

# **PROCEDURES FOR LOWER DIVISION WATER DELIVERY**

**April 20, 2004**

## HISTORY OF REVISIONS

November 18, 1997 – Initially adopted

January 26, 1998 – Revised

November 14, 2000 – Readopted as Interim Procedures

April 20, 2004 – Revised as Interim Procedures

These procedures allow for minor delivery schedule changes by the Operations Committee without formal Commission approval



# BEAR RIVER COMMISSION

## PROCEDURES FOR LOWER DIVISION WATER DELIVERY

April 20, 2004

### I. INTRODUCTION

The Amended Bear River Compact makes provision in Article IV for the administration of the waters in the Lower Division of the Bear River at times when the Commission finds that a water emergency exists. More specifically, the Compact provides in Article IV.A.3. as follows:

*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.*

These Procedures for Lower Division Water Delivery govern Commission action upon petitions filed pursuant to Article IV.A.3 of the Compact; provide the process to be followed in the declaration of a water emergency in the Lower Division; and describe how the waters in the Lower Division will be administered once a water emergency has been declared. The Procedures also provide direction necessary for the Commission to be prepared to declare a water emergency in dry years, and direction on how water delivery schedules are proposed, adopted and modified.

Prior to adopting these Procedures, the Commission received comment from representatives of the signatory States, and provided public notice and held public hearings in the affected areas within Idaho and Utah.

### II. AUTHORITY

These Procedures are adopted pursuant to Article III.C.1 and Article IV.A.3 of the Amended Bear River Compact approved December 22, 1978, by the Commissioners from Idaho, Utah and Wyoming, and subsequently ratified by the legislatures of the three States and consented to by the U.S. Congress.

### III. DEFINITIONS

The following definitions apply only to the application of these Procedures and are not to be interpreted as definitions for other administration of the Bear River Compact or other procedures adopted by the Bear River Commission.

- A. "Commission" means the Bear River Commission organized pursuant to Article III of the Amended Bear River Compact.
- B. "Compact" means the Bear River Compact, as amended on December 22, 1978.
- C. The term "accounting method" means an interstate river diversion accounting procedure together with appropriate criteria, both approved by the Commission, which when used by either Idaho or Utah will yield similar results for each diversion on the Bear River below Bear Lake.
- D. "Direct flow" means all water flowing in a natural water course except water released from storage or imported from a source other than the Bear River watershed.
- E. "Engineer-Manager" means an employee or contract employee of the Commission designated to act in accordance with these Procedures.
- F. "Groundwater" means any water withdrawn from wells at a rate in excess of 0.10 cfs within the Lower Division.
- G. "Lower Division" means the portion of the Bear River between Stewart Dam and Great Salt Lake, including Bear Lake and its tributary drainage.
- H. "River Commissioner" (not to be confused with members of the Bear River Commission itself) means the duly appointed State official authorized to distribute both direct flow and storage water in accordance with valid rights and storage allocations from Bear River or its tributaries. The term "river commissioner" includes the officials called "watermasters" in the State of Idaho.
- I. "State official" means the director of the Idaho Department of Water Resources or a designee, the Utah State Engineer or a designee, and the Wyoming State Engineer or a designee.
- J. "Stored water" means water stored in a reservoir in the Lower Division for release for beneficial use at a later time or water that has been released from storage into a natural channel for conveyance to a point of rediversion under the supervision of a river commissioner.
- K. "Water delivery schedule" means a list adopted by the Commission of water rights, ordered by priority, and established in accordance with the laws of the respective

States without regard to state boundaries and deliverable against junior priority rights.

- L. "Water emergency" means any period of time that the Commission has determined in accordance with these Procedures that a water user in Utah, by reason of diversions in Idaho, is being deprived of water to which the water user is justly entitled.
- M. "Water user" means a person, corporation or other entity having a right to divert water from the Bear River in the Lower Division for beneficial use.

#### **IV. PREPARATION**

##### **A. General Preparation**

The Commission recognizes that if adequate preparation is not made prior to receiving a petition requesting the declaration of a water emergency, then the Commission may not be prepared to respond to the petition in a timely and appropriate manner. In particular, water availability data are required to determine if the declaration of a water emergency is justified. Because storage water is an important component to the river flows in the Lower Division, the proper allocation and accounting of storage water usage is vital to Lower Division water administration.

An accounting method pursuant to approved delivery schedule(s) will be used to account for the delivery of direct flow and stored water in Idaho and Utah. This method will also account for depletions resulting from the diversion of groundwater. The method has been approved by the Commission (see Appendix B).

