

YELLOWSTONE RIVER COMPACT COMMISSION

Minutes of Meeting

Feb. 1-2, 1950

The second meeting of the Yellowstone River Compact Commission was held at the Northern Hotel in Billings, Montana, on February 1 and 2, 1950, and was called to order at 10:10 a.m. by Mr. R. J. Newell, Chairman. The persons not at the previous meeting were introduced. Included were two Commissioners from Montana appointed since the first meeting, one Commissioner from Wyoming, and an Engineering advisor from Wyoming, and several observers from Federal agencies and the states.

The Chairman pointed out that the minutes of the first meeting had been distributed and asked if there were any corrections. Mr. Acker moved that the minutes be approved. The motion was seconded and carried.

The Chairman called on Mr. C. L. Myers, Chairman of the Engineering Committee, who reported on the two meetings which the Committee had held and presented the report of the Committee, which had previously been distributed to all Commissioners. There was discussion as to the proper disposition of the report. A motion to approve was modified by the maker and as finally stated read "that the report be accepted as a basis for negotiation and that sincere thanks be extended to the Committee for its work." The motion was seconded and carried.

Mr. Bunston raised the question as to whether a committee on publicity might be desirable. The Chairman stated that at the first meeting it was decided that meetings would be open to the public and members of the press. Mr. Bower moved that any information going to the press be cleared by the Chairman of the Commission and the three State Engineers. The motion was seconded and carried.

Mr. Thornton moved that permanent committees be appointed to specifically consider problems for particular sections of the Basin. The motion was seconded. There was discussion of the meaning of the motion. It was agreed that representatives from the several areas would constitute these committees and would act to resolve differences arising in the general discussions of the Commission. The motion was carried.

There was discussion as to whether the report of the Engineering Committee was unanimous, which it was found to be, also the relationship of the Engineering Committee to the Area Committees. It was the consensus that this Committee be kept intact and be available for consultation and advice. The Chairman stated that unless there were objections he would recognize all who had something to contribute to the discussions, including advisors from the states, as well as the Commissioners themselves.

Mr. Oravetz discussed the basis of the Engineering Committee Report and questioned whether some additional details should not be included in the matter of irrigable acreages.

Mr. Myers described the survey made by the Bureau of Reclamation and Mr. Hanna that made by the Bureau of Indian Affairs.

Mr. Leonard requested that certain comparative data be read from the report prepared in 1943 and the current report. Mr. Leonard suggested consideration of the former Compact and specific items objectionable to the states with discussion of these objections. Mr. Acker suggested that the former Compact be considered in terms of new physical data available.

The Chairman pointed out that the Engineering Report was before the Commission and suggested that its status be clarified and agreed to.

Mr. Bunston discussed the progress being made and pointed out some of the requirements of an equitable Compact. He mentioned the requirement for storage in order to utilize fully the available water and the fact that conditions will change after storage is developed.

Mr. Thornton suggested discussion of Compact policy, forgetting the prior drafts, and the discussion proceeded along these lines, including the questions of whether inter-state priorities would be considered, whether storage would enter into the negotiations, and the general proposition that water would be divided on the basis of acres irrigated and potentially irrigable.

Mr. Partridge moved to accept and approve the Engineering Report as the best data available at this time and use it as the basis for division of the water. The motion was seconded. There was discussion as to the need for such a motion in the light of that previously passed, and whether the motion as made would require that the figures appearing in the report be used without change. The motion was withdrawn.

It was moved to recess for lunch and to reconvene at 1:30 p.m. The motion was seconded and carried, and the meeting recessed at 12:00 o'clock.

The meeting reconvened at 1:45 p.m. and was called to order by the Chairman.

Data on the Tongue River Reservoir, Montana, and maps of the Basin were distributed.

The Chairman suggested that the several Area Committees meet before the adjournment of this meeting of the Commission in order to expedite progress as much as possible. He suggested that he be authorized to appoint a Committee to draft the framework of a Compact.

Mr. Leonard moved to recess and that the Area Committees meet immediately, and that since the Tongue River was the main bone of contention that the Committee for that area meet in the Green Room, and that all Committees report to the Commission this evening. The motion was seconded.

