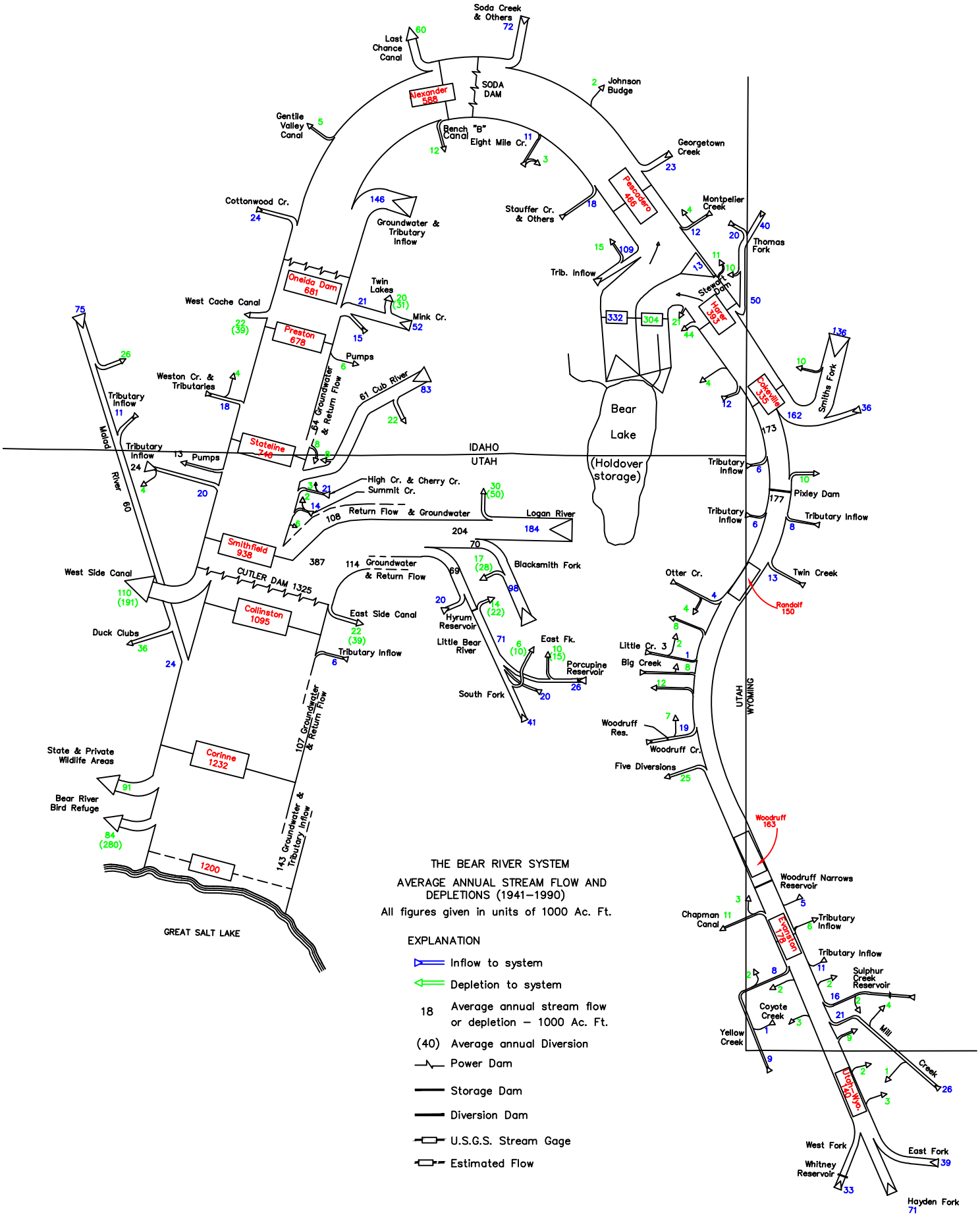
THE BEAR RIVER SYSTEM
AVERAGE ANNUAL STREAM FLOW AND DEPLETIONS (1941–1990)
All figures given in units of 1000 Ac. Ft.
EXPLANATION
Inflow to system
Depletion to system
18 Average annual stream flow or depletion – 1000 Ac. Ft.
(40) Average annual Diversion
Power Dam
Storage Dam
Diversion Dam
U.S.G.S. Stream Gage
Estimated Flow
Soda Creek & Others
Last Chance Canal
SODA DAM
Alexander 588
Johnson Budge
Gentile Valley Canal
Bench "B" Canal
Eight Mile Cr.
Georgetown Creek
Pescadero 468
Cottonwood Cr.
Groundwater & Tributary Inflow
Stauffer Cr. & Others
Montpelier Creek
Thomas Fork
Trib. Inflow
Stewart Dam
Oneida Dam 681
Twin Lakes
West Cache Canal
Mink Cr.
Preston 678
Pumps
Weston Cr. & Tributaries
Tributary Inflow
Maad River
Groundwater & Return Flow
61 Cub River
Stateline 240
IDAHO
UTAH
Bear Lake (Holdover storage)
Hyrum 383
Bloxville 335
Smiths Fork
High Cr. & Cherry Cr.
Summit Cr.
Return Flow & Groundwater
Logan River
Pixley Dam
Smithfield 938
Blacksmith Fork
Twin Creek
West Side Canal
CUTLER DAM 1325
Groundwater & Return Flow
Otter Cr.
Randolf 150
Collinston 1095
East Side Canal
Hyrum Reservoir
Little Bear River
East Fk.
Porcupine Reservoir
Duck Clubs
Little Cr. 3
Big Creek
South Fork
UTAH
WYOMING
Woodruff Res.
Woodruff Cr.
Five Diversions
State & Private Wildlife Areas
Corinne 1232
107 Groundwater & Return Flow
Bear River Bird Refuge
143 Groundwater & Tributary Inflow
1200
GREAT SALT LAKE
Woodruff 163
Woodruff Narrows Reservoir
Chapman Canal
Evanston 175
Sulphur Creek Reservoir
Coyote Creek
Yellow Creek
Mill Creek
Lyman 190
West Fork
Whitney Reservoir
East Fork
Hayden Fork

BEAR RIVER COMPACT

AS AMENDED

Amended Compact unanimously approved
December 22, 1978
by
the duly appointed Commissioners
from those states of Idaho, Utah and Wyoming

Ratified
by the Legislatures of all three states in 1979

Congressional Consent Public Law 96-189
February 8, 1980

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Public Law 96-189
96th Congress

An Act

Feb 8, 1980
[H.R. 4320]

To consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.

Bear River Compact Congressional consent

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amended Bear River Compact between the States of Idaho, Utah, and Wyoming. Such compact reads as follows:

AMENDED BEAR RIVER COMPACT

Amended agreement by Idaho, Utah and Wyoming

The State of Idaho, the State of Utah and the State of Wyoming, acting through their respective Commissioners after negotiations participated in by a representative of the United States of America appointed by the President, have agreed to an Amended Bear River Compact as follows:

ARTICLE I

A. The major purposes of this Compact are to remove the causes of present and future controversy over the distribution and use of the waters of the Bear River; to provide for efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River; to promote interstate comity; and to accomplish an equitable apportionment of the waters of the Bear River among the compacting States.

B. The physical and all other conditions peculiar to the Bear River constitute the basis for this Compact. No general principle or precedent with respect to any other interstate stream is intended to be established.

ARTICLE II

Definitions

As used in this Compact the term

1. "Bear River" means the Bear River and its tributaries from its source in the Uinta Mountains to its mouth in Great Salt Lake;
2. "Bear Lake" means Bear Lake and Mud Lake;
3. "Upper Division" means the portion of Bear River from its source in the Uinta Mountains to and including Pixley Dam, a diversion dam in the Southeast Quarter of Section 25, Township 23 North, Range 120 West, Sixth Principal Meridian, Wyoming;
4. "Central Division" means the portion of Bear River from Pixley Dam to and including Stewart Dam, a diversion dam in Section 34, Township 13 South, Range 44 East, Boise Base and Meridian, Idaho;
5. "Lower Division" means the portion of the Bear River between Stewart Dam and Great Salt Lake, including Bear Lake and its tributary drainage;
6. "Upper Utah Section Diversions" means the sum of all diversions in second-feet from the Bear River and the tributaries of the Bear River joining the Bear River

upstream from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming; excluding the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

7. "Upper Wyoming Section Diversions" means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming, to the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, and including the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;
8. "Lower Utah Section Diversions" means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, to the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph, Utah;
9. "Lower Wyoming Section Diversions" means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph to and including the diversion at Pixley Dam;
10. "Commission" means the Bear River Commission, organized pursuant to Article III of this Compact;
11. "Water user" means a person, corporation, or other entity having a right to divert water from the Bear River for beneficial use;
12. "Second-foot" means a flow of one cubic foot of water per second of time passing a given point;
13. "Acre-foot" means the quantity of water required to cover one acre to a depth of one foot, equivalent to 43,560 cubic feet;
14. "Biennium" means the 2-year period commencing on October 1 of the first odd-numbered year after the effective date of this Compact and each 2-year period thereafter;
15. "Water year" means the period beginning October 1 and ending September 30 of the following year;
16. "Direct flow" means all water flowing in a natural watercourse except water released from storage or imported from a source other than the Bear River watershed;
17. "Border Gaging Station" means the stream flow gaging station in Idaho on the Bear River above Thomas Fork near the Wyoming-Idaho boundary line in the Northeast Quarter of the Northeast Quarter of Section 15, Township 14 South, Range 46 East, Boise Base and Meridian, Idaho;
18. "Smiths Fork" means a Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Bear River near Cokeville, Wyoming;
19. "Grade Creek" means a Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a westerly direction and in its natural channel is tributary to Smiths Fork in Section 17, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming;
20. "Pine Creek" means a Smiths Fork tributary which rises in Lincoln County, Wyoming, emerging from its mountain canyon in Section 34, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming, and in its natural channel is tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;
21. "Bruner Creek" and "Pine Creek Springs" means Smiths Fork tributaries which rise

in Lincoln County, Wyoming, in Sections 31 and 32, Township 25 North, Range 118 West, Sixth Principal Meridian, and in their natural channels are tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

22. "Spring Creek" means a Smiths Fork tributary which rises in Lincoln County, Wyoming, in Sections 1 and 2, Township 24, Range 119 West, Sixth Principal Meridian, Wyoming, and flows in a general westerly direction to its confluence with Smiths Fork in Section 4, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;
23. "Sublette Creek" means the Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general westerly direction to its confluence with Bear River in Section 20, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;
24. "Hobble Creek" means the Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Smiths Fork in Section 35, Township 28 North, Range 118 West, Sixth Principal Meridian, Wyoming;
25. "Hilliard East Fork Canal" means that irrigation canal which diverts water from the right bank of the East Fork of Bear River in Summit County, Utah, at a point West 1,310 feet and North 330 feet from the Southeast corner of Section 16, Township 2 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the Southwest Quarter of Section 21, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;
26. "Lannon Canal" means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, East 1,480 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;
27. "Lone Mountain Ditch" means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, North 1,535 feet and East 1,120 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;
28. "Hilliard West Side Canal" means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, at a point North 2,190 feet and East 1,450 feet from the South Quarter corner of Section 13, Township 3 North, Range 9 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;
29. "Francis Lee Canal" means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter corner of Section 30, Township 18 North, Range 120 West, Sixth Principal Meridian, Wyoming, and runs in a westerly direction across the Wyoming-Utah State line into Section 16, Township 9 North, Range 8 East, Salt Lake Base and Meridian, Utah;
30. "Chapman Canal" means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter of

Section 36, Township 16 North, Range 121 West, Sixth Principal Meridian, Wyoming, and runs in a northerly direction crossing over the low divided into the Saleratus drainage basin near the Southeast corner of Section 36, Township 17 North, Range 121 West, Sixth Principal Meridian, Wyoming, and then in a general westerly direction crossing the Wyoming-Utah State line;

31. "Neponset Reservoir" means that reservoir located principally in Sections 34 and 35, Township 8 North, Range 7 East, Salt Lake Base and Meridian, Utah, having a capacity of 6,900 acre-feet.

