

The compact relating to the waters of the Snake River, entered into and duly executed at the city of Cheyenne, Wyoming, on the 10th day of October, 1949, by and between the commissioners of the state of Wyoming acting pursuant to authority granted under section 71-2601, Wyoming Compiled Statutes, 1945, and the commissioners of the state of Idaho acting pursuant to authority granted by chapter 11, Idaho Session Laws of 1949, and approved by the representative of the United States, be, and the same is, hereby ratified and approved and is in full as follows:

SNAKE RIVER COMPACT

The states of Idaho and Wyoming, parties signatory to this compact, have resolved to conclude a compact as authorized by the act of June 3, 1948 (62 Stat. 294), and after negotiations participated in by the following named state commissioners:

For Idaho

Mark R. Kulp, Boise
N. V. Sharp, Filer
Charles H. Welteroth, Jerome
Roy Marquess, Paul
Ival V. Goslin, Aberdeen
R. Willis Walker, Rexburg
Alex O. Coleman, St. Anthony
Leonard E. Graham, Rigby
Charles E. Anderson, Idaho Falls
A. K. Van Orden, Blackfoot

For Wyoming

L. C. Bishop, Cheyenne
E. B. Hitchcock, Rock Springs
J. G. Imeson, Jackson
David P. Miller, Rock Springs
Carl Robinson, Afton
Ciril D. Cranney, Afton
Clifford P. Hansen, Jackson
Clifford S. Wilson, Driggs, Idaho
Lloyd Van Deburg, Jackson

and by R. J. Newell, representative of the United States of America, have agreed upon the following articles, to-wit:

Article I

(a) The major purposes of this compact are to provide for the most efficient use of waters of the Snake River for multiple purposes; to provide for equitable division of such waters; to remove causes of present and future controversies; to promote interstate comity; to recognize that the most efficient utilization of such waters is required for the development of the drainage area of the Snake River and its tributaries in Wyoming and Idaho; and to promote joint action by the states and the United States in the development and use of such waters and the control of floods.

(b) Either state using, claiming or in any manner asserting any right to the use of the waters of the Snake River under the authority of either state shall be subject to the terms of this compact.

Article II

(a) As used in this compact:

(i) The term “Snake River” as distinguished from terms such as “Snake River and its tributaries” shall mean the Snake River from its headwaters to the Wyoming-Idaho boundary and all tributaries flowing into it within the boundaries of Wyoming, and the Salt River and all its tributaries;

(ii) The terms “Idaho” and “Wyoming” shall mean, respectively, the state of Idaho and the state of Wyoming, and, except as otherwise expressly provided, either of those terms or the term “state” or “states” used in relation to any right or obligation created or recognized by this compact shall include any person or entity of any nature whatsoever, including the United States;

(iii) The term “domestic use” shall mean the use of water by an individual, or by a family unit or household for drinking, cooking, laundering, sanitation and other personal comforts and necessities; and for the irrigation of a family garden or orchard not exceeding one-half acre in area;

(iv) The term “stock water use” shall mean the use of water for livestock and poultry;

(v) The term “established Wyoming rights” shall mean Snake River water rights that have been validly established of record in Wyoming prior to July 1, 1949, for use in Wyoming.

Article III

(a) The waters of the Snake River, exclusive of established Wyoming rights and other uses coming within the provisions of (c) of this article III, are hereby allocated to each state for storage or direct diversion as follows:

To Idaho ninety-six percent (96%)

To Wyoming four percent (4%)

subject to the following stipulations and conditions as to the four percent (4%) allocated to Wyoming:

(i) One-half may be used in Wyoming by direct diversion or by storage and subsequent diversion without provision being made for replacement storage space;

(ii) The other one-half may be diverted for direct use or stored for later diversion and use on the condition that there shall have been provided for reimbursement of Idaho users replacement storage space to the extent of one-third of the maximum annual diversion in acre-feet but not in excess, however, of one-third of half the total hereby allocated to Wyoming. Until this total replacement storage space has been made available, provision for meeting its proportionate part of this total shall be a prerequisite to the right to use water in Wyoming for any irrigation project authorized after June 30, 1949, for construction by any federal agency.

(b) The amount of water subject to allocation as provided in (a) of this article III shall be determined on an annual water-year basis measured from October 1 of any year through September 30 of the succeeding year. The quantity of water to which the percentage factors in (a) of this article III shall be applied through a given date in any water year shall be, in acre-feet, equal to the algebraic sum of:

(i) The quantity of water, in acre-feet, that has passed the Wyoming state line in the Snake River to the given date, determined on the basis of gaging stations to be established at such points as are agreed on under the provisions of (b) of article VI;

(ii) The change during that water year to the given date in quantity of water, in acre-feet, in any existing or future reservoirs in Wyoming which water is for use in Idaho;

(iii) The quantity of water, in acre-feet, stored in that water year and in storage on the given date for later diversion and use in Wyoming, under rights having a priority later than June 30, 1949;

(iv) One-third of the quantity of water, in acre-feet, excluding any storage water held over from prior years, diverted, under rights having a priority later than June 30, 1949, in that water year to the given date:

(A) from the Snake River for use that year on lands in Wyoming; and

(B) from tributaries of the Salt River for use that year on lands in Idaho.