Mr. Person urged that overall principles to be used in developing the Compact be established before recessing. There was considerable discussion on the motion and the importance of agreeing on principles prior to the recess. The Chairman stated his reluctance to put controversial matters to a vote because of the great difference in size of the state delegations. The motion was withdrawn.

Mr. Person suggested two principles to be followed:

- (1) Existing rights shall be recognized and remain unimpaired.
- (2) The unappropriated unused water shall be divided on the basis of potential development. Mr. Leonard asked whether inter-state priorities should be considered. Mr. Person replied that they should not.

Mr. Bunston asked Mr. Myers about the rights of Montana in Boysen Reservoir. Mr. Myers pointed out the inter-related situation in the development of the Missouri River Basin and the difficulty, if not impossibility, of differentiating the benefits between the states under these circumstances.

There was further discussion regarding the principles under which the Compact should be developed.

Mr. Bunston asked Mr. Myers about the situation at Moorhead and the status of studies in the Upper Powder River which were described.

Mr. Leonard reviewed some of the meetings in connection with previous efforts to draw a Compact and read some correspondence relating thereto.

Mr. Johnson suggested forgetting about the question of appropriated water and working on the problem of unappropriated water.

There was some general discussion of the diversion of water from the Tongue River to the Little Horn.

There was discussion of the desirability of recessing to allow the Area Committees to meet, and by general agreement the meeting recessed at about 3:30 to reconvene at 8:00 p.m.

The meeting reconvened at 8:20 p.m. and was called to order by the Chairman.

Mr. Johnson for the Powder River, Mr. Gwillim for the Tongue River, and Mr. Bunston for the Big Horn River, all reported that progress was being made toward reaching agreement on the proposed Compact provisions affecting the respective streams, and each stated that his group would like about two hours' additional time for further study. No representative of the Clarks Fork was present from either state.

Mr. McNally moved to recess until 11:00 February 2, with the Area Committees to meet at 9:00 a.m. The motion was seconded and passed, and the meeting recessed at 8:30 p.m.

The meeting reconvened at 11:10 a.m. on Thursday, February 2, 1950. Mr. Greene representing the Powder River Committee submitted three items on which the Committee had reached agreement with respect to that stream:

1. All existing rights to the beneficial use of the waters of the Powder River in the States of Montana and Wyoming valid under the Laws of these States as of January 1, 1950, are hereby recognized and shall be and remain unimpaired by this Compact.

2. The total unused or unappropriated divertible flow of the Powder River Basin is divided:

58% to Montana
42% to Wyoming

3. Same agreement for stock reservoirs as in the 1944 Compact.

Mr. Greene moved to accept the preliminary draft and refer it to the Drafting Committee. The motion was seconded.

There was discussion by Messrs. Leonard, Jones, Oravetz, Person, Buck, and Burke with respect to the questions of whether any unappropriated water existed, how storage entered the picture, and how the stored water would be administered. Mr. Humpherys inquired about Indian Lands in the Powder River Basin and was informed that there were none.

Mr. McNally, speaking for the Wyoming members of the Tongue River Committee, stated that the Committee had not been able to agree on the question of existing rights. He stated that the Wyoming Commissioners wanted all such rights recognized in both states, but that the Montana Commissioners were not willing to let these rights remain unimpaired.

Mr. Leonard, speaking for the Montana Commissioners, stated that it was the sense of his group that no Compact could be agreed upon unless the division of the Tongue River water was on an equitable basis, and that the proposal suggested by Wyoming was not considered to be on such a basis. Montana proposed as one possible basis for the Compact, consideration of the rights on the stream in terms of priority without respect to State line.

The Chairman suggested referring the question back to the Committee with instructions to attempt further to reach an agreement.

Mr. Metz asked whether the Committee would like additional members to assist them. Messrs. Burke, Myers, Buck, and Goodrich were suggested.

Mr. Lloyd reported that the Committee studying the Big Horn was making progress, but had no specific report to make. It was requested that Messrs. Myers, Burke, and Hanna be available to assist on this problem.

There was no meeting on the Clarks Fork. Mr. Greene suggested a recess until evening.

