclamation there would have to be a Congressional authorization for such a study.

Mr. Bischoff said they have \$50,000 to carry them through FY '73. They would have to ask for additional funds on the Bear River for '74. He thought this request would not have to be a new start but could be made in the form of extending that particular program on the Bear River studies.

Mr. Bischoff said there would have to be land classifications and water supply studies; and he anticipated about 1½ years to make the study depending on how detailed it was.

Mr. Funk suggested that they pursue this by telephone and have a continuing progress report without having a formal commitment at this meeting.

Mr. Bell expressed a desire to get the investigation going before the Bureau depletes its funds.

Mr. Bischoff said the Bureau is in the process of requesting funds for '74, and they would have to know fairly soon "if you are going to make a request that the Bureau make input."

Mr. Olsen suggested that this matter be referred to the technical sub-committee, and let them work out the details of making a formal request to the Bureau.

Mr. Lawrence responded that he would contact Dr. Lee, and he could go to the Idaho Board with some kind of scope of what the study would be. "I think we need more than just an open blank-check request to the Bureau. I think we need to be rather specific in our request. Let's face it--when they get money for this project, it is that much less for somewhere else in Idaho or Utah they they are getting money for. It works that way," he said.

After discussion, the next meeting of the Tri-state Negotiating Committee was scheduled for July 19 in Evanston, Wyoming, commencing at 9:30 a.m.

The meeting adjourned at 4:00 p.m.

TRI-STATE NEGOTIATING COMMITTEE  
BEAR RIVER  
\* \* \*  
UTAH'S RESPONSE  
TO  
IDAHO'S FEBRUARY 3RD PROPOSAL  
\* \* \*  
LOGAN, UTAH  
April 17, 1972

The Utah Committee has extensively considered the Idaho proposal for the use of Bear River water. That proposal expresses many ideas and attitudes of the Utah negotiators, and could well be the reference document for meaningful discussions leading to agreement between the three states.

In general the preamble paragraphs are consistent with Utah's viewpoints; however, there will need to be some discussion to clarify the exact meaning of some specific concepts presented.

Utah is herewith responding in a partial manner to the Idaho proposal with a hope that this response will generate candid, active discussion and lay the groundwork for further, more detailed dialogue on other items not considered herein. With this in mind, our preliminary reaction to the seven points of the Idaho proposal are listed below by number.

1. We conceive that the basinwide plan would be an umbrella of goals, general objectives, and guidelines--identifying some of the potential reservoirs and projects, but the initial basin plan would not be specific and detailed as to the total development which will take place. Utah feels strongly that a project-by-project approach can be undertaken within the framework of such basin plan. We anticipate that potential projects could be categorized as having extensive basinwide implications, medium basinwide implications, or very little basinwide implications; and



the expertise is now available to the states sufficient to delineate those projects which could move into the construction stage prior to the resolution of all of the major allocation problems.

2. Utah agrees that storage at the Plymouth site should be included in the plan. We are not prepared to comment at this time on the water levels and percents of depletion. Agreement on allocation between Utah and Idaho will undoubtedly be reached on the basis of depletion, but the project would probably have to be operated on a diversion basis equated to corresponding assumed depletions.

3. The manner in which exchange agreements would be incorporated in the Plymouth plan will be studied further by Utah and discussed at a later date.

4. Utah proposes that Article V of the Bear River Compact of 1958 be modified and the limit of 35,500 acre-feet of storage for Utah and Wyoming, and the 1,000 acre-feet of storage for Idaho, be lifted. We recommend that future storage be based on <sup>Project Proposals</sup> ~~water rights~~ within the states, and be subject to approval by the State Engineer and an appropriate Tri-State authority, possibly the Bear River Commission. Such storage would be compatible with the basinwide plan. Protections and assurances for the effected states should be the subject of more detailed discussion.

5. Utah joins with Idaho in the suggestion that a project should be developed along the lines of the East Cache segment previously studied by the Bureau of Reclamation; and Utah further recommends that the staffs of the Idaho Water Resources Board and the Utah Board of Water Resources join with the Bureau of Reclamation in developing a plan of study to determine the feasibility of a project.

6. Utah agrees with the Idaho proposal to include additional storage units downstream from Bear Lake as named, with the understanding

that the proposal is to have the technical staffs of Idaho, <sup>Wyoming</sup> and Utah work together in the analysis of these potential projects as a part of the framework basin plan, but detailed studies which would require substantial time can be a part of a long-range project-by-project development approach.

7. The Utah Committee is not prepared to commit extensive technical time in the study of recreational uses for Bear Lake. We take the position that Bear Lake is a storage reservoir and must be permitted to fluctuate its full limit within the existing water rights and Compact.

\* \* \*

We agree that there are other important environmental, economic, and social questions which will have to be considered; however, we submit that these include not only the concerns of the general public, but also the present users of the water--and especially, the fact that the present water users are already being forced to use water polluted by the public.