(c) (i) There are hereby excluded from the allocations made by this compact:

(A) Existing and future domestic and stock water uses of water; provided, that the capacity of any reservoir for stock water shall not exceed twenty (20) acre-feet;

(B) Established Wyoming rights; and

(C) All water rights for use in Idaho on any tributary of the Salt River heading in Idaho which were validly established under the laws of Idaho prior to July 1, 1949;

(ii) and all such uses and rights are hereby recognized.

Article IV

No water of the Snake River shall be diverted in Wyoming for use outside the drainage area of the Snake River except with the approval of Idaho; and no water of any tributary of the Salt River heading in Idaho shall be diverted in Idaho for use outside the drainage area of said tributary except with the approval of Wyoming.

Article V

Subject to the provisions of this compact, waters of the Snake River may be impounded and used for the generation of electrical power, but such impounding and use shall be subservient to the

use of such waters for domestic, stock and irrigation purposes, and shall not interfere with or prevent their use for such preferred purposes. Water impounded or diverted in Wyoming exclusively for the generation of electrical power shall not be charged to the allocation set forth in article III of this compact.

Article VI

(a) It shall be the duty of the two (2) states to administer this compact through the official in each state who is now or may hereafter be charged with the administration of the public water supplies, and to collect and correlate through such officials the data necessary for the proper administration of the provisions of this compact. Such officials may, by unanimous action, adopt rules and regulations consistent with the provisions of this compact.

(b) The states shall in conjunction with other responsible agencies cause to be established, maintained and operated such suitable water gaging stations as they find necessary to administer this compact. The United States geological survey, or whatever federal agency may succeed to the functions and duties of that agency, so far as this compact is concerned, shall collaborate with officials of the states charged with the administration of this compact in the execution of the duty of such officials in the collection, correlation and publication of information necessary for its proper administration.

(c) In the case of failure of the administrative officials of the two (2) states to agree on any matter necessary to the administration of this compact, the director of the United States geological survey, or whatever official succeeds to his duties, shall be asked to appoint a federal representative to participate as to the matters in disagreement, and points of disagreement shall be decided by majority vote.

Article VII

(a) Either state shall have the right to file applications for and receive permits to construct or participate in the construction and use of any dam, storage reservoir or diversion works in the other state for the purpose of conserving and regulating its allocated water and to perfect rights thereto. Either state exercising this right shall comply with the laws of the other state except as to any general requirement for legislative approval that may be applicable to the granting of rights by one (1) state for the diversion or storage of water for use outside of that state.

(b) Each claim or right hereafter initiated for storage or diversion of water in one state for use in the other state shall be filed in the office of the proper official of the state in which the water is to be stored or diverted, and a duplicate copy of the application, including a map showing the

character and location of the proposed facilities and the lands to be irrigated, shall be filed in the office of the proper official of the state in which the water is to be used. If a portion or all the lands proposed to be reclaimed are located in a state other than the one in which the water is to be stored or diverted, then, before approval, said application shall be checked against the records of the office of the state in which the water is to be used, and a notation shall be placed thereon by the officer in charge of such records as to whether or not he approves the application. All endorsements shall be placed on both the original and duplicate copies of all such applications and maps filed to the end that the records in both states may be complete and identical.

Article VIII

(a) Neither state shall deny the right of the United States, and, subject to the conditions hereinafter contained, neither state shall deny the right of the other state to acquire rights to the use of water, or to construct or participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals and conduits in one (1) state for the purpose of diverting, conveying, storing or regulating water in one (1) state for use in the other state, when such use is within the allocation to such state made by this compact.

(b) Either state shall have the right to acquire such property rights as are necessary to the use of water in conformity with this compact in the other state by donation, purchase or through the exercise of the power of eminent domain. Either state, upon the written request of the governor of the other 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 satisfactory to the requesting state, 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 such entity as may be designated by the requesting state; provided, that all costs of acquisition and expenses of every kind and nature whatsoever incurred in obtaining the requested property shall be paid by the requesting state at the time and in the manner prescribed by the state requested to acquire the property.

(c) Should any facility be constructed in either state by and for the benefit of the other state, 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, except that, in the case of a reservoir constructed in either state for the benefit of the other state, the proper officials of the state in which the facility is located shall permit the storage and release of any water to which the other state is entitled under this compact.