ARTICLE III

Bear River Commission, establishment and membership

A. There is hereby created an interstate administrative agency to be known as the "Bear River Commission" which is hereby constituted a legal entity and in such name shall exercise the powers hereinafter specified. The Commission shall be composed of nine Commissioners, three Commissioners representing each signatory State, and if appointed by the President, one additional Commissioner representing the United States of America who shall serve as chairman, without vote. Each Commissioner, except the chairman, shall have one vote. The State Commissioners shall be selected in accordance with State law. Six Commissioners who shall include two Commissioners from each State shall constitute a quorum. The vote of at least two-thirds of the Commissioners when a quorum is present shall be necessary for the action of the Commission.

Compensation and expenses

B. The compensation and expenses of each Commissioner and each adviser shall be paid by the government which he represents. All expenses incurred by the Commission in the administration of this Compact, except those paid by the United States of America, shall be paid by the signatory States on an equal basis.

Powers

C. The Commission shall have power to:
   1. Adopt bylaws, rules, and regulations not inconsistent with this Compact;
   2. Acquire, hold, convey or otherwise dispose of property;
   3. Employ such persons and contract for such services as may be necessary to carry out its duties under this Compact;
   4. Sue and be sued as a legal entity in any court of record of a signatory State, and in any court of the United States having jurisdiction of such action;
   5. Co-operate with State and Federal agencies in matters relating to water pollution of interstate significance;
   6. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in co-operation with others, including State and Federal agencies.

D. The Commission shall:
   1. Enforce this Compact and its order made hereunder by suit or other appropriate action;

Report, transmittal to President and Governors

   2. Compile a report covering the work of the Commission and expenditures during the current biennium, and an estimate of expenditures for the following biennium and transmit it to the President of the United States and to the Governors of the signatory States on or before July 1 following each biennium.

ARTICLE IV

Water rights, limitations

Rights to direct flow water shall be administered in each signatory State under State law, with the following limitations:

A. When there is a water emergency, as hereinafter defined for each division, water shall be distributed therein as provided below.
   1. Upper Division
      a. When the divertible flow as defined below for the Upper Division is less than 1,250 second-feet, a water emergency shall be deemed to exist therein and such divertible flow is allocated for diversion in the river sections of the Division as follows:

Upper Utah Section Diversions	0.6 percent
Upper Wyoming Section Diversions	49.3 percent
Lower Utah Section Diversions	40.5 percent
Lower Wyoming Section Diversions	9.6 percent

         Such divertible flow shall be the total of the following five items:
         (1) Upper Utah Section Diversions in second-feet
         (2) Upper Wyoming Section Diversions in second-feet
         (3) Lower Utah Section Diversions in second-feet
         (4) Lower Wyoming Section Diversions in second-feet
         (5) The flow in second-feet passing Pixley Dam
      b. The Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal, which divert water in Utah to irrigate lands in Wyoming, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.
      c. The Chapman, Bear River, and Francis Lee Canals, which divert water from the main stem of Bear River in Wyoming to irrigate lands in both Wyoming and Utah, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.
      d. The Beckwith Quinn West Side Canal, which diverts water from the main stem of Bear River in Utah to irrigate lands in both Utah and Wyoming, shall be supplied from the divertible flow allocated to the Lower Utah Section Diversions.
      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.
      f. Water allocated to the several sections shall be distributed in each section in accordance with State law.
   2. Central Division
      a. When either the divertible flow as hereinafter defined for the Central Division is less than 870 second-feet, or the flow of the Bear River at Border Gaging Station is less than 350 second-feet, whichever shall first occur, a water emergency shall be deemed to exist in the Central Division and the total of all diversions in Wyoming from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, Smiths

Fork, and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and from the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border shall be limited for the benefit of the State of Idaho, to not exceed forty-three (43) percent of the divertible flow. The remaining fifty-seven (57) percent of the divertible flow shall be available for use in Idaho in the Central Division, but if any portion of such allocation is not used therein it shall be available for use in Idaho in the Lower Division.

The divertible flow for the Central Division shall be the total of the following three items:

(1) Diversions in second-feet in Wyoming consisting of the sum of all diversions from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, and Smiths Fork and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border, Wyoming.

(2) Diversions in second-feet in Idaho from the Bear River main stem from the point where the river crosses the Wyoming-Idaho State line near Border to Stewart Dam including West Fork Canal which diverts at Stewart Dam.

(3) Flow in second-feet of the Rainbow Inlet Canal and of the Bear River passing downstream from Stewart Dam.

b. The Cook Canal, which diverts water from the main stem of the Bear River in Wyoming to irrigate lands in both Wyoming and Idaho, shall be considered a Wyoming diversion and shall be supplied from the divertible flow allocated to Wyoming.

c. Water allocated to each State shall be distributed in accordance with State law.

3. Lower Division

a. When the flow of water across the Idaho-Utah boundary line is insufficient to satisfy water rights in Utah, covering water applied to beneficial use prior to January 1, 1976, any water user in Utah may file a petition with the Commission alleging that by reason of diversions in Idaho he is being deprived of water to which he is justly entitled, and that by reason thereof, a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds a water emergency exists, it shall put into effect water delivery schedules based on priority of rights and prepared by the Commission without regard to the boundary line for all or any part of the Division, and during such emergency, water shall be delivered in accordance with such schedules by the State official charged with the administration of public waters.

Emergency declaration authority

B. The Commission shall have authority upon its own motion (1) to declare a water emergency in any or all river divisions based upon its determination that there are diversions which violate this Compact and which encroach upon water rights in a lower State, (2) to make appropriate orders to prevent such encroachments, and (3) to enforce such orders by action before State administrative officials or by court proceedings.

User's water rights, petition filing

Water delivery schedules

Joint water commissioner

C. When the flow of water in an interstate tributary across a State boundary line is insufficient to satisfy water rights on such tributary in a lower State, any water user may file a petition with the Commission alleging that by reason of diversions in an upstream State he is being deprived of water to which he is justly entitled and that by reason thereof a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds that a water emergency exists and that interstate control of water of such tributary is necessary, it shall put into effect water delivery schedules based on priority of rights and prepared without regard to the State boundary line. The State officials in charge of water distribution on interstate tributaries may appoint and fix the compensation and expenses of a joint water commissioner for each tributary. The proportion of the compensation and expenses to be paid by each State shall be determined by the ratio between the number of acres therein which are irrigated by diversions from such tributary, and the total number of acres irrigated from such tributary.

Interstate water delivery schedules, findings of fact

Prima facie evidence

D. In preparing interstate water delivery schedules the Commission, upon notice and after public hearings, shall make findings of fact as to the nature, priority, and extent of water rights, rates of flow, duty of water, irrigated acreages, types of crops, time of use, and related matters; provided that such schedules shall recognize and incorporate therein priority of water rights as adjudicated in each of the signatory States. Such findings of fact shall, in any court or before any tribunal, constitute prima facie evidence of the facts found.

Emergency termination

E. Water emergencies provided for herein shall terminate on September 30 of each year unless terminated sooner or extended by the Commission.

ARTICLE V

Lower Division water rights, Idaho and Utah

A. Water rights in the Lower Division acquired under the laws of Idaho and Utah covering water applied to beneficial use prior to January 1, 1976, are hereby recognized and shall be administered in accordance with State law based on priority of rights as provided in Article IV, paragraph A3. Rights to water first applied to beneficial use on or after January 1, 1976, shall be satisfied from the respective allocations made to Idaho and Utah in this paragraph and the water allocated to each State shall be administered in accordance with State law. Subject to the foregoing provisions, the remaining water in the Lower Division, including ground water tributary to the Bear River, is hereby apportioned for use in Idaho and Utah as follows:

(1) Idaho shall have the first right to the use of such remaining water resulting in an annual depletion of not more than 125,000 acre-feet.
(2) Utah shall have the second right to the use of such remaining water resulting in an annual depletion of not more than 275,000 acre-feet.
(3) Idaho and Utah shall each have an additional right to deplete annually on an equal basis, 75,000 acre-feet of the remaining water after the rights provided by subparagraphs (1) and (2) above have been satisfied.
(4) Any remaining water in the Lower Division after the allocations provided for in subparagraphs (1), (2), and (3) above have been satisfied shall be divided; thirty (30) percent to Idaho and seventy (70) percent to Utah.

Allocation charge

B. Water allocated under the above subparagraphs shall be charged against the State in which it is used regardless of the location of the point of diversion.

Depletions

C. Water depletions permitted under provisions of subparagraphs (1), (2), (3), and (4) above, shall be calculated and administered by a Commission-approved procedure.

ARTICLE VI

Reservoir storage rights

A. Existing storage rights in reservoirs constructed above Stewart Dam prior to February 4, 1955, are as follows:

Idaho ..... 324 acre-feet
Utah ..... 11,850 acre-feet
Wyoming ..... 2,150 acre-feet

Additional rights are hereby granted to store in any water year above Stewart Dam, 35,500 acre-feet of Bear River water and no more under this paragraph for use in Utah and Wyoming; and to store in any water year in Idaho or Wyoming on Thomas Fork 1,000 acre-feet of water for use in Idaho. Such additional storage rights shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam. One-half of the 35,500 acre-feet of additional storage right above Stewart Dam so granted to Utah and Wyoming is hereby allocated to Utah, and the remaining one-half thereof is allocated to Wyoming.

