

BEAR RIVER COMMISSION

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REVISED TENTATIVE DRAFT

of

BEAR RIVER COMPACT

(Original Draft dated March 31, 1948 revised to include revisions dated July 29, 1948 and other suggested revisions presented at the December 13, 14, 1948 meeting at Preston, Idaho).

Prepared for

BEAR RIVER COMPACT COMMISSION

By

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Jan. 16, 1950

ARTICLE I

- A. Where the name of a State is used in this Compact, as a party thereto, it shall be construed to include the individuals, corporations, partnerships, associations, districts, administrative departments, bureaus, political subdivisions, agencies, persons, permittees, appropriators, and all others using, claiming, or in any manner asserting any right to the use of the waters of the Bear River System under the authority of said State.
- B. Any individual, corporation, partnership, association, district, administrative department, bureau, political subdivision, agency, person, permittee, or appropriator authorized by or under the laws of a signatory State, and all others using, claiming, or in any manner asserting any right to the use of the waters of Bear River System under the authority of said State, shall be subject to the terms of this Compact. Where the singular is used in this Article, it shall be construed to include the plural.

ARTICLE II

As used in this Compact, the following names, terms and expressions are described, defined, applied and taken to mean as in this Article set forth:

- A. The State of Idaho, the State of Utah, and the State of Wyoming are hereinafter designated as "Idaho," "Utah," and "Wyoming," respectively.
- B. The terms "Commission" and "Bear River Compact Commission" mean the agency created as provided herein for the administration of this Compact.
- C. The term "Bear River Basin" means the territory drained by the Bear River and its tributaries in Idaho, Utah, and Wyoming above the Cutler Dam.
- D. The term "Bear River System" means the Bear River and all its tributaries including springs and swamps, from their sources to the Cutler Dam.
- E. The term "Bear River Main Stem" means the channel or channels of Bear River, exclusive of tributaries between the mouth of West Fork of Bear River and Cutler Dam.

- F. The term "Tributary" means any stream which in a natural state contributes to the flow of the Bear River, including interstate tributaries and tributaries thereof.
- G. "Smiths Fork" a tributary to Bear River which rises in Lincoln County, Wyoming and flows in a general southerly direction to its confluence in a group of channels with Bear River near Cokeville, Wyoming.
- H. The term "Smiths Fork Main Stem" means the channel or channels of Smiths Fork between the mouth of Hobble Creek and the confluence of Smiths Fork with Bear River; exclusive of all tributaries, except Bruner Creek and Pine Creek Springs, which rise in the West half of Section 32, Township 25 North, Range 118 West, Sixth Principal Meridian both of which flow in a generally westerly direction into Smiths Fork, and Spring Creek which rises in the East Half of Section 2, Township 24 North, Range 119 West, Sixth Principal Meridian, and flows in a generally westerly direction into Smiths Fork.
- I. The term "Interstate Tributaries" means the following:
1. "Mill Creek" which rises in Summitt County, Utah and flows in a general northwesterly direction across the Utah-Wyoming State line to its confluence with Bear River in Section 23, Township 13 North, Range 120 West, Sixth Principal Meridian.
 2. "Yellow Creek" which rises in Summitt County, Utah and flows in a general northerly direction crossing the common boundary between Utah and Wyoming three times above its confluence with Bear River in Section 12, Township 15 North, Range 121 West, Sixth Principal Meridian.
 3. "Thomas Fork" which rises in Lincoln County, Wyoming and flows in a general westerly direction to where it crosses the Wyoming-Idaho State line near Geneva, Idaho then in a southerly direction to its confluence with Bear River in Section 10, Township 14 South, Range 46 East, Boise Meridian.