Mr. Buck asked whether the Little Horn should be included in the Compact or excluded as had been the case in prior drafts.

Mr. Bunston asked whether the Law did not provide that the Little Horn and the main stream of the Yellowstone should be covered. The matter was discussed further by Messrs. Burke and Acker. Mr. Acker argued that the "residual flow" paragraph in the last draft of Compact (par. 2 of Art. 5), be not included in any future drafts of the Compact.

The Chair called on Mr. Vernon, Regional Director of the Bureau of Reclamation, who discussed the importance of reaching agreement from the standpoint of the overall development of the Missouri River Basin and the significance which is attached to local agreements and local interest in the Project by the public as a whole.

The Chair announced that the meeting would recess until 8:00 p.m., and that in the meantime the Committees for the Tongue and Big Horn Rivers would meet, and that there would be a separate meeting of representatives of Federal agencies at 2:00 p.m. The meeting recessed at 12:30 p.m.

The meeting reconvened at 8:15 p.m. The Chair called for a report of the Tongue River Committee, and Mr. McNally stated that the Committee had reached agreement on the following principles:

1. Appropriative rights to the beneficial uses of the water of the Tongue River system existing in each signatory

state as of January 1, 1950, shall continue to be enjoyed in accordance with the laws governing the acquisition and use of water under the doctrine of appropriation.

2. Wyoming and Montana agree that the unappropriated waters of the Tongue River system subsequent to January 1, 1950, shall be allocated to each state as follows:

60% to Montana
40% to Wyoming

Mr. McNally moved that the report be accepted and referred to the Drafting Committee. The motion was seconded and carried.

Mr. Bunston reported for the Big Horn Committee that agreement had been reached on the following principles:

1. Subject to existing Indian Treaty Rights, all existing rights to the beneficial use of the waters of the Big Horn River Basin in the States of Montana and Wyoming, valid under the laws of these states as of January 1, 1950, are hereby recognized and shall be and remain unimpaired by this Compact; provided, that at times when insufficient water is available to supply all existing rights in both states the water that is available will be apportioned to rights in the two states on the basis of priority of rights in the two states.

2. The total unused or unapportioned divertible flow of the Big Horn River Basin is divided:

_____ % to Montana
_____ % to Wyoming

(The percentages are to be based on potential irrigable areas in the two states as determined by the Engineering Committee and approved by the Compact Commissioners).

3. Same agreement for stock water diversions as in the 1944 Compact.

Mr. Bunston moved that the report be accepted and referred to the Drafting Committee. The motion was seconded and carried.

In the absence of any Commissioners from the Clarks Fork area, Mr. Lloyd reported that he and Mr. Buck had agreed on certain principles for use in the preliminary draft and that these principles should be subject to review by Commissioners in the area. The principles are as follows:

1. All existing rights to the beneficial use of the waters of the Clarks Fork Basin in the States of Montana and Wyoming valid under the laws of these states as of January 1, 1950, are hereby recognized and shall be and remain unimpaired by this Compact.

2. The total unused or unappropriated divertible flow of the Clarks Fork River Basin is divided:

40% to Montana
60% to Wyoming

3. Same provision for stock reservoirs as in the 1944 Compact.

Mr. Lloyd moved that the report be accepted and referred to the Drafting Committee.

Mr. Jones moved that the Chairman be authorized to appoint a Drafting Committee. The motion was seconded by Mr. McNally and carried.

After some discussion it was agreed that the States of Montana and Wyoming would hold state caucuses to suggest members for the Drafting Committee. Mr. Walsh suggested that Mr. Acker be appointed to the Committee from North Dakota with such engineering assistants as needed.

It was moved to recess for 20 minutes for the states to caucus. The motion was seconded and carried. The meeting recessed at 8:30 p.m.

The meeting reconvened at 8:55 p.m.

Mr. Walsh asked that Mr. Axel Persson be included on the Drafting Committee.

Mr. Buck, reporting for Montana, suggested Mr. Leonard as a member of the Drafting Committee, with Mr. Buck and members of the Engineering Committee as a whole to be available for engineering advice.