The accounting method must be operational in advance of the declaration of a water emergency for the potential administration by the Commission to be effective. Therefore, Idaho and Utah State officials will maintain computer models in each state consistent with the accounting method so that the method can be utilized by either state and the results submitted to the Commission or its Engineer-Manager within three calendar days after receiving the necessary water availability data in any year that the Commission has determined that a declaration of a water emergency could occur.

##### **B. Preparation Procedures**

Preparation for potential Lower Division administration requires cooperation by State water resource personnel, river commissioners, PacifiCorp (dba Utah Power) and the water users in gathering necessary water availability data. In any year that the Commission determines that water supply conditions are such that a declaration of a water emergency could occur, the Commission, through its Engineer-Manager, will do the following:

1. The Engineer-Manager will notify the State officials that an emergency declaration could occur. The State officials will in turn immediately notify appropriate river commissioners or other persons or entities responsible for water distribution of the possibility that such a declaration could occur, and such commissioners or persons or entities shall collect and assemble and distribute to the State officials and the Engineer-Manager the water availability data necessary for the accounting method.
2. The Engineer-Manager will request the Idaho and Utah State officials to confirm to the Engineer-Manager that deliveries from the Bear River will be administered and all tributaries will be administered to the extent appropriate in Idaho and Utah during the upcoming irrigation season. Data on the impact of groundwater depletions on direct flow will be requested by the Engineer-Manager from each state. Any changes to the Procedures or to the delivery schedules based on these data will be made according to Section IX.
3. The Engineer-Manager will request Utah Power to notify the State officials of stored water allocations for the water users holding contracts with Utah Power for use of stored water.
4. The Engineer-Manager will monitor river flow and diversion data to ensure the water availability data necessary for the accounting method is readily accessible in the event a petition requesting the declaration of a water emergency is properly filed with the Commission.

## **V. RECEIPT OF PETITIONS**

### **A. General Filing Provisions**

The Commission recognizes that the filing of a petition and any subsequent administration will require considerable effort and have significant impact upon water users. In order to safeguard against the taking of action upon petitions that lack merit, the Commission shall employ the following process for reviewing and acting upon filed petitions. The Commission recognizes its responsibility to act expeditiously on meritorious petitions in order to provide timely administration. The following criteria for filing and reviewing a petition are established to meet these varied objectives.

### **B. Minimum Filing Requirements**

In order for a petition to be accepted by the Commission the petition must:

1. be filed on a form provided by the Commission (see Appendix A appended to these Procedures);
2. be filed with the Commission at the Commission's office by mail, electronic facsimile or in person, during regular office hours;

3. provide evidence that the water user filing the petition is entitled to the use of water from the Bear River main stem in the State of Utah and stating that he is not receiving water to which he is justly entitled; and
4. provide evidence the petitioner has contacted the State official in Utah, the State official in Utah has contacted the State official in Idaho, and the petitioner has been advised of the administration that is occurring.

**C. Engineer-Manager's Initial Review**

1. Upon receipt of a proper petition, the Engineer-Manager shall review the petition to determine that the criteria and information required by the Commission has been set forth satisfactorily in the petition, and the Engineer-Manager will attempt to verify the information contained therein.
2. Upon determination by the Engineer-Manager that the petition satisfies all of the criteria set forth in this Section V, he shall immediately notify the members of the Commission that the criteria for filing a petition requesting the declaration of a water emergency have been met. If the Engineer-Manager determines that the petition does not satisfy all of the required criteria, the petitioner shall be immediately notified so that corrections or additional information can be supplied. The Engineer-Manager shall make a written recommendation to the Commission regarding Commission action for any properly-filed petition. Within three calendar days of the receipt of a petition, the Engineer-Manager will notify the members of the Commission, State officials and the petitioner of the receipt of the petition and the recommendations made upon the petition.
3. Nothing herein shall be deemed to prevent the Commission, upon its own motion, from declaring a water emergency pursuant to Article IV.B of the Compact. Nevertheless, the Commission shall not declare such an emergency without first notifying State officials and receiving appropriate input from them.
4. Multiple petitions will, to the extent possible, be consolidated and considered together by the Commission.