4. "Raymond Creek" a tributary to Thomas Fork and which crosses the Wyoming-Idaho State line near Raymond, Idaho.
5. "Cub River" which rises in Franklin County, Idaho and flows in a general southwesterly direction across the Idaho-Utah State line to its confluence with Bear River in Section 6, Township 13 North, Range 1 East, Salt Lake Base and Meridian.
6. "Worm Creek" a tributary to Cub River which rises in Franklin County, Idaho and flows in a general southerly direction across the Idaho-Utah State line to its confluence with Cub River north of Lewiston, Utah.
- J. The term "Utah-Wyoming State line above Evanston" is the common boundary line between Utah and Wyoming south of Evanston, Wyoming.
- K. The term "Wyoming-Utah State line near Woodruff" is the common boundary line between Wyoming and Utah east of Woodruff, Utah.
- L. The term "Utah-Wyoming State line near Randolph" is the common boundary line between Utah and Wyoming east of Randolph, Utah.
- M. The term "Wyoming-Idaho State line" is the common boundary line between Wyoming and Idaho near Border, Wyoming.
- N. The term "Idaho-Utah State line" is the common boundary line between Idaho and Utah south of Preston, Idaho.
- O. The term "Mouth of Smiths Fork" is taken for the purposes of this Compact to mean the confluence of the Collett Creek branch of Smiths Fork with Bear River south of Cokeville, Wyoming.
- P. The term "Stewart Dam" means the diversion dam on Bear River in section 34, Township 13 South, Range 44 East, Boise Meridian, at head of intake canal to Mud and Bear Lakes.
- Q. The term "Rainbow Canal" means the intake canal to Mud and Bear Lakes with point of diversion at the Stewart Dam.

- R. The term "Dingle Inlet" means the conveyance canal between the Dingle Irrigation Company Canal and the Rainbow Canal by which water is at times diverted from Bear River into the Rainbow Canal below its headgates.
- S. The term "Cutler Dam (Wheelon Dam)" means the dam across Bear River in the Narrows between Cache Valley and the Salt Lake Basin.
- T. The term "Upper Wyoming Section" means that area in Uinta County, Wyoming, irrigated from Bear River, but excluding lands under the Bear River Canal and Francis Lee Canal, and including area in Rich County, Utah irrigated from the Chapman Canal.
- U. The term "Middle Wyoming Section" means that area above the mouth of Smiths Fork in Lincoln County, Wyoming, irrigated from Bear River, but excluding lands under the Beckwith Quinn West Side Canal.
- V. The term "Lower Wyoming Section" means that area in Lincoln County, Wyoming, irrigated from Smiths Fork Main Stem and Bear River below mouth of Smiths Fork, and including lands under the Cook Canal in Idaho.
- W. The term "Upper Utah Section" means the areas in Summit County, Utah, irrigated from Bear River and its tributaries, except Mill Creek and Yellow Creek.
- X. The term "Middle Utah Section" means the areas in Rich County, Utah, irrigated from Bear River; including areas under the Bear River Canal and Francis Lee Canal in Uinta County, Wyoming; and including area in Lincoln County, Wyoming under the Beckwith Quinn West Side Canal, but excluding area under Chapman Canal in Rich County, Utah.
- Y. The term "Lower Utah Section" means the areas in Cache and Box Elder Counties, Utah, irrigated by canals from Bear River whose points of diversion are at or above the Cutler Dam, except the lands served by the West Cache Canal and Cub River Pump Canal.
- Z. The term "Upper Idaho Section" means the area in Bear Lake County, Idaho, irrigated by canals from Bear River whose points of diversion are at or

above the Stewart Dam, but excluding lands under the Cook Canal and excluding the Rainbow Canal.

- AA. The term "Lower Idaho Section" means the areas in Idaho, irrigated by canals from Bear River diverting below the Stewart Dam and above the Idaho-Utah State line, and includes the areas in Cache County, Utah, served by the Cache Canal and Cub River Pump Canal and including Rainbow Canal and Dingle Inlet.
- BB. The "Hilliard East Fork Canal" is that irrigation canal which diverts water from the right bank of the East Fork Bear River in Summitt County, Utah, in the southeast quarter Section 16, Township 2 North, Range 10 East, Salt Lake Meridian, and runs in a northerly direction crossing the Utah-Wyoming State line above Evanston, Wyoming, into the southwest quarter, Section 21, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming.
- CC. The "Lannon Canal" is that irrigation canal which diverts water from the right bank of Bear River in Summitt County, Utah, East 1,480 feet from West quarter corner Section 19, Township 3 North, Range 10 East, Salt Lake Base Meridian and runs in a northerly direction crossing the Utah-Wyoming State line above Evanston into the south half, Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming.
- DD. The "Hilliard West Side Canal" is that irrigation canal which diverts water from the right bank of Bear River in Summitt County, Utah, near the northwest corner Section 18, Township 3 North, Range 10 East, Salt Lake Base and Meridian and runs in a northerly direction crossing the Utah-Wyoming State line above Evanston into the south half, Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming.
- EE. The "Francis Lee Canal" is that irrigation canal which diverts water from the left bank of Bear River in Uinta County, Wyoming, near the northeast corner Section 30, Township 18 North, Range 120 West, Sixth Principal