Mr. Lloyd, reporting for Wyoming, suggested Mr. McNally as a member of the Drafting Committee, with the State Engineer and Engineering Advisors Mr. Goodrich and Mr. Person to be available for engineering assistance.

The Chair announced that Mr. Burke and Mr. Myers would be available for assistance as needed. Mr. Humphreys asked whether the Drafting Committee would have before it the paragraph suggested by the Commissioner of Indian Affairs and presented by Mr. Turnbull at the November meeting of the Commission, reading as follows:

"Notwithstanding all other provisions in this Compact, the apportionment of water for which provision is made in this Compact is subject to the first and prior water rights reserved for Indians, for Indian Tribes and for Indian reservations, whether such first and prior water rights of the Indians are inchoate or covered by Federal Court decrees at the date of this Compact."

The Chair stated that the paragraph would be placed in the hands of the Drafting Committee.

Mr. Buck said that he supposed that Mr. Hanna would sit with the Drafting Committee to assist in matters pertaining to Indian rights. This was agreed to.

The Chair asked how much time would be needed for the Commissioners to consider a draft of Compact after it is circulated, and it was agreed that at least two weeks would be required.

Mr. Bunston inquired about including the Little Horn in the Compact. Mr. Buck suggested that the Little Horn be included. There is some irrigated land in Wyoming. The entire drainage area in Montana is within the Indian reservation, but there is some white-owned land included therein.

The Chairman asked whether the Little Horn could properly be included in the provisions relating to the Big Horn. It was agreed that this probably should not be done. Messrs. Metz and Bunston asked whether there was any representation from the Little Horn. There being none, it was agreed that Mr. McNally from Wyoming and Messrs. Bunston and Hanna from Montana would discuss the matter with irrigators in the two states. Messrs. Lloyd and Buck will take up with the Governors of the two states the question of Commissioners representing these areas.

Mr. Leonard requested that Mr. Burke, Regional Counsel of the Bureau of Reclamation, and the Engineering Committee submit to the Drafting Committee a suggested form of Compact. He discussed the procedure of drafting previous Compacts and asked whether Mr. Burke would be willing to prepare the first draft. Mr. McNally and Mr. Acker concurred in the request. Mr. Pratt agreed to phone Mr. Burke and inquire whether he would accept this assignment. Following the phone call, Mr. Pratt reported that Mr. Burke would accept the assignment, but wanted specific instructions as to whether he should fit the agreed upon provisions into the 1944 draft or should begin with a completely new draft. Mr. Acker moved that the draft prepared by Mr. Burke should be a completely new start, built from the ground up. The motion was seconded and unanimously carried.

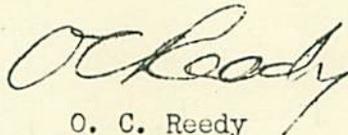
Mr. Thornton suggested the importance of discussing the draft of Compact with the water users in the various areas, and pursuant to this subject there was discussion as to the number of copies of the draft which would be required by each Commissioner. It was requested that the Secretary arrange to send copies of the draft to parties in the Upper Yellowstone Valley in Montana for their information.

It was agreed that the call for the next meeting would be made by the Chairman and would be transmitted with the drafts of the Compact at least two weeks in advance of the date of the meeting.

It was requested that the Drafting Committee and the Engineering Committee each meet for a short time after adjournment.

The Chair asked the Secretary to express the thanks of the Commission to the hotel for the accommodations furnished.

It was moved that the meeting adjourn, subject to the call of the Chairman. The motion was seconded and carried. The meeting adjourned at 9:50 p.m.