**VI. COMMISSION ACTION ON PETITIONS**

**A. Convening of Special Commission Meeting**

Upon notice from the Engineer-Manager that a proper petition has been filed with the Commission requesting that a water emergency in the Lower Division be declared, the following procedures shall apply:

1. Within seven calendar days of the initial receipt of the petition from the Engineer-Manager, the Chairman of the Commission will convene a special meeting of the Commission to consider the petition.
2. In the event that the Chairman is unavailable, the Vice-Chairman will have full authority to convene and chair the meeting.
3. The ordinary ten-day notice requirement for Commission meetings provided for in the Commission bylaws is hereby deemed waived by the Commission members, in accordance with the bylaw provisions, for the purpose of acting upon petitions regarding water emergency declarations.
4. The required quorum to take action on a petition will be as set forth in Article III.A of the Compact. In order to expedite the consideration of a petition, the Commission meeting may be conducted via telephone conference.
5. At least a two-thirds majority vote by Commission members present is required for the Commission to take action on a petition.
6. If feasible under the circumstances, the petitioner and State officials may be invited to be at the meeting on the petition and present any additional appropriate information.

**B. Actions of the Commission on Petitions to Declare a Water Emergency**

The following actions may be taken by the Commission, once convened, to review a petition requesting the declaration of a water emergency:

1. The Commission may declare the existence of a water emergency in the Lower Division pursuant to Article IV.A.3 of the Compact upon a determination that the petitioner is being deprived of water to which the water user is justly entitled because of diversions in Idaho. If a water emergency is declared, the Commission will direct the Engineer-Manager to monitor water administration by the State officials in the Lower Division under the adopted delivery schedules, as well as provide any appropriate instructions to the Engineer-Manager specific to the administration under the declared water emergency.
2. The Commission may determine the petitioner has provided insufficient evidence to support the request for declaration of a water emergency and, therefore, notify the petitioner that the Commission will not take action without further documentation.
3. The Commission may determine that, through no fault of the petitioner, insufficient information is available to the Commission to make a full determination on the petition. The Commission may direct the Commission

staff, or request State officials, to gather the additional information required. The Commission shall set a time to reconvene its consideration of the petition.

4. The Commission may deny the petition upon a determination a water emergency in the Lower Division, as provided for in the Compact, does not exist because it has not been established to the satisfaction of the Commission that the petitioner is being deprived of water to which the petitioner is justly entitled because of diversions in Idaho.
5. The petitioner will be notified in writing of action relating to the petition within three calendar days of the Commission's action. Notification will be by certified mail to the address of record on the petition. The Commission will also provide public notice of the Commission's action.
6. Action of the Commission on a petition for declaration of a water emergency may be subject to a request for reconsideration by the Commission from a State official or an aggrieved water user. Requests for reconsideration must be received in the Commission office within seven calendar days of the Commission's actions. Following the receipt of a request for reconsideration, the Engineer-Manager will advise the Chairman and the Chairman will schedule a meeting within seven calendar days of the date of the request for reconsideration. At the meeting, the Commission may hear from the petitioner, State officials, or affected water users present and then will expeditiously render its opinion with respect to the request for reconsideration. Within three calendar days, all participating parties will be notified in writing of the Commission's decision.

### **C. Termination or Modification of Water Emergency Declaration**

An affected water user or State official may provide information to the Commission to support termination or modification of the water emergency declaration. Based on such information, an affected water user may file a written request with the Commission to terminate or modify the water emergency declaration and the Commission will act in substantial accordance with the time lines and procedures set forth under Section A and B above. The Commission can also terminate or modify the declaration of a water emergency on its own volition. Unless terminated sooner or extended by the Commission, water emergencies shall terminate on September 30th of each year.

## **VII. RIVER ADMINISTRATION**

Upon the declaration of a water emergency, the Idaho and Utah State officials through the river commissioners will share, on at least a weekly basis, all available stream flow and diversion measurements necessary for administration of river flows by the Commission pursuant to approved delivery schedule(s). The accounting and administration will be performed as often as reasonably feasible and necessary throughout the irrigation season

given the availability of the necessary stream flow and diversion measurement data, as well as information about impacts from diverted groundwater. The river commissioners will, under the supervision of the responsible State officials, adjust diversions in their respective States to deliver all direct flow rights on the Commission adopted delivery schedule according to priority of right, without regard to state line, and also deliver all stored water in accordance with the allocations certified by Utah Power, with accounting made for depletions in the flow of the Bear River resulting from groundwater use. A report showing water delivery without regard to state line in accordance with approved water delivery schedule(s) shall be sent each week by State officials from both Idaho and Utah to the Engineer-Manager for review. If the review suggests that delivery is not occurring correctly, the Engineer-Manager shall promptly notify the appropriate State official who shall direct the river commissioner to deliver in accordance with the adopted water delivery schedule.

## **VIII. WATER DELIVERY SCHEDULES**

### **A. General Provisions**

The Commission will adopt one or more water delivery schedules as provided in Article IV.D of the Compact. Water delivery schedule(s) are appended to these Procedures as included in Appendix C.