Meridian and flows in a westerly direction across the Wyoming-Utah State Line near Woodruff, into Section 16, Township 9 North, Range 8 East, Salt Lake Base and Meridian, Utah.

- FF. The "Bear River Canal" is that irrigation canal which diverts water from the right bank of Bear River in Uinta County, Wyoming near the southeast corner of Section 19, Township 18 North, Range 120 West, Sixth Principal Meridian and runs in a westerly direction crossing the Utah-Wyoming State line near Woodruff into Section 9, Township 9 North, Range 8 East, Salt Lake Base and Meridian, Utah.
- GG. The "Chapman Canal" is that irrigation canal which diverts water from the left bank of Bear River in Uinta County, Wyoming, near the northeast corner Section 36, Township 16 North, Range 121 West, Sixth Principal Meridian, and runs in a northerly direction crossing over the low divide into the Saleratus basin drainage near the southeast corner Section 36, Township 17 North, Range 121 West, Sixth Principal Meridian and then in a general westerly direction crossing the Wyoming-Utah State line near Woodruff. The point of determination of flow for delivery to Utah shall be at the U.S.G.S gaging station, located immediately below the last diversion to Wyoming lands and above the first diversion to Utah lands.
- HH. The "Neponset Reservoir" is that reservoir having a nominal capacity of six thousand (6,000) acre-feet, located principally in Sections 34 and 35, Township 9 North, Range 7 East, Salt Lake Base and Meridian, Utah.
- II. The "Beckwith Quinn West Side Canal" is that irrigation canal which diverts water from the left bank of Bear River in Rich County, Utah near the northwest corner Section 7, Township 11 North, Range 8 East, Salt Lake Base and Meridian and runs in a northerly direction crossing the Utah-Wyoming State line near Randolph into Section 28, Township 22 North, Range 120 West, Sixth Principal Meridian, Wyoming.

- JJ. The "Cook Canal" is that irrigation canal which diverts water from the left bank of Bear River in Lincoln County, Wyoming, near the northwest corner Section 7, Township 25 North, Range 119 West, Sixth Principal Meridian, and runs in a westerly direction crossing the Wyoming-Idaho State line in several laterals into Sections 23 and 26, Township 14 South, Range 46 East, Boise Meridian, Idaho.
- KK. The "West Cache Canal" is that irrigation canal which diverts water from the right bank of Bear River in Franklin County, Idaho near the southwest corner Section 25, Township 14 South, Range 39 East, Boise Meridian and runs in a southerly direction crossing the Idaho-Utah State line into Section 34, Township 15 North, Range 1 West, Salt Lake Base and Meridian, Utah.
- LL. The "Cub River Pump Canal" is that irrigation canal which diverts water from the left bank of Bear River in Franklin County near the southeast corner Section 20, Township 16 South, Range 39 East, Boise Meridian and runs in a southeasterly direction crossing the Idaho-Utah State line in several laterals into Township 15 North, Ranges 1 and 2 East, Salt Lake Base and Meridian, Utah.
- MM. The "Wright Transmountain Canal" is that canal which diverts water from the left bank of Deer Creek, a tributary to West Fork Bear River, in Summitt County, Utah in the Northwest Quarter Section 29, Township 2 North, Range 9 East, Salt Lake Base and Meridian, and runs in a northeasterly direction and empties into Yellow Creek in the Northwest Quarter Section 9, Township 2 North, Range 9 East, Salt Lake Base and Meridian.
- NN. The "Hovarka East Fork Canal" is that irrigation canal which diverts water from the right bank of East Fork Bear River in Summitt County, Utah in the Southeast Quarter Section 16, Township 2 North, Range 10 East, Salt Lake Base and Meridian and runs in a general northerly direction to lands bordering Mill Creek."