O. C. Reedy
Secretary

Approved:

SIGNED

R. J. Newell, Chairman

October 24, 1950

ATTENDANCE RECORD
February 1-2, 1950

Montana

Commissioners

A. W. Bradshaw
Fred E. Buck
H. W. Bunston
John Herzog
Ashton Jones
A. Wallace Kingsbury
P. F. Leonard
Joseph Muggli
Chester E. Onstad
Axel Persson
Keith W. Trout

Others

Gerald J. Oravetz
James E. Cook
D. A. Pouliot
H. L. Bille
Wayne W. Linthacum

North Dakota

Commissioners

I. A. Acker
J. J. Walsh

Wyoming

Commissioners

Earl T. Bower
J. Harold Cash
Ben F. Cochrane
R. L. Greene
E. C. Gwillim
E. J. Johnson

Lee E. Keith
N. V. Kurtz
R. E. McNally
Will G. Metz
Mark N. Partridge
A. R. Shreve
Charles M. Smith
L. F. Thornton
Dr. M. B. Walker

Others

D. A. Geier
R. D. Goodrich
Earl Lloyd
H. T. Person

Others

R. J. Newell - Chairman - Federal Representative
O. C. Reedy - Secretary
C. L. Myers - Chairman, Engineering Committee
Bureau of Reclamation
K. F. Vernon - Bureau of Reclamation
G. O. Pratt - Bureau of Reclamation
D. C. Ketcham - Bureau of Reclamation
R. J. Young - Bureau of Reclamation
W. S. Hanna, - Bureau of Indian Affairs
A. B. Melzner - Bureau of Indian Affairs
Geraint Humpherys - Bureau of Indian Affairs
D. F. Burroughs - National Park Service
J. D. Goshorn - U.S. Geologic Survey
K. B. Revnich - U.S. Geologic Survey
R. E. Morgan - Bureau of Land Management
H. T. Tysk - Bureau of Land Management
C. A. Cocks - Corps of Engineers
R. J. Pafford - Corps of Engineers
J. G. Lightfoot - Corps of Engineers
C. A. Stiles - Corps of Engineers
Kirk M. Sandals - Soil Conservation Service

774.3 -
GENERAL
EXTRA COPY

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Yellowstone District
Box 1264
Billings, Montana

To	Initial	Date
	ESJ	
701	OK	8-29

RECEIVED

730
150

Memorandum

To: District Manager, Billings, Montana
District Manager, Cody, Wyoming
Regional Director

Attention: 6-150, 6-700, and 6-130

From: District Manager

Subject: Yellowstone River Compact

Reference is made to my memorandum to Mr. Burke of July 13, 1950 and to my report of the meeting of the drafting and engineering committees held on August 22 and 23.

The engineering committee has agreed to recommend a basis for the compact and will work on it during the trip scheduled to begin September 11. Before that time I would like to have the Bureau's ideas about what should be in the compact, since the state engineers have expressed an opinion that the compact should be designed largely to facilitate the Bureau's work.

This particular compact probably should be viewed as a segment of a compact that may at some future time cover the whole Missouri River, much as the Colorado River Compact covers that basin. I think it has been generally concluded that there is adequate water, when regulated, for the authorized basin plan, but that fact is not likely to remove the political need for compacts. The situation on the interstate tributaries of the Yellowstone is proof of this. If this idea is followed it would seem that the compact should make an allocation of permissible depletions at each State line on each stream involved. Whether these depletions should be from virgin flow or from the flow as already depleted by existing development would have to be studied. The Colorado River Compact is based on virgin flows. For either base, it would be necessary to adjust historical flows to compensate for progressive depletions over the period of records. My tentative preference would be to begin with virgin flows, and from these allocate average annual depletions to be measured over a progressive series of years. The allocations would be at each State line on each tributary. Each state would be required to fill its established rights from this allocation. These allocations would, of course, be determined from physical indexes, such as area of irrigated and irrigable land.

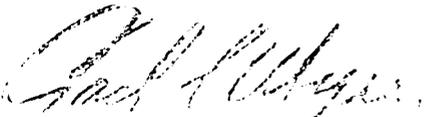
Allocations on this basis could be made in specific acre-feet, or by percentage of total water production. The latter would probably be more acceptable to the states. Measurement of depletions could be based on a correlation between key gages at or near the perimeters of the basin and specified outflow gages. Water production could be determined by similar but inverse correlations.

If such a compact should be found desirable, a tremendous hydrology job would be required to establish the correlations and make the other necessary studies. Obviously, this is impossible between now and legislature time, even if quick agreement among the states could be secured; I doubt that the latter is possible in any case. Therefore, it might be well to proceed as follows:

(a) Work up a basic outline of the kind of compact the Bureau believes would be most desirable, and give it to the state engineers to study and refine between now and the next Commission meeting.