Additional storage rights

B. In addition to the rights defined in Paragraph A of this Article, further storage entitlements above Stewart Dam are hereby granted. Wyoming and Utah are granted an additional right to store in any year 70,000 acre-feet of Bear River water for use in Utah and Wyoming to be divided equally; and Idaho is granted an additional right to store 4,500 acre-feet of Bear River water in Wyoming or Idaho for use in Idaho. Water rights granted under this paragraph and water appropriated, including ground water tributary to Bear River, which is applied to beneficial use on or after January 1, 1976, shall not result in an annual increase in depletion of the flow of the Bear River and its tributaries above Stewart Dam of more than 28,000 acre-feet in excess of the depletion as of January 1, 1976. Thirteen thousand (13,000) acre-feet of the additional depletion above Stewart Dam is allocated to each of Utah and Wyoming, and two thousand (2,000) acre-feet is allocated to Idaho.

Limitations

The additional storage rights provided for in this paragraph shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam; provided, however, there shall be no diversion of water to storage above Stewart Dam under this Paragraph B when the water surface elevation of Bear Lake is below 5,911.00

feet, Utah Power & Light Company datum (the equivalent of elevation 5,913.75 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947). Water depletions permitted under this Paragraph B shall be calculated and administered by a Commission-approved procedure.

C. In addition to the rights defined in Article VI, Paragraphs A and B, Idaho, Utah and Wyoming are granted the right to store and use water above Stewart Dam that otherwise would be bypassed or released from Bear Lake at times when all other direct flow and storage rights are satisfied. The availability of such water and the operation of reservoir space to store water above Bear Lake under this paragraph shall be determined by a Commission-approved procedure. The storage provided for in this paragraph shall be subordinate to all other storage and direct flow rights in the Bear River. Storage rights under this paragraph shall be exercised with equal priority on the following basis: six (6) percent thereof to Idaho; forty-seven (47) percent thereof to Utah; and forty-seven (47) percent thereof to Wyoming.

Irrigation reserve

D. The waters of Bear Lake below elevation 5,912.91 feet, Utah Power and Light Company Bear Lake datum (the equivalent of elevation 5,915.66 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947) shall constitute a reserve for irrigation. The water of such reserve shall not be released solely for the generation of power, except in emergency, but after release for irrigation it may be used in generating power if not inconsistent with its use for irrigation. Any water in Bear Lake in excess of that constituting the irrigation reserve may be used for the generation of power or for other beneficial uses. As new reservoir capacity above the Stewart Dam is constructed to provide additional storage pursuant to Paragraph A of this Article, the Commission shall make a finding in writing as to the quantity of additional storage and shall thereupon make an order increasing the irrigation reserve in accordance with the following table:

Additional Storage (acre-feet)	Lake surface elevation Utah Power and Light Company Bear Lake datum
5,000	5,913.24
10,000	5,913.56
15,000	5,913.87
20,000	5,914.15
25,000	5,914.41
30,000	5,914.61
35,500	5,914.69
36,500	5,914.70

E. Subject to existing rights, each State shall have the use of water, including ground water, for ordinary domestic and stock watering purposes, as determined by State law and shall have the right to impound water for such proposes in reservoirs having storage capacities not in excess, in any case, of 20 acre-feet, without deduction from the allocation made by paragraphs A, B, and C of this Article.

F. The storage rights in Bear Lake are hereby recognized and confirmed subject only to the restrictions hereinbefore recited.

ARTICLE VII

Development projects

It is the policy of the signatory States to encourage additional projects for the development of the water resources of the Bear River to obtain the maximum beneficial use of water with a minimum of waste, and in furtherance of such policy, authority is granted within the limitations provided by this Compact to investigate, plan, construct, and operate such projects without regard to State boundaries, provided that water rights for each such project shall, except as provided in Article VI, paragraphs A and B, thereof, be subject to rights theretofore initiated and in good standing.

ARTICLE VIII

Water rights, acquisition

A. No State shall deny the right of the United States of America, and subject to the conditions hereinafter contained, no State shall deny the right of another signatory State, any person or entity of another signatory State, to acquire rights to the use of water or to construct or to participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals, and conduits in one State for use of water in another State, either directly or by exchange. Water rights acquired for out-of-state use shall be appropriated in the State where the point of diversion is located in the manner provided by law for appropriation of water for use within such State.

Property rights, acquisition

B. Any signatory State, any person or any entity of any signatory State, shall have the right to acquire in any other signatory State such property rights as are necessary to the use of water in conformity with this Compact by donation, purchase, or, as hereinafter provided through the exercise of the power of eminent domain in accordance with the law of the State in which such property is located. Any signatory State, upon the written request of the Governor of any other signatory State for the benefit of whose water users property is to be acquired in the State to which such written request is made, shall proceed expeditiously to acquire the desired property either by purchase at a price acceptable to the requesting Governor, or if such purchase cannot be made, then through the exercise of its power of eminent domain and shall convey such property to the requesting State or to the person or entity designated by its Governor, provided that all costs of acquisition and expenses of every kind and nature whatsoever incurred in obtaining such property shall be paid by the requesting State or the person or entity designated by its Governor.

Facilities, State authority

C. Should any facility be constructed in a signatory State by and for the benefit of another signatory State or persons or entities therein, as above provided, the construction, repair, replacement, maintenance and operation of such facility shall be subject to the laws of the State in which the facility is located.

Facilities, taxation

D. In the event lands or other taxable facilities are acquired by a signatory State in another signatory State for the use and benefit of the former, the users of the water made available by such facilities, as a condition precedent to the use thereof, shall pay to the political subdivisions of the State in which such facilities are located,

each and every year during which such rights are enjoyed for such proposes, a sum of money equivalent to the average of the amount of taxes annually levied and assessed against the land and improvements thereon during the ten years preceding the acquisition of such land. Said payments shall be in full reimbursement for the loss of taxes in such political subdivision of the State.

E. Rights to the use of water acquired under this Article shall in all respects be subject to this Compact.

ARTICLE IX

Water exchanges

Stored water, or water from another watershed may be turned into the channel of the Bear River in one State and a like quantity, with allowance for loss by evaporation, transpiration, and seepage, may be taken out of the Bear River in another State either above or below the point where the water is turned into the channel, but in making such exchange the replacement water shall not be inferior in quality for the purpose used or diminished in quantity. Exchanges shall not be permitted if the effect thereof is to impair vested rights or to cause damage for which no compensation is paid. Water from another watershed or source which enters the Bear River by actions within a State may be claimed exclusively by that State and use thereof by that State shall not be subject to the depletion limitations of Articles IV, V and VI. Proof of any claimed increase in flow shall be the burden of the State making such claim, and it shall be approved only by the unanimous vote of the Commission.

ARTICLE X

Interstate canals, water use

A. The following rights to the use of Bear River water carried in interstate canals are recognized and confirmed.

Name of Canal	Date of priority	Primary right second-feet	Lands irrigated	
			Acres	State
Hilliard East Fork	1914	28.00	2,644	Wyoming
Chapman	8-13-86	16.46	1,155	Wyoming
	8-13-86	98.46	6,892	Utah
	4-12-12	.57	40	Wyoming
	5- 3-12	4.07	285	Utah
	5-21-12	10.17	712	Utah
	2- 6-13	.79	55	Wyoming
	8-28-05	[1]134.00		
Francis Lee	1879	2.20	154	Wyoming
	1879	7.41	519	Utah

[1]Under the right as herein confirmed not to exceed 134 second-feet may be carried across the Wyoming-Utah State line in the Chapman Canal at any time for filling the Neponset Reservoir, for irrigation of land in Utah and for other purposes. The storage right in Neponset Reservoir is for 6,900 acre-feet, which is a component part of the irrigation right for the Utah lands listed above.

Administration

All other rights to the use of water carried in interstate canals and ditches, as adjudicated in the State in which the point of diversion is located, are recognized and confirmed.

B. All interstate rights shall be administered by the State in which the point of diversion is located and during times of water emergency, such rights shall be filled from the allocations specified in Article IV hereof for the Section in which the point of diversion is located, with the exception that the diversion of water into the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal shall be under the administration of Wyoming. During times of water emergency these canals and the Lone Mountain Ditch shall be supplied from the allocation specified in Article IV for the Upper Wyoming Section Diversions.

ARTICLE XI

Applications

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 official of each State in charge of water administration shall, at intervals and in the format established by the Commission, report on the status of use of the respective allocations.

Allocation status report

ARTICLE XII

Nothing in this Compact shall be construed to prevent the United States, a signatory State or political subdivision thereof, person, corporation, or association, from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under State or Federal law or under this Compact.

ARTICLE XIII

Nothing contained in this Compact shall be deemed:

1. To affect the obligations of the United States of America to the Indian tribes;
2. To impair, extend or otherwise affect any right or power of the United States, its agencies or instrumentalities involved herein; nor the capacity of the United States to hold or acquire additional rights to the use of the water of the Bear River;
3. To subject any property or rights of the United States to the laws of the States which were not subject thereto prior to the date of this Compact;
4. To subject any property of the United States to taxation by the States or any subdivision thereof, nor to obligate the United States to pay any State or subdivision thereof for loss of taxes.

ARTICLE XIV

Commission review and proposed amendments

At intervals not exceeding twenty years, the Commission shall review the provisions hereof, and after notice and public hearing, may propose amendments to any such provision, provided, however, that the provisions contained herein shall remain in full

force and effect until such proposed amendments have been ratified by the legislatures of the signatory States and consented to by Congress.

ARTICLE XV

Termination of Compact

This Compact may be terminated at any time by the unanimous agreement of the signatory States. In the event of such termination all rights established under it shall continue unimpaired.

ARTICLE XVI

Constitutionality of provision

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

ARTICLE XVII

Ratification and notice

This Compact shall be in effect when it shall have been ratified by the Legislature of each signatory State and consented to by the Congress of the United States of America. Notice of ratification by the legislatures of the signatory States shall be given by the Governor of each signatory State to the Governor of each of the other signatory States and to the President of the United States of America, and the President is hereby requested to give notice to the Governor of each of the signatory States of approval by the Congress of the United States of America.

IN WITNESS WHEREOF, the Commissioners and their advisers have executed this Compact in five originals, one of which shall be deposited with the General Services Administration of the United States of America, one of which shall be forwarded to the Governor of each of the signatory States, and one of which shall be made a part of the permanent records of the Bear River Commission.