- OO. The term "natural flow" means the usual and ordinary flows in the natural watercourse and includes floodwaters and such return flows as enter the natural watercourse but excludes storage waters.
- PP. The term "divertible natural flow" means the quantity of natural flow water that could be diverted from the stream above a designated point of measurement during a specified period of time. It is comprised of three elements; (a) the total net inflow to storage; (b) the total diversions; and (c) the remaining flow in the stream at the designated point of measurement for which the divertible natural flow is being determined. It is computed as follows:
- The algebraic sum of:
1. The quantity of water (in acre-feet) that flowed into reservoirs situated above the point of measurement during the specified period of time; less the outflow and diversions made directly from reservoirs (in acre-feet) during the same period; plus
 2. The quantity of water (in acre-feet) that was diverted from the stream above the point of measurement (including diversions made directly from reservoirs) during the specified period of time; plus
 3. The quantity of water in the stream (in acre-feet) that flowed past the point of measurement for which divertible flows are being determined during the specified period of time.
- QQ. The term "mean daily divertible natural flow" means the average divertible natural flow occurring during a 24-hour period, beginning at 12:00 midnight.
- RR. The term "Irrigation Season" normally means that period in each calendar year between May 1 and September 30; however, if unusual and abnormal conditions should occur, then the period may be changed in that calendar year by unanimous agreement of the Compact Commission.

- SS. The term "Non-Irrigation Season" means that period of time extending from October 1 of one year to April 30 of the following year inclusive, unless due to abnormal conditions the period is changed by unanimous agreement of the Compact Commission.
- TT. The term "Point of Diversion" means the point or place at which water is taken or removed from the channel of the Bear River or from any tributary thereof.
- UU. The terms "Divert" and "Diversion" mean the taking or removing of water from the Bear River or any tributary thereof when the water so taken or removed is not returned directly into the channel of the Bear River or of the tributary from which it is taken.

ARTICLE III

- A. This Compact is entered into by each signatory State in the exercise of its sovereign powers for a governmental purpose, and its provisions shall be administered by a Commission, composed of one representative from each signatory State, to be known as the Bear River Compact Commission. The State representatives on this Commission shall be selected in such manner as each signatory State shall elect. The President of the United States shall be requested by the Commission to designate a representative of the United States to sit with such Commission, and such representative of the United States, if designated by the President, shall, when present, act as Chairman of the Commission without vote.
- B. The salaries and necessary expense of each State representative shall be paid by the respective State; all other expenses incident to the administration of this Compact not borne by the United States shall be allocated to and borne equally by each of the three States.
- C. In addition to other powers and duties herein conferred upon the Commission and the members thereof, the jurisdiction of the Commission shall include the collection, correlation, and presentation of factual data, the maintenance of records having a bearing upon the administration of this Compact, and, by unanimous action, the making of recommendations to the respective States upon matters connected with the administration of this Compact. In connection with the performance of its duties hereunder, the Commission may employ such services and make such expenditures as may be reasonably necessary, within the limit of funds provided for that purpose by the respective States. The Commission shall compile a report for each year ending September 30th, and shall transmit it to the Governors of the signatory States on or before December 31st following the year

covered by the report.

- D. The Director, United States Geological Survey, the Commissioner of the United States Bureau of Reclamation; the Chairman, Federal Power Commission; and other comparable officers of whatever Federal agencies may succeed to the functions and duties of these agencies, and such other Federal officers and officers of appropriate agencies of the signatory States having services or data useful or necessary to the Compact Commission, shall cooperate, *ex officio*, with the Commission in the execution of its duty in the collection, correlation, and publication of records and data necessary for the proper administration of the Compact; and these officers may perform such other services related to the Compact as may be mutually agreed on with the Commission.

The Commission shall have power to formulate rules of procedure, rules, and regulations, and to perform any and all acts it may find necessary to carry out the provisions of this Compact, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations. All rules of procedure, rules, and regulations of the Commission shall be filed in the office of the State Engineer of each signatory State and shall be kept in convenient form for public inspection and examination during reasonable business hours.

The Commission herein authorized shall have power to sue and be sued in official capacity in any Federal Court of the signatory States, and to accept and use an official seal which shall be judicially noticed.