(d) Either state having property rights in the other state acquired as provided in (b) of this article VIII shall pay to the political subdivisions of the state in which such property rights are located, each and every year during which such rights are held, a sum of money equivalent to the average annual amount of taxes assessed against those rights during the ten (10) years preceding the

acquisition of such rights in reimbursement for the loss of taxes to said political subdivision of the state, except that this provision shall not be applicable to interests in property rights the legal title to which is in the United States. Payments so made to a political subdivision shall be in lieu of any and all taxes by that subdivision on the property rights for which the payments are made.

Article IX

The provisions of this compact shall not apply to or interfere with the right or power of either state to regulate within its boundaries the appropriation, use and control of waters allocated to such state by this compact.

Article X

The failure of either state to use the waters, or any part thereof, the use of which is allocated to it under the terms of this compact, shall not constitute a relinquishment of the right to such use to the other state, nor shall it constitute a forfeiture or abandonment of the right to such use.

Article XI

In case any reservoir is constructed in one (1) state where the water is to be used principally in the other state, sufficient water not to exceed five (5) cubic feet per second shall be released at all times, if necessary for stock water use and conservation of fish and wildlife.

Article XII

The provisions of this compact shall remain in full force and effect unless amended or terminated by action of the legislatures of both 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 and approved to become effective; provided, that in the event of such amendment or termination all rights theretofore established hereunder or recognized hereby shall continue to be recognized as valid by both states notwithstanding such amendment or termination.

Article XIII

Nothing in this compact shall be construed to limit or prevent either state from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under this compact or the enforcement of any of its provisions.

Article XIV

(a) Nothing in this compact shall be deemed:

(i) To affect adversely any rights to the use of the waters of the Snake River, including its tributaries entering downstream from the Wyoming-Idaho state line, owned by or for Indians, Indian tribes and their reservations. The water required to satisfy these rights shall be charged against the allocation made to the state in which the Indians and their lands are located;

(ii) 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 Snake River nor its capacity to acquire rights in and to the use of said waters;

(iii) To apply to any waters within the Yellowstone National Park or Grand Teton National Park;

(iv) To subject any property of the United States, its agencies or instrumentalities to taxation by either state or subdivisions thereof, nor to create an obligation on the part of the United States, its agents 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 subdivisions thereof, state agency, municipality or entity whatsoever in reimbursement for the loss of taxes;

(v) To subject any works of the United States used in connection with the control or use of waters which are the subject of this compact to the laws of any state to an extent other than the extent to which these laws would apply without regard to this compact.

(b) Notwithstanding the provisions of (a) of this article, any beneficial uses hereafter made by the United States, or those acting by or under its authority, within either state, of the waters allocated by this compact shall be within the allocations hereinabove made for use in that state and shall be taken into account in determining the extent of use within that state.

Article XV

This compact shall become operative when approved by legislative enactment by each of the states, and when consented to by the congress of the United States.

Article XVI

Wyoming hereby relinquishes the right to the allocation of stored water in Grassy Lake Reservoir, as set forth in Wyoming's reservoir permit No. 4631 Res. and evidenced by certificate No. R-1, page 318, and all claims predicated thereon.

IN WITNESS WHEREOF the commissioners have signed this compact in quadruplicate, one (1) 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 states.

Done at the city of Cheyenne, in the state of Wyoming, this 10th day of October, in the year of our Lord, one thousand nine hundred and forty-nine.

Commissioners for Idaho Commissioners for Wyoming

/s/ Mark R. Kulp /s/ L. C. Bishop

Mark R. Kulp L. C. Bishop

/s/ N. V. Sharp /s/ E. B. Hitchcock

N. V. Sharp E. B. Hitchcock

/s/ Charles H. Welteroth /s/ J. G. Imeson

Charles H. Welteroth J. G. Imeson

/s/ Roy Marquess /s/ David P. Miller

Roy Marquess David P. Miller

/s/ Ival V. Goslin /s/ Carl Robinson

Ival V. Goslin Carl Robinson

/s/ R. Willis Walker /s/ Cyril D. Cranney

R. Willis Walker Cyril D. Cranney

/s/ Alex O. Coleman /s/ Clifford P. Hansen

Alex O. Coleman Clifford P. Hansen

/s/ Leonard E. Graham /s/ Clifford S. Wilson

Leonard E. Graham Clifford S. Wilson

/s/ Chas. E. Anderson /s/ Lloyd Van Deburg

Charles E. Anderson Lloyd Van Deburg

/s/ A. K. Van Orden

A. K. Van Orden

I have participated in the negotiations of this compact and intend to report favorably thereon to the congress of the United States.

/s/ R. J. Newell
R. J. Newell
Representative of
The United States of America

§ 41-12-502. When binding; notice of ratification

Said compact shall not be operative unless and until the same shall have been ratified by the legislature of each of the said states and approved by the congress of the United States. The governor of Wyoming shall give notice of the ratification and approval of said compact by the thirtieth Wyoming legislature to the governor of the state of Idaho and to the president of the United States.

Current through the 2011 General Session
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