Done at Salt Lake City, Utah, this 22nd day of December, 1978.
For the State of Idaho:
(s) Clifford J. Skinner
(s) J. Daniel Roberts
(s) Don W. Gilbert
For the State of Utah:
(s) S. Paul Holmgren
(s) Simeon Weston
(s) Daniel F. Lawrence
For the State of Wyoming:
(s) George L. Christopulos
(s) J. W. Myers
(s) John A. Teichert
Approved:
Wallace N. Jibson
Representative of the United States of America
Attest:
Daniel F. Lawrence
Secretary of the Bear River Commission

Approved February 8, 1980.

STATE AMENDING LEGISLATION

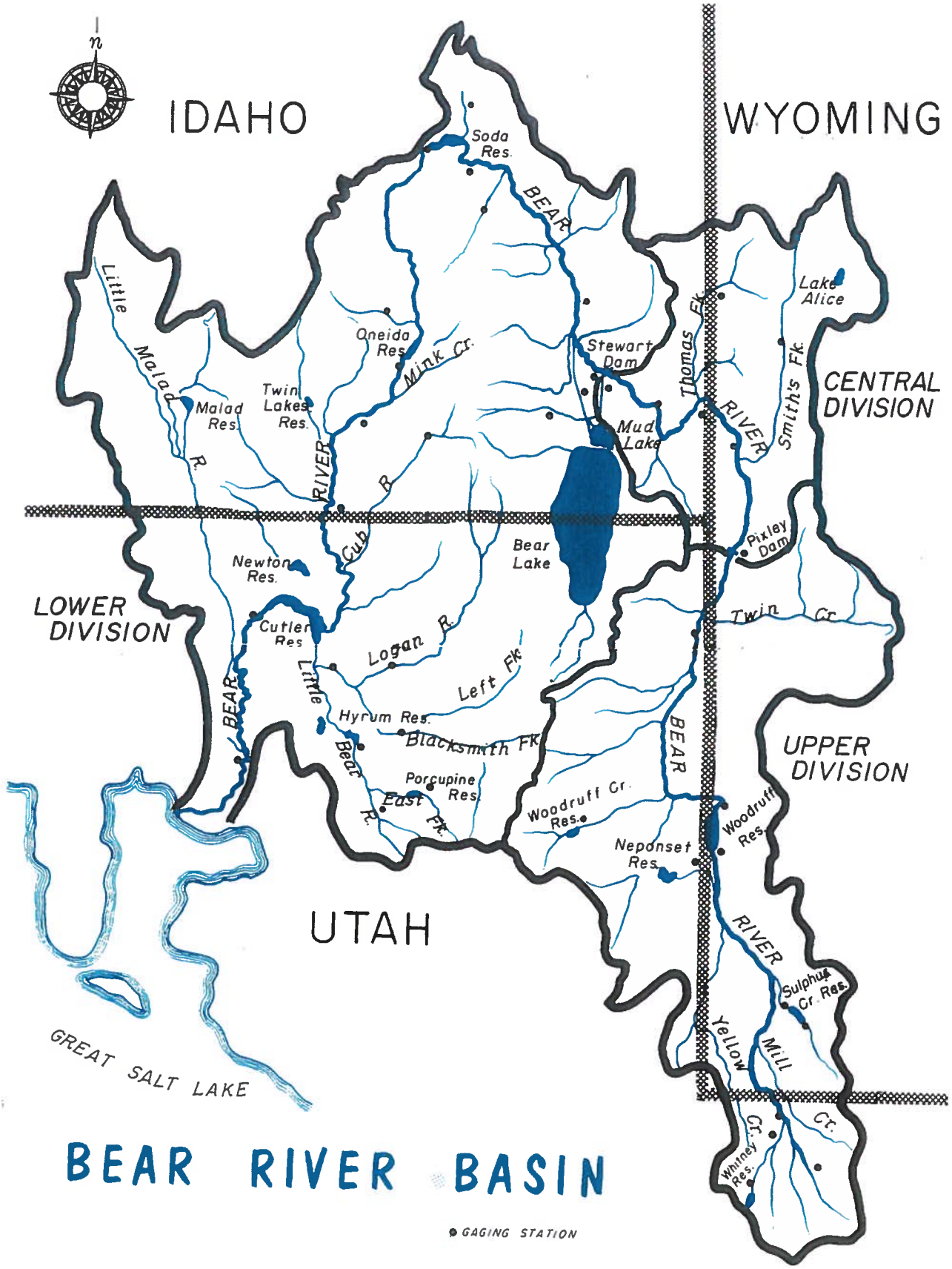
WYOMING: Enrolled Act No. 41
Amended W.S. 41-12-101
March 6, 1979

UTAH: Enrolled Copy S.B. No. 255
Amended Section 73-16-2, Ut. Code Annot. 1953
May 8, 1979

IDAHO: Senate Bill No. 1162
Amended Section 42-3402, Idaho Code
April 5, 1979

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-524 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-526 accompanying S. 1489 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Dec. 20, S. 1489 considered and passed Senate.
Vol. 126 (1980): Jan. 23, considered and passed Senate.


IDAHO
WYOMING
UTAH
CENTRAL DIVISION
LOWER DIVISION
UPPER DIVISION
GREAT SALT LAKE
BEAR RIVER BASIN
GAGING STATION
Soda Res.
BEAR
Little Malad R.
Malad Res.
Twin Lakes Res.
Oneida Res.
Mink Cr.
Stewart Dam
Thomas Fk.
Lake Alice
Smith's Fk.
RIVER
Mud Lake
Cub R.
Bear Lake
Pixley Dam
Newton Res.
Twin Cr.
Cutler Res.
Logan R.
Left Fk.
Little Bear R.
Hyrum Res.
Blacksmith Fk.
Porcupine Res.
East Fk.
Woodruff Cr. Res.
Woodruff Res.
Neponset Res.
Sulphur Cr. Res.
Yellow Mill Cr.
Whitney Res.

BEAR RIVER COMPACT

AS AMENDED

Amended Compact unanimously approved
December 22, 1978
by
the duly appointed Commissioners
from those states of Idaho, Utah and Wyoming

Ratified
by the Legislatures of all three states in 1979

Congressional Consent Public Law 96-189
February 8, 1980

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Article XIII	—	Existing Rights of United States	12
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Public Law 96-189
96th Congress

An Act

Feb 8, 1980
[H.R. 4320]

To consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.

Bear River Compact
Congressional consent

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amended Bear River Compact between the States of Idaho, Utah, and Wyoming. Such compact reads as follows:

BEAR RIVER COMMISSION

FEDERAL CHAIR

Dee Hansen

COMMISSION MEMBERS

IDAHO

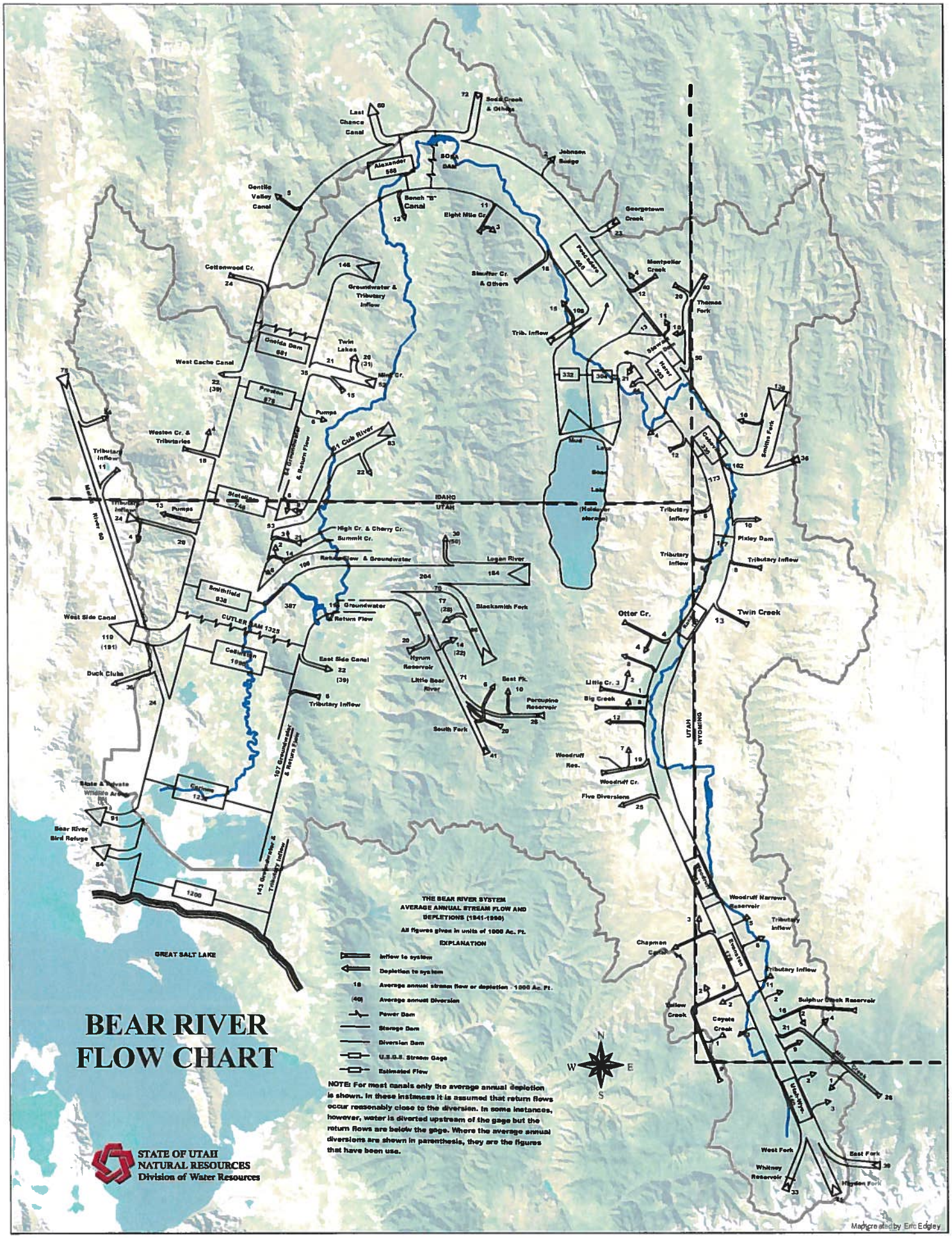
Kerry Romrell
Gary Spackman
Curtis Stoddard