ARTICLE IV

The Commission shall itself, or in cooperation, or in conjunction with an appropriate Federal, State or other responsible agency, cause to be maintained and operated a stream gaging station equipped with an automatic water stage recorder on each of the following streams and canals at the places indicated to wit:

- A. Bear River at or near the Utah-Wyoming State Line above Evanston, Wyoming
- B. Hilliard East Fork Canal at or near point of diversion.
- C. Lannon Canal at or near point of diversion.
- D. Bear River in Woodruff Narrows near Wyoming-Utah State Line near Woodruff, Utah.
- E. Chapman Canal below last Wyoming diversion and above first Utah diversion near Wyoming-Utah State line.
- F. Bear River at or near Utah-Wyoming line near Randolph, Utah.
- G. Bear River above Sublette Creek near Cokeville, Wyoming.
- H. Smiths Fork above diversions.
- I. Bear River at or near Wyoming-Idaho State Line near Border, Wyoming.
- J. Bear River below Stewart Dam.
- K. Rainbow Canal below point of diversion.
- L. Dingle Inlet above confluence with Rainbow Canal.
- M. Outlet Canal below control gates.
- N. Thomas Fork above confluence with Bear River.
- O. Bear River near Alexander, Idaho.
- P. Bear River at or near Idaho-Utah State Line near Preston, Idaho.
- Q. Bear River below Cutler Dam.

In addition, such other gaging stations as the Commission finds necessary in connection with its duties. Such gaging stations shall be equipped, maintained and operated in such manner as to produce reliable records at all times.

If at any time it should be the unanimous finding and determination of the Commission that because of changed physical conditions, or for any other reason, reliable records are not obtainable or cannot be obtained, at any of the streamgaging stations herein referred to, such stations may, with the unanimous approval of the Commission, be abandoned, and with such approval another station, or other stations, shall be established and new measurements shall be substituted which, in the unanimous opinion of the Commission, will produce substantially the same results, sofar as the rights and obligations to deliver water are concerned, as would have existed if such substitution of stations and measurements had not been so made.

ARTICLE V

A. The States of Idaho, Utah, and Wyoming agree that the waters of Bear River Main Stem, Smiths Fork Main Stem and tributaries upstream from the Utah-Wyoming State line above Evanston shall be apportioned among States as follows:

1. Bear River and tributaries upstream from Utah-Wyoming State line.

a. The State of Utah shall have the right to divert for beneficial use exclusive of diversions to storage during the irrigation season in the Upper Utah Section, in addition to water for domestic uses including watering stock and culinary purposes which uses shall be limited to reasonable amounts, not to exceed 4.00 cubic feet per second into the Wright Transmountain Canal; and in addition, not to exceed 6.5 cubic feet per second into the Hovarka East Fork Canal, from the beginning of the irrigation season until, following the high water period, the flow at the Bear River near Utah-Wyoming State line gaging station decreases to 650 cubic feet per second, at which time the diversion shall be decreased to not to exceed 4.34 cubic feet per second, which flow may continue until the flow at the above named gaging station decreases below 400 cubic feet per second; at which time, the canal shall be shut dry for the balance of the irrigation season. All natural flow in excess of that specified above and that necessary for domestic purposes shall be allowed to flow from Utah to Wyoming through the natural water courses or through canals crossing the Utah-Wyoming State line above Evanston and serving lands in Wyoming."

2. Bear River Main Stem upstream from mouth of Smiths Fork.

a. Each day during the irrigation season of each year, the mean daily

divertible natural flow of the Bear River Main Stem, including canals crossing the Utah-Wyoming State Line above Evanston, determined at the first Bear River diversion above Sublette Creek near Cokeville gaging station, shall be divided between Utah and Wyoming for beneficial use, exclusive of diversions to storage except as hereinafter provided, and apportioned among the Upper Wyoming, Middle Utah, and Middle Wyoming sections according to the following schedule, except that when the divertible flow determined at the Utah-Wyoming State line above Evanston, is less than 50 cubic feet per second, each section may divert all divertible natural flows in its respective reach of the river.