(b) In the event that no agreement on a full compact can be reached this year, suggest to the Commission that an interim agreement be made authorizing construction of Moorhead and Yellowtail. This would have to specify that neither would have a priority of water right earlier than the date of the main compact, when it is finally made.

I would like to discuss this with you as soon as possible.


District Engineer

O. C. Reedy

YELLOWSTONE RIVER COMPACT COMMISSION

Memorandum Notes of Meeting of Drafting and Engineering Committees
Billings, Montana
August 22 and 23, 1950

A joint meeting of the representatives of the Drafting and Engineering Committees of the Yellowstone River Compact Commission was called to order by O. C. Reedy, Secretary, at 10:30 a.m. on August 22, 1950. Mr. Reedy requested he be excused from the meeting as he felt his presence unnecessary. During the course of the meeting Mr. Carl L. Myers was elected chairman. Those attending were:

- | | | | |
|------------|----------------|------------|----------------|
| August 22: | E. C. Gwillim | August 23: | E. C. Gwillim |
| | Earl Lloyd | | Earl Lloyd |
| | H. T. Person | | H. T. Person |
| | P. F. Leonard | | Fred Buck |
| | Fred Buck | | R. E. McNally |
| | J. J. Walsh | | W. S. Hanna |
| | I. A. Acker | | Earl T. Bower |
| | R. E. McNally | | H. W. Bunston |
| | W. S. Hanna | | L. F. Thornton |
| | Earl T. Bower | | C. L. Myers |
| | R. W. Bunston | | G. J. Oravetz |
| | L. F. Thornton | | H. A. Williams |
| | C. L. Myers | | F. H. Brown |

The nonmembers of the committees who attended were invited by the various members of the committees as advisors or observers.

There was considerable discussion on potential irrigable areas. Mr. McNally stated that the compact's principal purpose is to clear the way for new storage in both states, with the mouth of the Tongue River an exception. The Tongue River Dam will always have a problem--cost proposition, change of administration, etc. The question of who was going to pay for this was brought up by Mr. Hanna. The necessity to use flood water and surplus water for future development was stressed by Mr. Myers. Mr. Leonard brought out the fact that if Moorhead and Yellowtail were built, the water problems would probably be solved for 100 years. Mr. Myers told about talking to Mr. J. R. Riter of Denver about dividing by percentages and suggested the use of some other method. Mr. McNally commented on the possibility of putting responsibility of administration on the state engineers, as in the case of the Belle-Fourche and Cheyenne compacts, since the people don't want a compact administered by a commission of three states. The power of state engineers was discussed, and it was found that the State Engineer of Montana did not have the same power as the State Engineer of Wyoming.

It was then recommended by Mr. Leonard that the compact written by Mr. Burke be reviewed and objections voiced. The changes proposed by Mr. Leonard were discussed, together with those of Mr. McNally for Wyoming. Drafts of these changes were circulated.

Reference was made to a letter Mr. McNally wrote to Mr. Burke dated August 17, enclosing a letter to Mr. Thornton from Mr. McNally dated August 9. These letters were read. The letter to Mr. Newell from President Truman was also referred to. Mr. Myers explained that it was not prepared by the Bureau of Reclamation, but probably by the Bureau of Budget in terms of all streams in the United States and covering everything from navigation to irrigation. It was pointed out that our recommendations will be made to Mr. Newell only.

Mr. Leonard stated that the Commission will be entitled only to water that has been stored and would otherwise go to waste, other supplies are subject to appropriation of the states and no one else. Mr. Myers discussed the use of across-the-line administration of water rights (existing and future).

Mr. Acker made the suggestion that Mr. Leonard write a compact for Montana and Mr. McNally write one for Wyoming, in order to find out definitely what each State expects. When the Commission meets again, they can be read together to eliminate parts disagreeing and combine parts agreeing.