UTAH

Blair Francis
Charles Holmgren
Dennis Strong

WYOMING

Sam Lowham
Sue Lowry
Gordon Thornock


BEAR RIVER FLOW CHART
THE BEAR RIVER SYSTEM
AVERAGE ANNUAL STREAM FLOW AND DEPLETIONS (1941-1990)
All figures given in units of 1000 Ac. Ft.
EXPLANATION
Inflow to system
Depletion to system
Average annual stream flow or depletion - 1000 Ac. Ft.
Average annual Diversion
Power Dam
Storage Dam
Diversion Dam
U.S.G.S. Stream Gage
Estimated Flow
NOTE: For most canals only the average annual depletion is shown. In these instances it is assumed that return flows occur reasonably close to the diversion. In some instances, however, water is diverted upstream of the gage but the return flows are below the gage. Where the average annual diversions are shown in parenthesis, they are the figures that have been use.
STATE OF UTAH
NATURAL RESOURCES
Division of Water Resources
Map created by Eric Edgley
IDAHO
UTAH
WYOMING
GREAT SALT LAKE
Last Chance Canal
Soda Creek & Others
Johnson Bridge
Alexander
SODA DAM
Gentile Valley Canal
Bench "B" Canal
Eight Mile Cr.
Georgetown Creek
Cottonwood Cr.
Groundwater & Tributary Inflow
Stauffer Cr. & Others
Montpelier Creek
Thomas Fork
Oneida Dam
Twin Lakes
Trib. Inflow
West Cache Canal
Preston
Pumps
Weston Cr. & Tributaries
Tributary Inflow
Cub River
Mud Lake
Bear Lake
(Holdover storage)
Smiths Fork
Cache
Pixley Dam
Tributary Inflow
Statesboro
High Cr. & Cherry Cr.
Summit Cr.
Return Flow & Groundwater
Logan River
Smithfield
Groundwater
Return Flow
Blacksmith Fork
Twin Creek
Otter Cr.
West Side Canal
CUTLER DAM
Cutler
East Side Canal
Hyrum Reservoir
Little Bear River
East Fk.
Porcupine Reservoir
South Fork
Little Cr.
Big Creek
Duck Clubs
Tributary Inflow
Woodruff Res.
Woodruff Cr.
Five Diversions
State & Private Wildlife Areas
Bear River Bird Refuge
Corinne
Woodruff Narrows Reservoir
Chapman Creek
Tributary Inflow
Sulphur Creek Reservoir
Willow Creek
Coyote Creek
West Fork
East Fork
Whitney Reservoir
Weber River
Bear River
Malad River
N
S
E
W

Bear River Commission Website

bearrivercommission.org

BEAR RIVER COMMISSION

Login

Welcome

Home | Real-Time Data | Documents | Meeting Notices | Links | Contact | About

Welcome to the Bear River Commission's Website

The Bear River Commission was created in 1958 pursuant to the Bear River Compact (as amended PL 96-189) between the states of Idaho, Utah and Wyoming. The Commission is composed of nine gubernatorial appointed Commissioners, three from each of the signatory states, as well as a Federal Commissioner appointed by the President, who serves as Chairman without vote. The responsibility of the Commission is to carry out the provisions of the Bear River Compact. The Compact defines its purposes as follows:

> *"The Major purposes of this Compact are to remove the causes of present and future controversy over the distribution and use of the waters of the Bear River; to provide for efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River; to promote interstate comity; and to accomplish an equitable apportionment of the waters of the Bear River among the compacting States."*

The purposes of this web page are to provide information regarding the function and activities of the Bear River Commission, to serve as a repository for key documents and to provide links to the information and data used in the equitable distribution of the waters of the Bear River.

Announcements and Items of Interest

- The next meeting of the Bear River Commission will be held on Tuesday, November 19, 2013 (see Meeting Notices)
- The 16th Biennial Report for 2009-2010 is now available.
- "*Why Is Bear Lake So Blue*," a recent publication by the Utah Geological Survey, is available on their website.

Bear River Commission 106 W. 500 S. Suite 101 Bountiful, Utah 84010 (801) 292-4662

Maintained by Rich Keeler

BEAR RIVER COMMISSION WEBSITE

Home

- Brief intro to Bear River Commission, its composition and purposes
- Announcements and Items of Interest

Real Time Data

- Link to real time data which monitors water flows and volumes in the Bear River Basin (160 monitoring sites)

Documents

- Compact, Bylaws and Procedures
- Annual and Biennial Reports
- Minutes of Bear River Commission meetings
- Historical Documents
- Maps

Meeting Notices

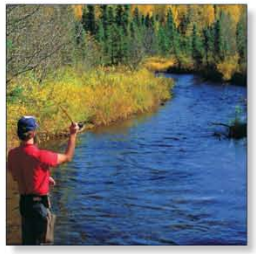
- Information on upcoming meetings of the Bear River Commission and its associated committees

Links

- Flow Data
- Water Supply/Snow Data
- State Water Resource Agencies
- Water Quality Entities
- Other related groups

Contact

- Contact information for Bear River Commission offices



Bear River Overview

Liz Cresto

September 19, 2013

Outline

- Central Division
  - Water Emergency
  - Terrell Decree
- Lower Division
  - Water Emergency
  - Dietrich Decree
  - Interstate model
  - Storage water accounting – unique aspects to the Bear River
- Depletion Study

Central Division Water Emergency

- Occurs when either
  - Divertible flow is less than 870 cfs, or
  - Bear River at Border river gage is less than 350 cfs.
- The divertible flow is split between Wyoming and Idaho.
  - 43 % to Wyoming
  - 57% to Idaho

Central Division – Terrell Decree

- Water rights above Stewart Dam.
  - Priorities 1877 - 1885
- Signed in 1924.
- Established each right is designated as a meadow right or an agricultural right.
- Meadow and agricultural rights have different relative priorities based on the time of year.

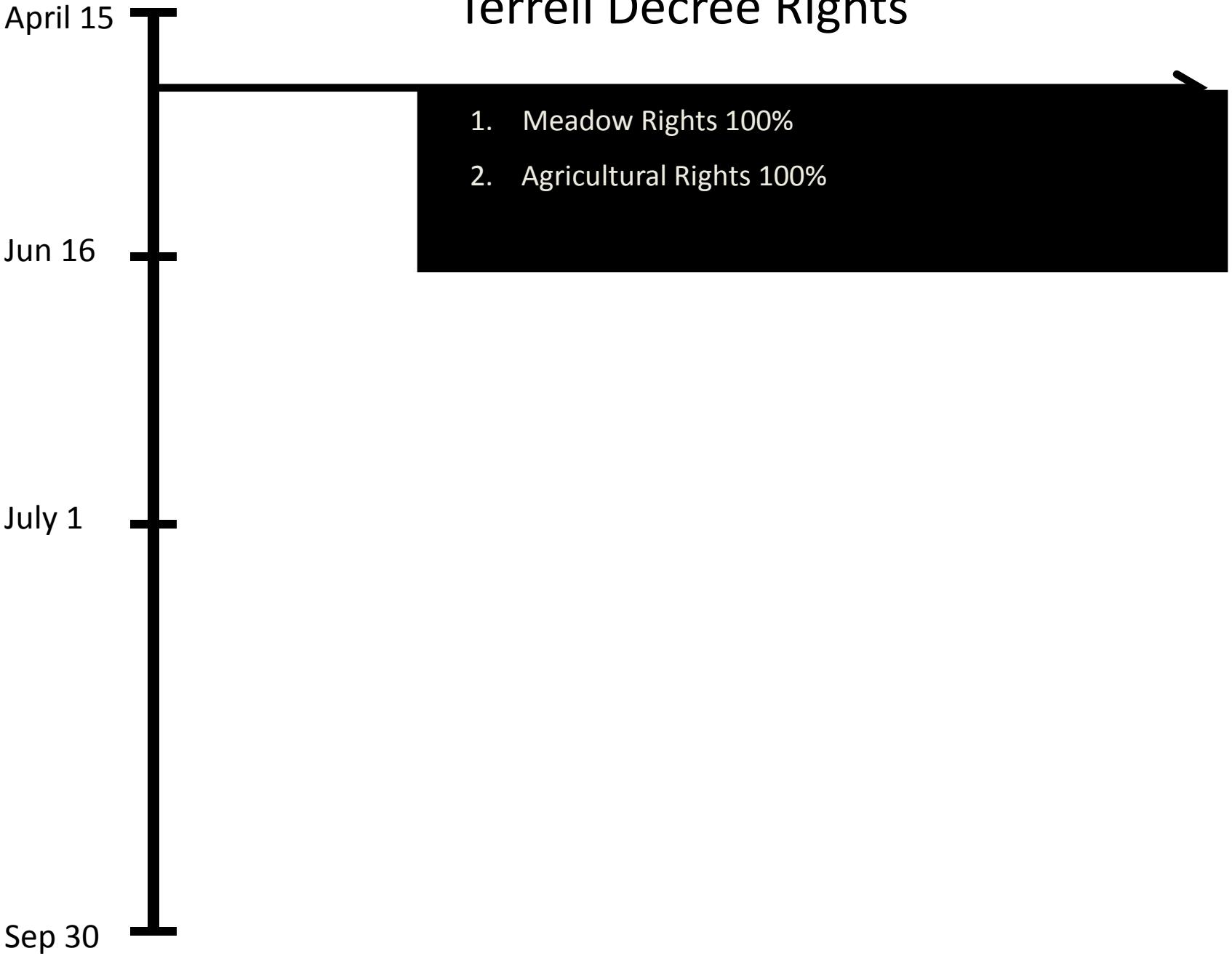
Meadow Rights

- "Meadow lands or rights are understood to mean those lands along Bear River producing what is commonly call "wild hay" or "natural meadow grass", which lands must be flooded in order to produce crops, the water running over said lands and back into Bear River, which said meadow lands shall be subject to rights hereinafter specified in this decree."