### **B. Modifications to Accounting Method or Water Delivery Schedules**

Modifications to the accounting method, the existing water delivery schedules, or the adoption of additional new water delivery schedules, will occur as follows:

1. The addition of water delivery schedules or the modification of adopted schedules or of the accounting method will be in accordance with the provisions of Section IX of these Procedures.
2. The accounting method and adopted delivery schedules will remain valid and in force until formally amended by the Commission.
3. An exception shall exist for minor modifications to the accounting method or a water delivery schedule which will not materially affect the accounting method or the water delivery schedule and may occur as follows:
  - a. All minor modifications to the accounting method or a water delivery schedule must be reviewed by the Operations Committee at a special or regular meeting.
  - b. The notice and hearing requirements for amending the accounting method or a water delivery schedule as provided under Section IX of these Procedures shall not apply.

- c. If the Operations Committee finds the proposed modifications are minor and will not alter the intent of the accounting method or delivery schedule, and will not materially affect water users, then by unanimous vote of the Operations Committee the accounting method or delivery schedule will be modified.
- d. If there is not a unanimous vote of the Operations Committee, then the modifications shall not be approved until they have been formally adopted by the Commission as provided for in Section IX of these Procedures.

## **IX. AMENDMENTS TO THESE PROCEDURES OR TO THE DELIVERY SCHEDULES**

### **A. General**

Upon adoption, these Procedures will remain in force until modified or rescinded by the Commission. Copies of the Procedures, then in effect, will be kept on file with the Commission, and with the signatory States, for public inspection.

### **B. Amendment Procedure**

It is anticipated that amendments and additions to these Procedures, and to the delivery schedules, will be required as experience is gained in administering the Lower Division diversions. The following procedures apply when making such amendments:

1. The Commission will cause one of its standing committees to review proposed changes to these Procedures, or the delivery schedules, and to present recommendations thereon to the Commission. Upon presentation of the recommendations, the Commission may, after any necessary review, discussion, investigation and notice, vote:
  - a. to adopt the changes as "final amendments" by unanimous vote of the Commission in accordance with the Commission's Bylaws if the Commission determines that the modifications are minor and will not materially affect water users: or
  - b. to adopt the changes as "proposed amendments" in accordance with the Commission's Bylaws.
2. If the Commission adopts the changes as "proposed amendments," the Commission will provide public notice as follows:
  - a. Notice of the "proposed amendments" will be posted in the courthouses for each county in Idaho (Franklin, Caribou, Oneida and Bear Lake), Utah (Box Elder, Rich, and Cache), and Wyoming (Lincoln and Uinta).

- b. The Commission will advertise in papers of general circulation, for two consecutive weeks, its intention to hold public hearings on the proposed amendments.
  - c. The Commission will notify the State officials, and the river commissioners in Idaho, Utah, and Wyoming, of the Commission's intent to amend these Procedures or the water delivery schedules.
  - d. Additional public notice may be given as the Commission deems appropriate.
  - e. The public notice, in general, will describe the "proposed amendments," the time and place for public hearing, and invite public input.
3. At least two public hearings in the Lower Division, one in Idaho and one in Utah, will be conducted as follows:
  - a. The hearings will be held by the Commission and conducted by the Chairman, Vice Chairman or designee as directed by the Commission.
  - b. The hearings will allow an opportunity for all present to comment on the "proposed amendments."
  - c. The record will remain open for fourteen calendar days following the last hearing to provide additional time for written comment.
  - d. A summary of the written comments and testimony received will be made under the direction of the Commission.
4. Subsequent to the hearings and receipt of public comment and after a ten-day notice to its members, as provided for under the Bylaws, the Commission will reconvene to act in whole or in part upon the "proposed amendments." Action of the Commission will be in accordance with the Commission's Bylaws.

**APPENDIX A**

**PETITION REQUESTING  
DECLARATION OF A WATER EMERGENCY IN THE LOWER DIVISION**

**November 18, 1997**

1. Name of Petitioner \_\_\_\_\_ Date \_\_\_\_\_  
Address \_\_\_\_\_  
Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_

2. Water Right Information:  
By Owner \_\_\_\_\_  
By State Water Right Number \_\_\_\_\_

3. If owner of the claimed water right is different than in the Water Delivery Schedule(s), describe your interest in the water right and, if necessary, provide documentation attached to this petition confirming your interest.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Describe the amount of water you believe you are entitled to and are now being deprived of its use.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. State the beneficial use(s) to which you would place the water.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Describe the amount of water you are currently receiving and the beneficial use(s) to which you are currently using the water.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. If you can, indicate what portion of your current water supply is natural flow and what portion is storage water.