Total Daily Divertible Natural Flow	Upper Wyoming Section	Middle Utah Section	Middle Wyoming Section
Acre-feet Daily	Acre-feet Daily	Acre-feet Daily	Acre-feet Daily
0	0	0	0
380	190	190	available flow
480	190	190	100
690	250	250	190
920	300	300	320
3,340	1,500	1,500	340
4,600	2,060	2,060	480

Note: Intermediate quantities shall be computed by proportional parts.

Further, the maximum total diversions of natural flow for beneficial use, exclusive of diversions to storage except as hereinafter provided, shall not exceed 2,060 acre-feet daily in the Upper Wyoming Section, 2,060 acre-feet daily in the Middle Utah Section, and 480 acre-feet daily in the Middle Wyoming Section.

However, either section may temporarily divert for its beneficial use, exclusive of diversions to storage except as hereinafter provided, but not to exceed its maximum allocation, any unused part of the above flow allotted to another, but no continuing right to such unused flow shall be established thereby; provided further, that any unused part of the flow allotted to the Middle Wyoming Section shall, insofar as possible, be divided equally between the Middle Utah Section and Upper Wyoming Section.

Further, all waters in Hilliard East Fork, Lannon, and Hilliard West Side canals, and any future interstate canal or canals crossing the Utah-Wyoming State line above Evanston and serving lands in Wyoming shall be derived from the allocations of the Upper Wyoming Section.

Further, all waters in the Francis Lee and Bear River canals, and any future interstate canal or canals crossing the Wyoming-Utah State line near Randolph and serving lands in Utah, shall be derived from the allocations of the Middle Utah Section.

Further, all waters in the Chapman Canal, part of which cross the Wyoming-Utah State line shall be derived from the allocations of the Upper Wyoming Section.

3. Smiths Fork Main Stem and Bear River Main Stem between a point immediately above the mouth of Smiths Fork and Stewart Dam.
 - a. Each day during the irrigation season of each year, the mean daily divertible natural flow of Smiths Fork Main Stem and Bear River Main Stem determined immediately below Stewart Dam and including flows into Rainbow Canal and Dingle Inlet, shall be divided between the Lower Wyoming Section and Upper Idaho Section for beneficial

use, exclusive of diversions to storage, according to the following schedule, except that the Lower Wyoming Section may divert during the irrigation season unused water, if any, up to 380 acre-feet daily, provided such unused water otherwise would pass Stewart Dam or flow into the Rainbow Canal, either at head or through the Dingle Inlet.

Total Mean Daily Divertible Natural Flow	Lower Wyoming Section	Upper Idaho Section
Acre-feet Daily	Acre-feet Daily	Acre-feet Daily
0	0	0
730	145	585
930	150	780
1,120	220	900
1,510	610	900
2,160	870	1,290

Note: Intermediate quantities shall be computed by proportional parts.

Further, the maximum total diversions of natural flow for beneficial use, exclusive of diversions to storage, shall not exceed 870 acre-feet daily in the Lower Wyoming Section and 1,290 acre-feet daily in the Upper Idaho Section.

However, either section may temporarily divert for its beneficial use, exclusive of diversions to storage, but not to exceed its maximum allocation, any unused part of the above flow allotted to the other whenever the combined flow past Stewart Dam and into the Rainbow Canal are greater than 600 acre-feet daily, but no continuing right to such unused flow shall be established thereby.

Further, all waters in the Cook Canal, part of which cross the Wyoming-Idaho State line shall be derived from the allocations to the Lower Wyoming Section.

4. Bear River Main Stem from Stewart Dam and head gates of Rainbow Canal to Cutler Dam.
 - a. The divertible natural flow of the Bear River Main Stem in the Lower Idaho Section and Lower Utah Section necessary to fill rights existing prior to the signing of the Compact, shall be administered on the basis of an interstate priority schedule prepared by the Commission in conformity with priority dates and rights established by the laws of the respective States.
5. Each State shall have the right, during the non-irrigation season, to divert and use, through irrigation ditches, for general domestic uses, including watering stock and culinary purposes, such of the waters of the Bear River Main Stem, Smiths Fork Main Stem, and tributaries upstream from the Utah-Wyoming State Line above Evanston, as are available and necessary for such domestic purposes.
6. All water in the main stem of the river upstream from Stewart Dam excluding the Rainbow Canal and including the main stem of Smiths Fork and in tributaries upstream from the Utah-Wyoming State line above Evanston in excess of that necessary for domestic uses, shall be allowed to flow down the natural water course, during the non-irrigation season.
7. Waters in interstate canals except the Chapman Canal shall be administered without regard to State lines by the State from whose allocations said waters are derived. The priorities of said canals shall be determined by the Commission on the basis of actual priority of right of use. The amount of the right shall be determined

by the administering State and approved by the Commission, in conformity with water requirements of similar lands in the same area.