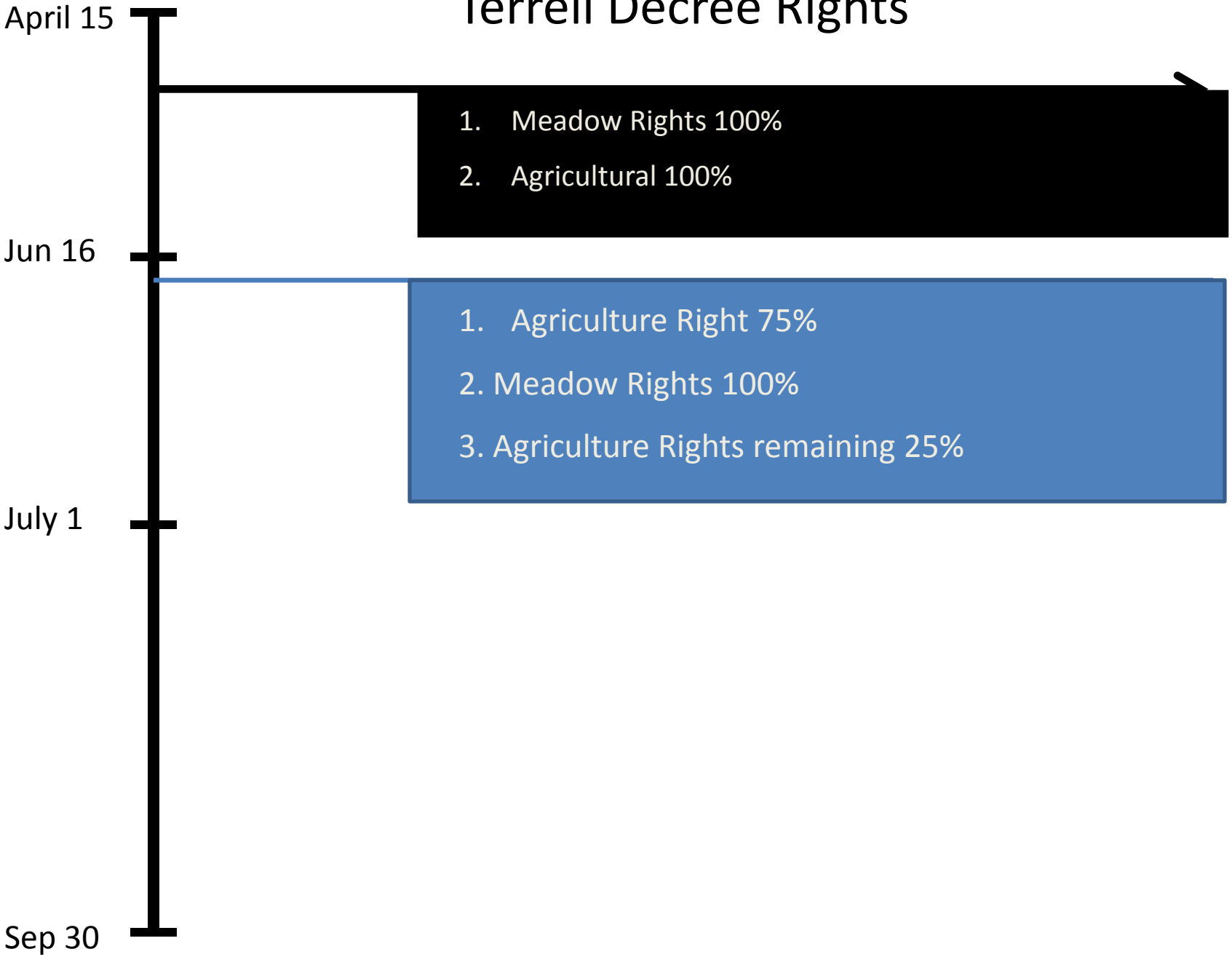
Agriculture Rights

- "The agricultural lands or rights are herein classified are intended to mean those land which have been cultivated and irrigated for the production of crops."

Terrell Decree Rights



Terrell Decree Rights



Terrell Decree Rights

April 15

1. Meadow Rights 100%
2. Agricultural 100%

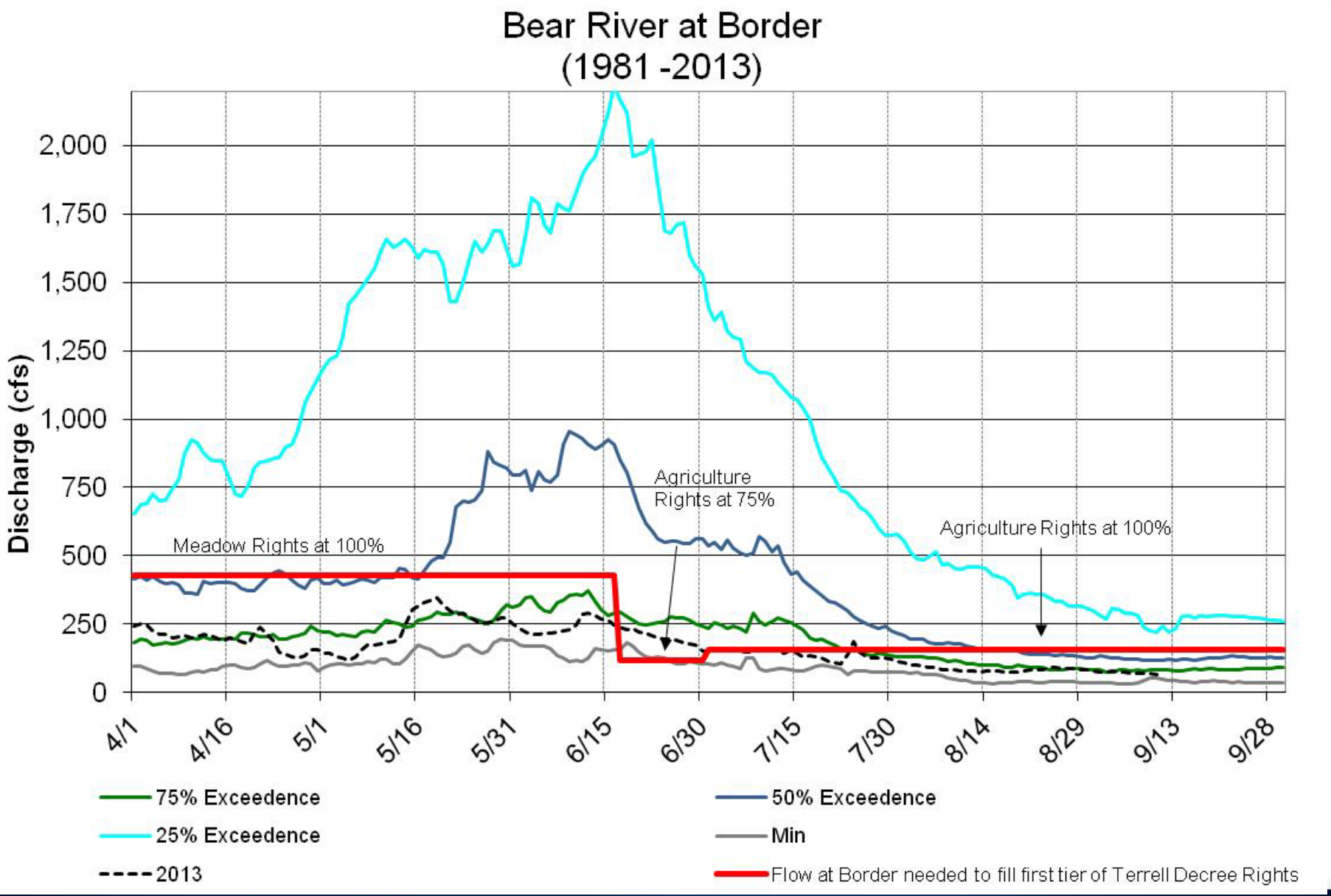
Jun 16

1. Agriculture Right 75%
2. Meadow Rights 100%
3. Agriculture Rights 25%

July 1

1. Agriculture Right 100%
2. Meadow Rights 66%

Sep 30


Bear River at Border
(1981 -2013)
Discharge (cfs)
2,000
1,750
1,500
1,250
1,000
750
500
250
0
4/1
4/16
5/1
5/16
5/31
6/15
6/30
7/15
7/30
8/14
8/29
9/13
9/28
Meadow Rights at 100%
Agriculture Rights at 75%
Agriculture Rights at 100%
75% Exceedence
50% Exceedence
25% Exceedence
Min
2013
Flow at Border needed to fill first tier of Terrell Decree Rights

Lower Division – Water Emergency

- Has to be declared by a Utah user who suspects diversions in Idaho are depriving them of their water.
- If one is declared,
  - Engineer-Manager monitors the Stated water administration.
  - Determines if there is sufficient evidence to support an emergency.
  - Idaho and Utah run their accounting models independently.
  - The Engineer –Manager maintains an updated delivery schedule (list of water rights for both Idaho and Utah).
- Has never occurred in part due to the development of the interstate water right accounting models.

Lower Division – Dietrich Decree

- Signed in 1920.
- Includes Lower Division Bear River and Tributaries.
- Specifies the gains to Bear Lake (April – September)
- Specifies storage water transit losses by river reach.
- Specifies travel times.

Lower Division – Dietrich Decree

- Power Rights – Year round.
- Irrigation Rights
  - April 20 – September 30
  - Reduced rate
    - April 20 – April 30
    - September 15 – September 30.
- Domestic Rights
  - October 1 – April 19
  - Unspecified diversion rate.