Mr. Bunston then started his arguments on potential, reading several reports, letters, and quoting figures, together with a suggested formula for dividing water at present and in the future. The Bureau was criticized for not having a survey of Montana such as has been accomplished for Wyoming. This was the basis for his not accepting the acreage that the Bureau gives for the Big Horn County. They also are not interested in the power development at Yellowtail--only irrigation. Mr. Myers stated that irrigation was always paramount with the Bureau of Reclamation, and that to pump water was the cheapest way to get it out. Mr. Bunston remarked that it should be diverted only, and that the percentage basis of potential cannot be made fair on the basis of our knowledge of surveys in the Big Horn. Mr. Lloyd then asked if he wanted to hold up development in one State until the other caught up with it, and Mr. Bunston stated he could interpret it the way he wished.

The meeting adjourned at 6:00 p.m., with the arrangement for the engineering committee and others who wish to attend to meet on August 23.

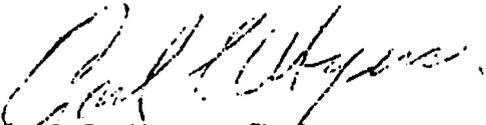
The meeting was called to order on August 23 by Mr. Myers at 9:00 a.m.

Mr. Bunston started the meeting by quoting figures from the Big Horn Power and Irrigation Company's report. Mr. Myers stated that the only problem he could see to solve was how to provide for new storage, and that the simplest kind of compact was most practical and easy to administer. One of the ways to make it simple is to put a ceiling on the depletion to take place upstream, using whatever standards we need.

Mr. McNally requested that "potential" be cleared up, asking if it was subject to priority. Mr. Myers stated that the Bureau was not concerned with priority dates as they worked only with surplus water.

It was finally decided to settle the matter of the Big Horn and any other questions by an inspection trip to the territories concerned. This trip will enable the engineering committee to obtain something specific to work with. Messrs. Person, Lloyd, Gwillim, Myers, Bower, Buck, and Hanna are to go. Mr. Walsh is to be invited, although he is not expected to attend. Mr. Bunston was excused from the trip due to his recent illness. It was suggested that the committee take along any one else they think should go. It is planned to leave the morning of September 11 at 8:00 a.m., proceeding to Hardin. Mr. Buck suggested that they attend the Wyoming Reclamation Association meeting in Buffalo while on the trip.

The meeting adjourned at 12:30 p.m.


Carl L. Myers, Chairman
Engineering Committee

Enclosures: Suggested Changes by Mr. Leonard
Suggested Changes by Mr. McNally
Suggested Formula by Mr. Bunston
Letter to Mr. Burke dated August 17
with letter to Mr. Thornton dated
August 9, both by Mr. McNally

COPY:JP

BIG HORN RIVER BASIN

1. Subject to existing Indian Treaty Rights, all existing rights to the beneficial use of waters of the Big Horn River Basin in the States of Montana and Wyoming, valid under the laws of these states as of January 1st, 1950 are hereby recognized and shall be and remain unimpaired by this compact, provided, that at all times when insufficient water exists to supply all needs under all existing rights in both states, the water that is available shall be apportioned toward the rights in the two states of Montana and Wyoming on the basis of priority of rights in said two states.
2. That the states of Montana and Wyoming each have substantial, potential, irrigable acreages within the Big Horn Water Shed and the rights of each state to develop new irrigated acreages within the Big Horn Water Shed as conditions permit (without loss of right through priority of appropriation) on an acre for acre basis in each state is hereby guaranteed, provided however that in each case of insufficient water being available for the irrigation of the lands becoming irrigated after January 1st, 1950, the water available (after satisfying the rights for the lands irrigated before January 1st, 1950 and existing treaty rights) shall be divided between the states at each time of shortage on the basis of new lands actually brot under irrigation in each state since January 1st, 1950, and shall continue (as new lands become irrigated) to be progressively applied on said acre for acre basis. That no priorities of rights shall apply to lands becoming irrigated after January 1, 1950.

That the Compact Commission to be hereafter selected is hereby given authority to and charged with the administration of this section of the Compact; that it shall cause to be determined the land irrigated up to January 1st, 1950, and each year thereafter shall determine the new lands brot under irrigation in each state in the Big Horn Water Shed, to the end that information may at all times be available for the division of waters as in this section provided.