8. Waters in the Chapman Canal shall be administered by Wyoming without regard to the State line. Said waters shall be derived from the allocations of the Upper Wyoming Section. The Commission shall determine the natural flow rights for irrigation and storage during the irrigation season and non-irrigation season on the basis of actual priority of right of use, past storage practice, and water requirements of lands irrigated.
- B. It is recognized that variable climatic conditions, stream flow regulation, and other causes will produce diurnal and other unavoidable variations and fluctuations in the flows available to fill allocations, and it is agreed that in the performance of provisions of part "A" of this Article minor compensating irregularities and fluctuations in the flow shall be permitted; but where any deficiency of the mean daily flow in any section may be occasioned by neglect, error, or failure in the performance of the duty of the upstream State water officials having charge of the administration of the diversions from the stream, each deficiency shall be made up within the next succeeding period of 72 hours by delivery of additional flow over and above the amount allotted, sufficient to compensate for such deficiency.
- C. The States of Idaho, Utah, and Wyoming agree that the waters of the interstate tributaries of Bear River, except for domestic water, as provided in Article VI, paragraph B shall be divided as follows:
 1.
 - a. The natural flow of the interstate tributaries during the irrigation season, shall be administered without regard to State lines on the basis of interstate priority schedules to be prepared by the States affected and approved by the Commission in

conformity with the actual priority of right of use, the water requirements of the land irrigated and acreage irrigated in connection therewith.

(or)

1.
 - a. The natural flow of the interstate tributaries during the irrigation season, shall be administered on the basis of interstate priority schedules prepared by the Commission in conformity with priority dates established by the laws of the respective States.
 2. Each State shall have the right, during the non-irrigation season, to divert and use, through irrigation ditches, for general domestic uses, including watering stock and culinary purposes, such of the waters of the interstate tributaries as are available and necessary for such domestic purposes.
 3. All waters of interstate tributaries in excess of water necessary for domestic uses, shall be allowed to flow down the natural water courses during the non-irrigation season.
- D. The Commission may adopt some other suitable method other than the divertible flow method for determining each States portion during periods of regulation. However, any method adopted shall, within reasonable limits, result in substantially the same apportionment as set forth in this Article.

have the power to make findings and determine the equity of said projects.

ARTICLE VI

- A. Present vested rights within each State and between States relating to the beneficial use of the waters of the Bear River Main Stem, Smiths Fork Main Stem, and tributaries upstream from the Utah-Wyoming State line above Evanston, except as specifically set forth herein, are recognized by this Compact. All rights to the beneficial use of the waters of the Bear River Main Stem, Smiths Fork Main Stem and tributaries upstream from the Utah-Wyoming State line above Evanston heretofore established, except as herein limited or specifically defined, and hereafter established under the laws of any signatory State, shall be satisfied solely from the proportion of the water allotted to that State as provided in Article V - Section A.
- B. Present vested rights on all tributaries in the Bear River System within each State and between States relating to the beneficial use of the waters of the tributaries are recognized by this Compact and except for the waters of Smiths Fork Main Stem and tributaries above the Utah-Wyoming State line above Evanston are not included in the allocations as provided in Article V Section A. Any signatory State is hereafter prohibited from granting and/or establishing under its laws, except for domestic uses including watering stock and culinary purposes, any right or usage of water on any tributary stream which shall result in a material decrease of the water available for Main Stem diversions. The domestic uses shall be limited to reasonable amounts.
- C. Water use projects in the Bear River Basin initiated after the signing of this Compact, shall permit the maximum possible use in the most feasible manner of unappropriated waters existing at the time of the signing of this Compact and waters made available through change in use, without regard to State lines. Such projects must be approved by the Commission, and the Commission shall have the power to make findings and determine the equity of said projects.