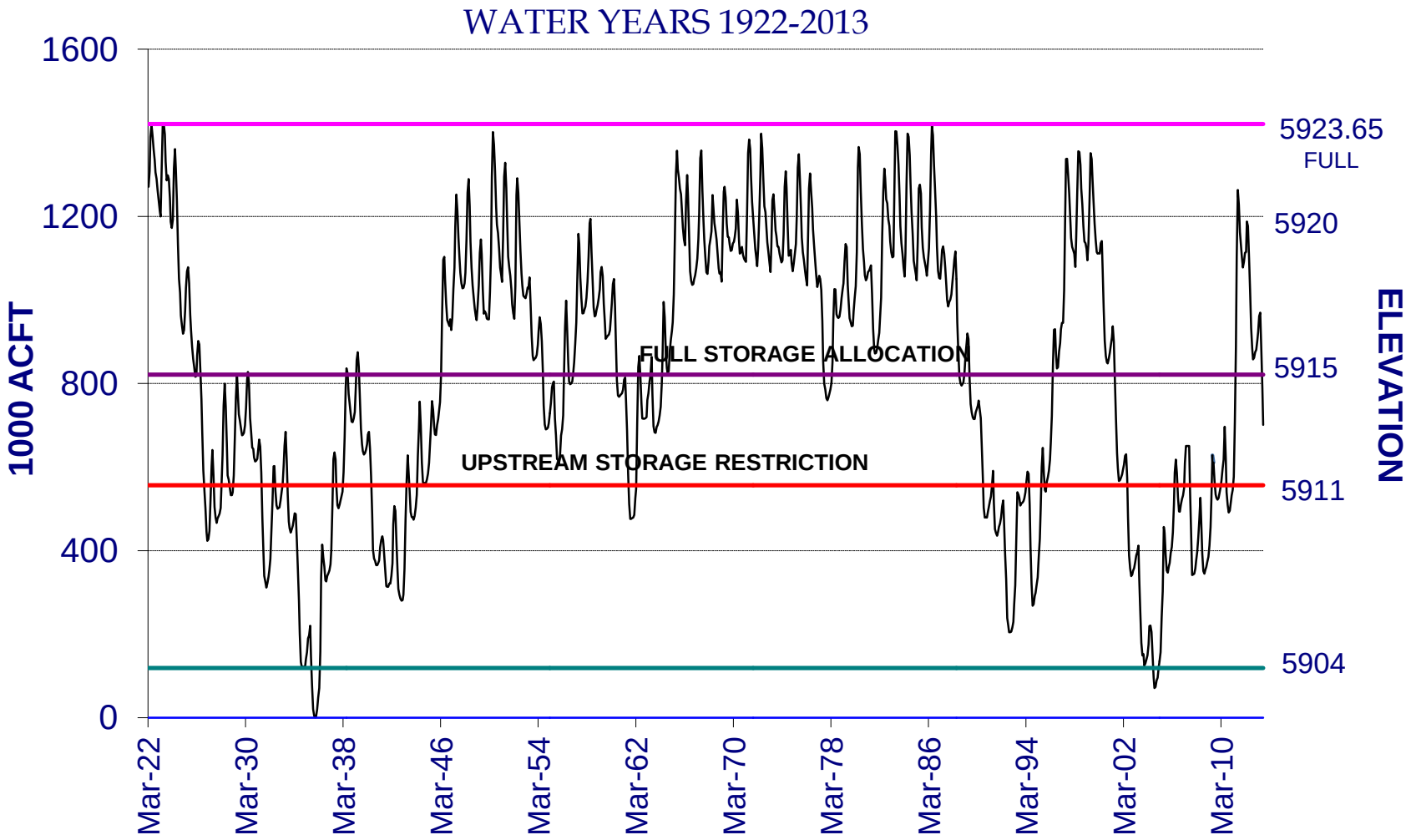
Lower Division – Interstate Model

- Original water rights accounting model developed in late 1980's
- Interstate capabilities added in the 1990's
- Transparency
  - Weekly conference calls
  - Idaho and Utah run models in parallel and verify results
  - Automation and website development

Lower Division – Interstate Model

- Storage Water
  - PacifiCorp
  - Rental Pool
  - No Individual Carryover

BEAR LAKE END OF MONTH STORAGE



Depletions

- Compact specifies allowable depletion volumes post 1976.
- Pre-1976 right do not count to depletion volumes.
- Last depletion estimates were completed based on 1990 data.
- In 2010, Bear TAC began work to estimate depletions from 1976 to 2009.

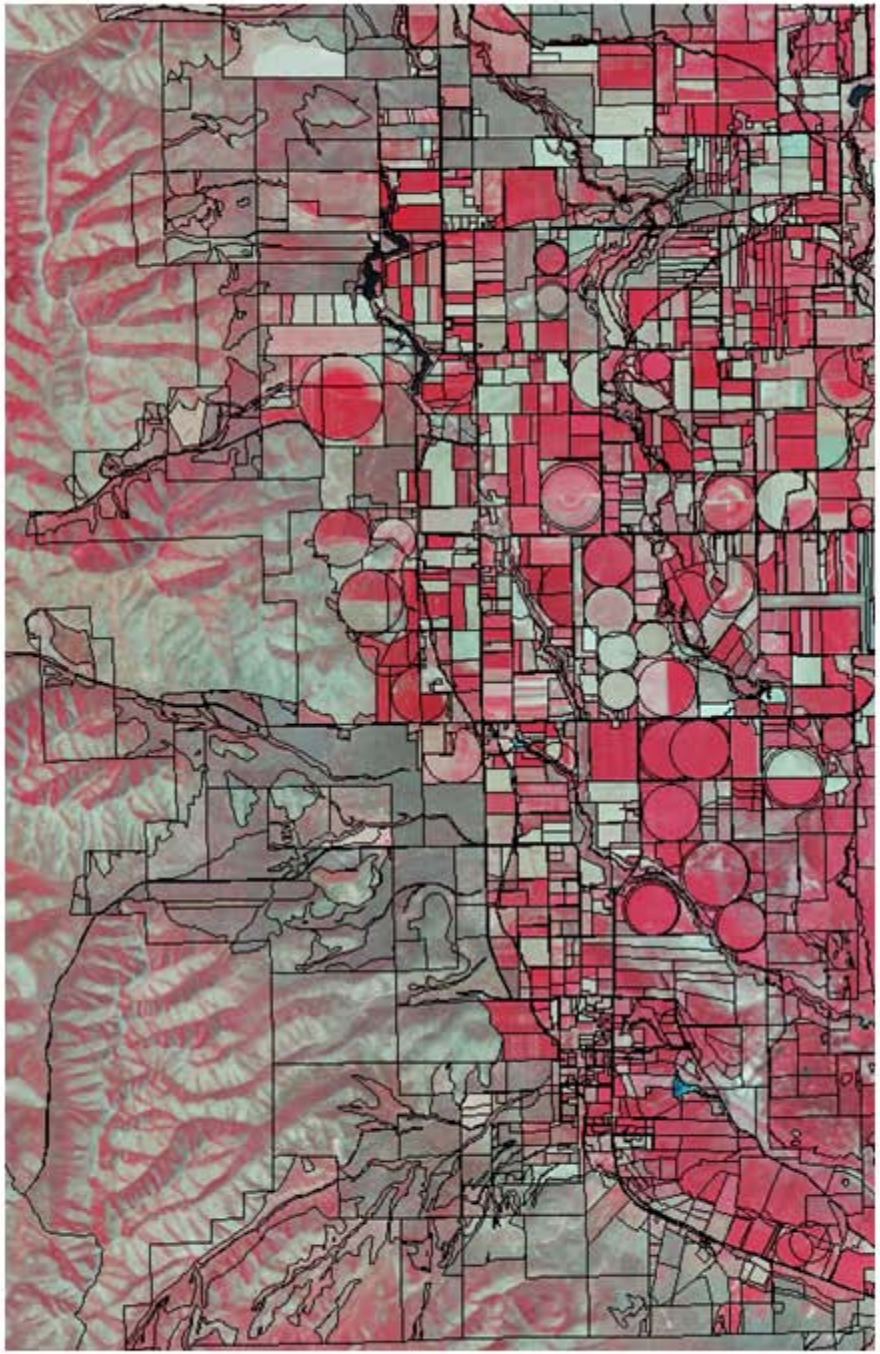
Depletions Types

1. New Agricultural Depletions
2. Supplemental
3. Municipal and Industrial
4. Reservoir Evaporation

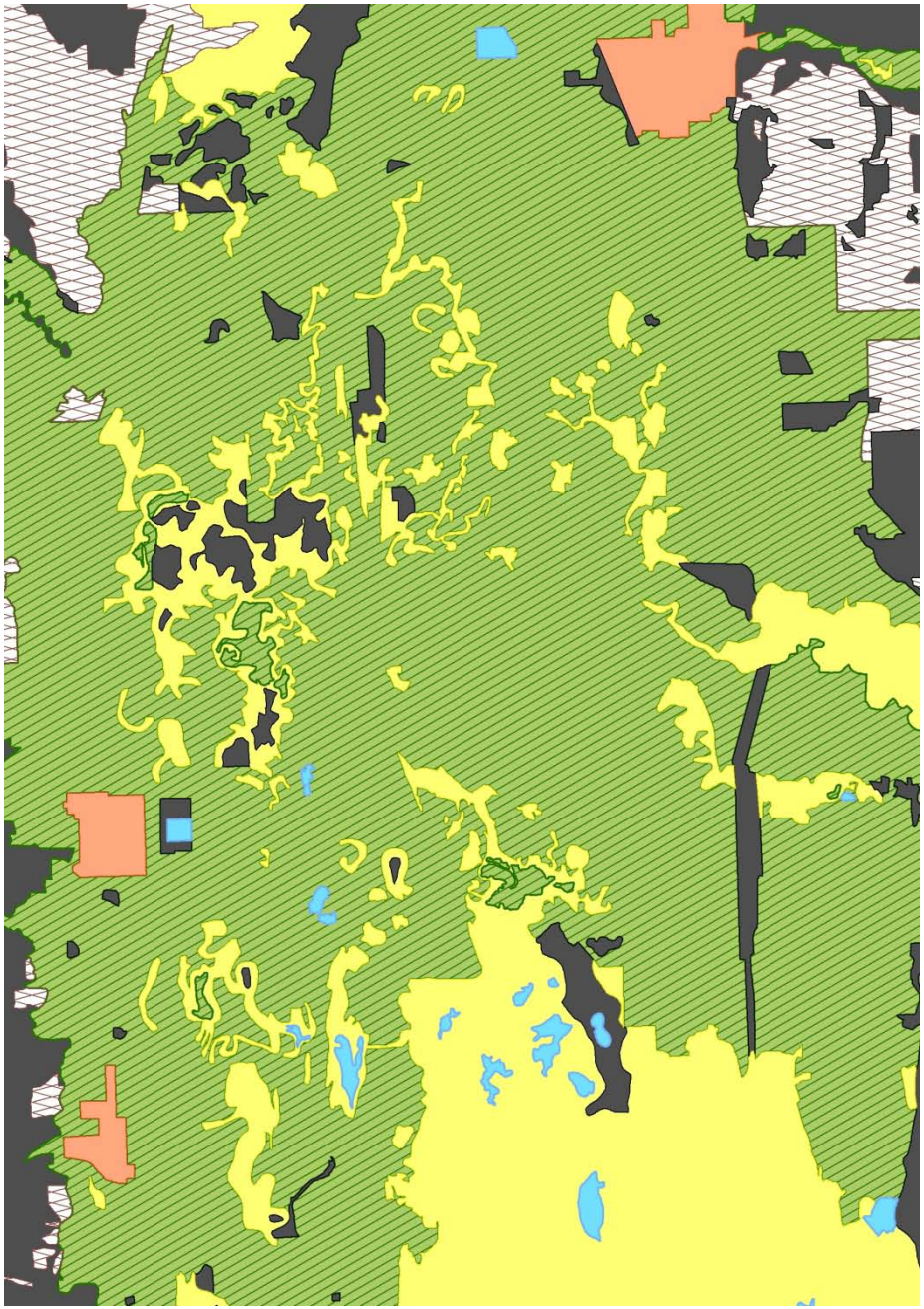
1. New Agricultural Depletions

- Determined change in irrigated acres since 1976.
  - Line work
  - Land Classification
- Multiplied depletion rate by the amount of changed acres.

