

**OPERATING INSTRUCTIONS FOR
ARTICLE IV.A.1.e
UPPER DIVISION TRANSFERS**

April 18, 1995

HISTORY OF REVISIONS

April 18, 1995 – Adopted



BEAR RIVER COMMISSION

OPERATING INSTRUCTIONS FOR ARTICLE IV.A.1.e. UPPER DIVISION TRANSFERS

April 18, 1995

I. INTRODUCTION

The Amended Bear River Compact makes provisions in Article IV.A.1.e. for the transfer of one section's allocation, under a water emergency, to another section within the Upper Division as follows:

"e. If for any reason the aggregate of all diversions in a river section of the Upper Division does not equal the allocation of water thereto, the unused portion of such allocation shall be available for use in the other river sections in the Upper Division in the following order: (1) In the other river section of the same State in which the unused allocation occurs; and (2) in the river sections of the other State. No permanent right of use shall be established by the distribution of water pursuant to this paragraph e."

Through practice it has become apparent to the Commission that at times, the transfer of allocation, under this provision of the Compact, can impair the physical ability of other sections to divert their primary allocation under a water emergency status. The "primary allocation" as termed herein, means that amount of the divertible flow which is allocated to each section under Article IV.A.1.a. prior to any changes or transfers. The Commission desires to adopt these procedures to provide direction to the Engineer-Manager for the equitable distribution and transfer under this provision of the Compact.

II. FINDINGS

It is the belief of the Commission that it is not in keeping with the intent of the Compact nor equitable to allow a transfer of allocation in the Upper Division under Article IV.A.1.e. if the effect thereof will be to impair the ability to divert under the primary allocation of another section. Therefore, when under a water emergency, a request for transfer is received from a State representative, the following will apply:

- A. The Engineer-Manager will review the request and determine whether the transfer could interfere with another section's ability to divert its primary allocation.
- B. If the Engineer-Manager determines, based upon water supply, diversions, and allocation that the requested transfer of allocation will not impair the ability to divert in other sections the primary allocation, he will approve the transfer.
- C. If the effect of the transfer will be to impair the ability to divert under the primary allocation in another section, the Engineer-Manager will consult with representative(s) from the affected State to determine if they will allow the transfer,
 1. if representative(s) from the affected State grant their approval, then the transfer will be allowed, but

2. if the representative(s) from the affected state do not grant their approval, then the transfer of allocation between sections in the Upper Division will be denied by the Engineer-Manager.
- D. The approval or denial of a transfer will remain as long as the hydrologic conditions support the original findings or until modified by a request by State representatives.