ARTICLE VII

A lower signatory State shall have the right, by compliance with the laws of an upper signatory State, to construct or participate in the construction and use of any dam, storage reservoir, or diversion works in such upper State for the purpose of storing unappropriated water and or water made available through change in use, provided that such right is subject to the rights of the upper State; and, provided further, that should an upper State elect, it may share in the use of any such facilities constructed by a lower State to the extent of its reasonable needs upon assuming and guaranteeing payment of its proportionate share of the cost of construction, operation, and maintenance. Similarly, an upper State shall have the same right to construct or participate in the construction of facilities in a lower State in order to provide for exchange of storage waters for natural flow waters.

ARTICLE VIII

A signatory State shall have the right, upon compliance with the laws of another signatory State, to acquire in such other State by purchase, or through exercise of the power of eminent domain, such easements and rights of way for the construction, operation, and maintenance of pumping plants, storage reservoirs, canals, conduits, and appurtenant works as may be required for the enjoyment of the privileges granted herein to such State.

ARTICLE IX

Should any facilities be constructed by a signatory State in another State under the provisions of Article VII, the construction, operation, repairs, and replacements of such facilities shall be subject to the laws of the other State.

ARTICLE X

In the event water from another drainage basin shall be imported into the Bear River Basin or transferred from one tributary basin to another by the United States, Idaho, Utah, or Wyoming, or any of them jointly, the State having the right to the use of such water shall be given proper credit therefor in determining its share of the divertible flows apportioned in accordance with Article V herein.

ARTICLE XI

The provisions of this Compact shall remain in full force and effect until amended by the unanimous action of the Legislatures of the signatory States and consented to and approved by the Congress of the United States in the same manner as this Compact is required to be ratified to become effective.

ARTICLE XII

No action taken by the Compact Commission shall be valid except by the unanimous consent of the Commissioners representing the signatory States.

ARTICLE XIII

This Compact may be terminated at any time by unanimous consent of the signatory States, and upon such termination all rights then established hereunder shall continue unimpaired.

ARTICLE XIV

Nothing in this Compact shall be construed to limit or prevent any State from instituting or maintaining any action or proceeding, legal or equitable, in any Federal Court or the United States Supreme Court, for the protection of any right under this Compact or the enforcement of any of its provisions.

ARTICLE XV

The physical and other conditions characteristic of the Bear River are peculiar to the territory drained and served thereby and to the development thereof, have actuated the signatory States in the consummation of this Compact, and none of them, nor the United States by its consent and approval, concedes thereby the establishment of any general principle or precedent with respect to other interstate streams.

ARTICLE XVI

The Commission shall, at the request of any member of the Commission, meet to review any of the provisions of this Compact which are not substantive in

character and which do not affect the basic principles upon which the Compact is founded and may be unanimous agreement make such changes, or modifications as are fair, just, and equitable; provided, however, that the provisions hereof shall remain in full force and effect until amended by unanimous action of the Legislatures of the signatory States and consented to and approved by the Congress of the United States in the same manner as this Compact is required to be ratified to become effective.

ARTICLE XVII

This Compact shall become operative when approved by the Legislature of each of the signatory States and consented to and approved by the Congress of the United States.

ARTICLE XVIII

Nothing in this Compact shall be deemed:

- A. To impair or affect any rights or powers of the United States, its agencies, or instrumentalities, in and to the use of the waters of the Bear River Basin nor its capacity to acquire rights in and to the use of said waters;
- B. To subject any property of the United States, its agencies, or instrumentalities to taxation by any State or subdivision thereof, nor to create an obligation on the part of the United States, its agencies, or instrumentalities, by reason of the acquisition, construction, or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, State agency, municipality, or entity whatsoever in reimbursement for the loss of taxes;

C. To subject any property of the United States, its agencies, or instrumentalities, to the laws of any State to an extent other than the extent to which these laws would apply without regard to the Compact.

ARTICLE XIX

Should a Court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or of the United States, all other severable provisions of this Compact shall continue in full force and effect.

IN WITNESS WHEREOF the Commissioners have signed this Compact in quadruplicate original, one of which shall be filed in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the signatory States.