

**POSITION AND POLICY CONCERNING
NEW SIGNIFICANT WATER RIGHT FILINGS
AND DEVELOPMENT ON THE BEAR RIVER**

April 16, 2009

HISTORY OF REVISIONS

April 16, 2009 – Adopted



BEAR RIVER COMMISSION

POSITION AND POLICY CONCERNING NEW SIGNIFICANT WATER RIGHT FILINGS AND DEVELOPMENT ON THE BEAR RIVER

April 16, 2009

The Bear River Compact was, in part, created to protect the rights of the member States to use the water resources of the Bear River as described by the Compact. The Compact also was created to limit the use of the water resources in one State as necessary to protect the rights of the other States to the use of the Bear River. The Bear River Commission is to carry out the provisions of the Compact.

The Compact also provides a protection from actions that would adversely impact water right holders within the Bear River drainage regardless of State lines. The Compact provides that the administration of water rights will be performed by the respective State agency in each of the three member States. Article XI of the Compact states in part:

Applications for appropriation, for change of point of diversion, place and nature of use, and for 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, nor shall any such application be approved if the effect thereof will be an increase in the depletion of the flow of the Bear River and its tributaries beyond the limits authorized in each State in Articles IV, V and VI of this Compact.

The Commission finds that there is an increasing demand for the use of the waters of the Bear River. New water resource development might occur with the building of additional storage as provided for by the Compact. New development might also be accomplished by the changing or transferring of established rights to new uses. At other times new developments are being proposed by new appropriations. These anticipated water right actions may involve water rights and use only in one State or in one section of the river as defined by the Compact or the proposal may cross these administrative lines.

The Commission believes that full consideration of all issues, regardless of their administrative lines, can and should be given by the individual State water right administering agency. The Commission finds that there is a strong spirit of cooperation between the States with a promise to abide by the provisions of the Compact. The Commission believes that water right holders in one State with concerns with proposals in another State should be given full consideration by the State where the administrative action is to occur. Therefore, it is the position of the Commission that it will not become formally involved in any of the States' administrative actions unless invited by the

administrative agency. Examples of actions the Commission does not intend to take would be the adoption of formal positions on proposed water right actions or developments, the filing of a protest or a letter of support in any State administrative action or publicly declaring support or opposition.

The Commission believes that it has three roles to play concerning water right filings on the Bear River, namely:

1) the Commission should provide to its members information in a timely manner concerning proposals that may have interest or potential impacts to the management and use of the waters of the Bear River system. To accomplish this, the Commission requests its member Commissioners to provide appropriate information for applications of interest that have a potential Compact tie or component to the Engineer-Manager and instructs its Engineer-Manager to pass on appropriate information and to facilitate its dissemination. The Commission intends, as has been the case in the past, to use Commission meetings also as an opportunity to disseminate information,

2) the Commission also believes that it has a responsibility to make certain that new water right changes, transfers and appropriations can be properly administered when there is a crossing of administrative lines and that further the Commission must ensure that provisions of the Compact can be adhered to through proper future administration. To ensure this, the Commission instructs its Technical Advisory Committee to be vigilant with respect to these administrative issues and to report to the Commission its findings, and

3) the Commission believes that it must always be vigilant to make certain that the aspects of the Compact agreed to by the States and the federal government are honored. Hence, actions by State administrating agencies can and will be discussed by the Commission if issues concerning adherence to the Compact are raised.