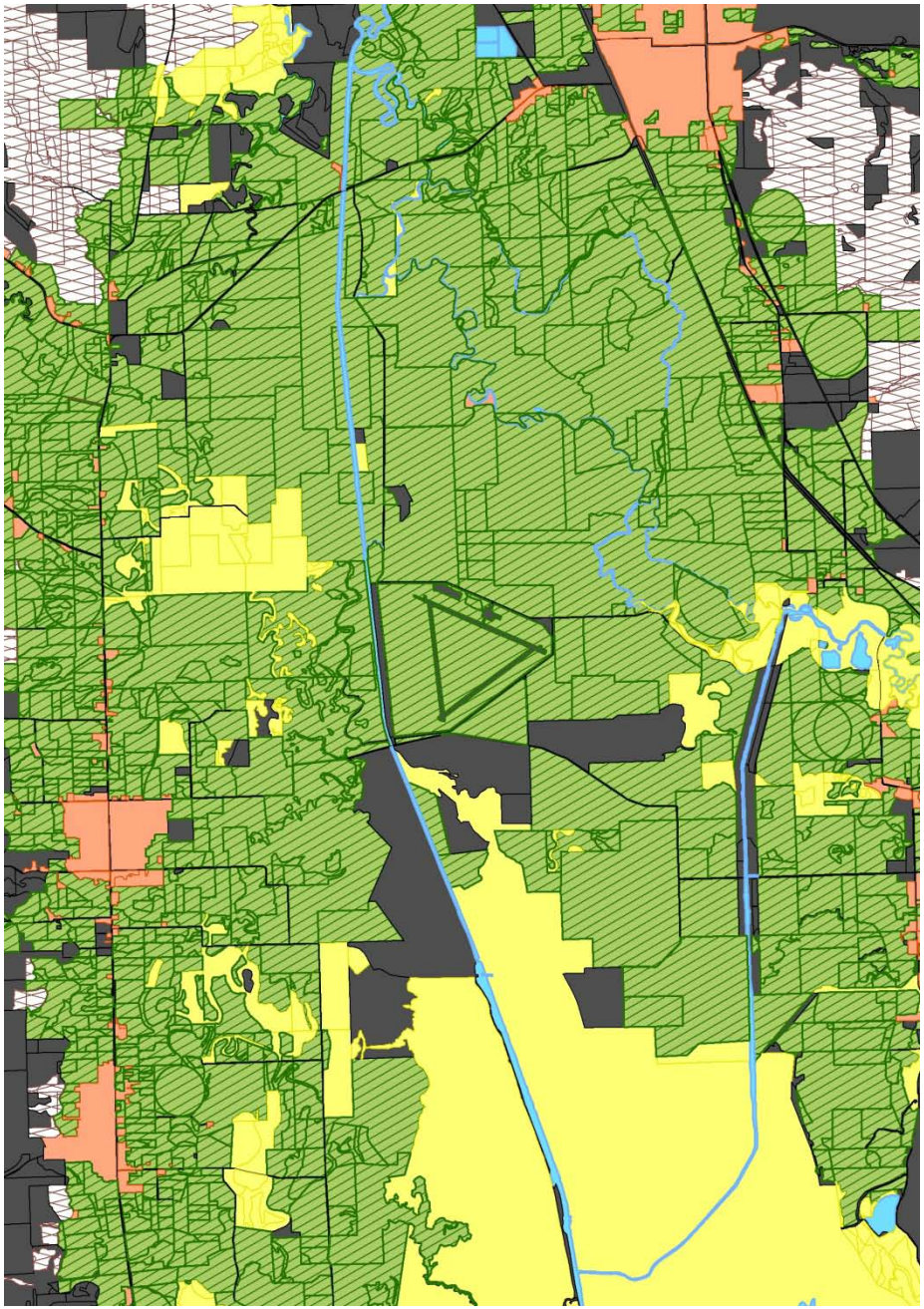
1976 line work on 2009 NAIP



2009 line work on 2009 NAIP



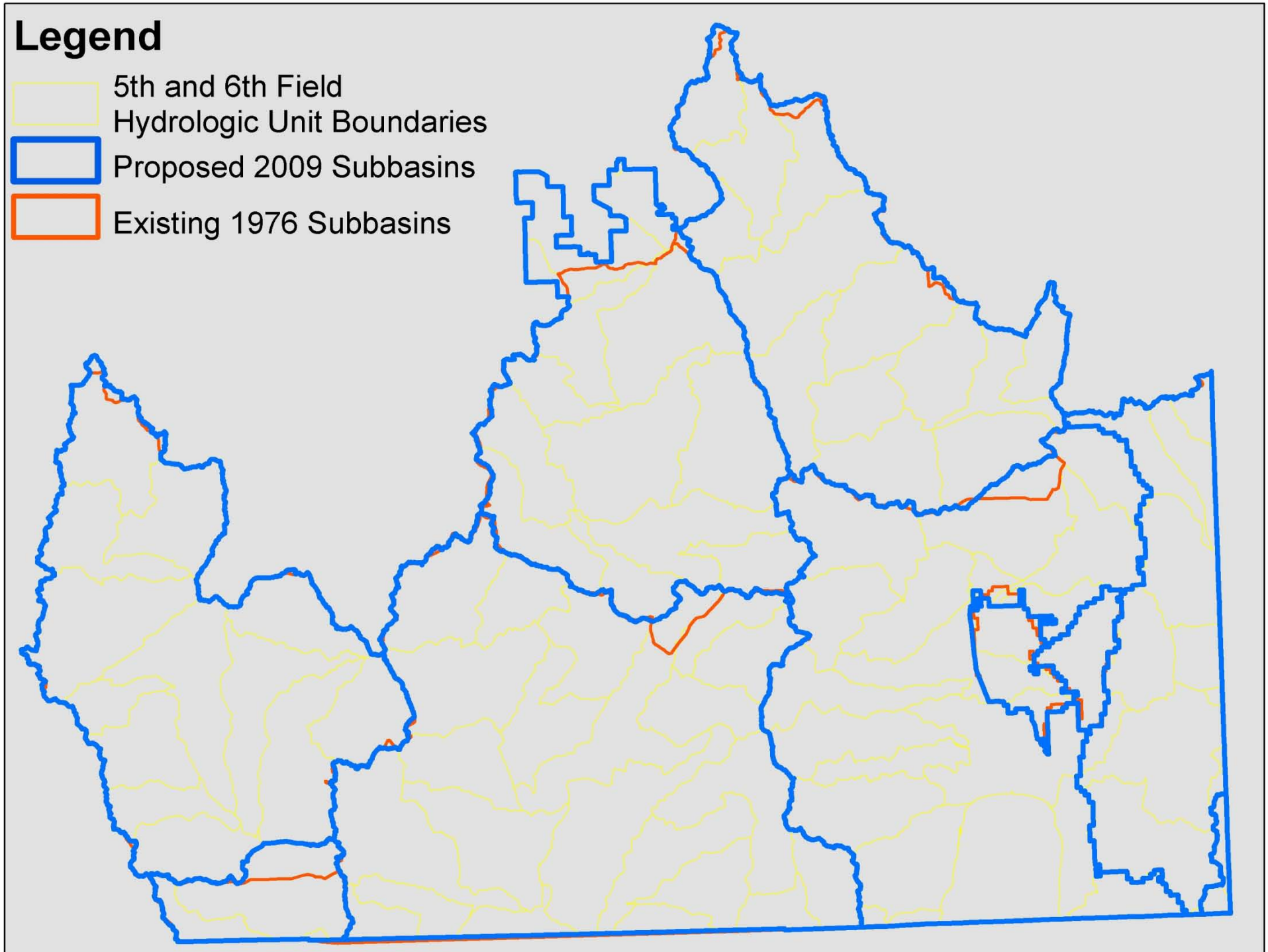
1976 Linework



2009Linework

Depletion Rates

- "Duty of Water Under the Bear River Compact: Field Verification of Emperical Methods for Estimating Depletion", Research Report 125., R. Hill, C. Brockway, R. Burman, L. Allen, C Robinson, Utah Agricultural Experiment Station, Utah State University, 1989.
- Depletion rates vary by sub-basin.
- At this point in time, TAC is recommending to continue to use the depletion rates.


Legend
5th and 6th Field Hydrologic Unit Boundaries
Proposed 2009 Subbasins
Existing 1976 Subbasins

2. Supplemental

- Project development to provide supplemental water to an area
  - Twin Lakes Canal Company use of water from Deep Creek into Twin Lakes Reservoir.
  - Malad Valley Irrigation Company development of Devil Creek.
- Lands with both an existing pre-1976 water right and a post-1976 right
  - Each state developed a methodology to estimate depletions associated with supplemental rights.
  - Idaho used power record data (2003 -2012) to estimate the percent of water used from supplemental sources.

Preliminary Supplemental Results

Division	Methodology	Rate (AF/acre)	Acres	Total Depletion (AF)
ID -Central	Power Records	0.59	739	436
ID- Lower	Power Records	0.69	8,924	6,158
WY – Central	Diversion Days	0.05	1,032	51.9
Utah*	Diversion Records	NA	NA	NA

*Utah analysis not complete.

Depletions – Municipal and Industrial

- Municipal
  - Population based estimate.
  - Population data from 2010 census.
  - Depletion rate based on Utah Division of Water Resources report from June 1991, “Municipal and Industrial Depletion Analyses for the Utah Portion of the Bear River Drainage Basin 1976 – 90.”
- Industrial
  - 3 water rights post 1976.
  - All rights assumed to be fully consumed.

Depletions – Reservoir Evaporation

- Only 1 post 1976 right for a small reservoir.
- Depletion rate based on evaporation rate for shallow ponds multiplied by the surface area.

Depletions – Central Division

Changes January 1, 1976 to December 31, 2009

Preliminary Results

State	Allocation	Agricultural Depletions	M&I Depletions	Reservoir Evaporation	Total Depletions	Remaining Allocation
Utah	13,000	5,661	119	841	6,621	6,379
Wyoming	13,000	2,399	401	197	2,997	10,003
Idaho	2,000	1,310	3	0	1313	687

Depletions – Lower Division

Changes January 1, 1976 to December 31, 2009

Preliminary Results

State	Allocation	Agricultural Depletions	M&I Depletions	Reservoir Evaporation	Total Depletions	Remaining Allocation
Idaho	125,000[1]	8,667	300	11	8,978	116,022
Utah	275,000[2]	-8,286	20,459	0	12,173	262,827

[1]First right under Compact. Compact grants additional rights.
[2]Second right under Compact. Compact grants additional rights.

Depletions – Idaho Challenges

- Lack of measurement devices and reporting
- Water right records
- Field verification
- Crop data

Depletions – TAC Future Recommendations

- Preservation of Data
- Develop common methodology for supplemental.
- Create timeline for future review
- Consider METRIC or other ET estimation methods.

Questions?