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8. If you are a contract holder for storage water in Bear Lake, identify the contract and its status, including amount of water received this year and last year.

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9. If your use or supply has been restricted, describe what you have done to determine that such restriction has not been due to junior diversions in Utah.

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10. State the reasons which bring you to the conclusion that you are being deprived of water to which you are entitled because of diversion in Idaho.

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11. Identify, if you can, the diversions in Idaho you believe are depriving you of water.

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12. Give any additional information you have that you believe will assist the Commission in evaluating this petition and your allegations.

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I represent that the above information is true and correct to the best of my knowledge and belief.

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Signature and Title of Petitioner

**IF SIGNED BY PERSON OTHER THAN PETITIONER, THIS PETITION MUST BE ACCOMPANIED BY A SIGNED AND NOTARIZED POWER OF ATTORNEY.**

## **APPENDIX B**

### **ACCOUNTING & DISTRIBUTION METHOD**

**April 20, 2004**

#### **I. INTRODUCTION**

The Bear River Commission's Procedures for Lower Division Water Delivery, to which this document is appended, provide for the description of an accounting method which can be used to account for the distribution of Lower Division main stem Bear River flows, including accounting of stored water, without regard to state line, pursuant to the water delivery schedule(s) set forth in Appendix C (see definitions found in III.C. of these Procedures). The purpose for describing the accounting method is to document the necessary logic and approach for water distribution and delivery calculations. The method described below is based upon appropriate hydrologic and water right accounting and distribution principles and upon provisions found within both the Dietrich and Kimball Decrees.

Upon the declaration of a water emergency, the administration of water deliveries will proceed as needed between the Commission and the States of Idaho and Utah and their respective river commissioners or watermasters. Both the States of Idaho and Utah will use their respective computer accounting models which implement the same methodologies as described below. In order to protect water users, the states will provide timely diversion measurements and regulation with weekly reporting to the Engineer-Manager as described in Section VII of the Procedures for Lower Division Water Delivery.

#### **II. ACCOUNTING**

During a Commission declared water emergency, the distribution and delivery of natural flows will be made to users within Idaho and Utah by priority and without regard to the state line. It is recognized that during much of the irrigation season, stored water releases from Bear Lake have a dramatic impact to the main stem Bear River flows in the Lower Division. It is further recognized that Utah Power controls these releases within restraints provided for by the Compact and under state water law to deliver stored water to contract users. The recognition of these contract holders and the segregation of stored water from the natural flow is vital to water accounting and delivery. Therefore, in a water emergency, the following will apply:

- A. In order to properly account for water travel times and stored water delivery losses, the river will be divided into a series of reaches. Reaches are defined based upon available stream flow information and/or between points on the river where there are changes in hydrology, including at major points of diversion or tributary confluences. Once the reaches are defined, the natural flow gain (or loss as a

negative gain) within the reach is calculated. The natural flow gain within a given reach is defined as the discharge from the reach, plus any diversions within the reach, minus the inflow to the reach, plus or minus changes in reservoir contents within the reach. Reach gains and natural flows available for diversion within each reach will be calculated and distributions will be made to users diverting under water rights for non-hydropower purposes set forth in Appendix C (Water Delivery Schedule No. 1) within that reach and downstream reaches, by priority.

- B. Once all of the natural flow has been distributed, all junior rights will be distributed zero natural flow. If in the distribution process there is only sufficient natural flow to meet a portion of the rights with identical priorities, then distribution will be made on an equal percentage of the available natural flow to each right holder with the identical priority.
- C. Main stem water users will be allowed diversions of stored water upon receipt by the Commission from Utah Power of storage allocations for that year in acre-feet by storage contract holder. The storage allocations provided by Utah Power may reflect the total storage limitations agreed to in the Bear Lake Settlement Agreement.<sup>1</sup>
- D. To properly account for use of all stored water from Bear Lake, a calculation of natural flow diversions and use of stored water released from Bear Lake will be made beginning on the date during the irrigation season when stored water was first released from Bear Lake.
- E. Individual stored water use accounts will be tracked during the remainder of the water emergency and once the stored water allocated to an individual water user is fully used, the water user will not be allowed additional diversions of stored water unless the Commission receives notice from Utah Power that supplemental storage allocations have been made.
- F. As provided for in the Dietrich Decree, “in order to compensate for the natural yield of the Bear Lake area,” water released from Bear Lake shall include an amount of water to be “regarded as ‘natural flow’” in the following amounts during the year:

- 50 cfs from April 20<sup>th</sup> to July 1<sup>st</sup>,
- 35 cfs from July 1<sup>st</sup> to July 15<sup>th</sup>,
- 25 cfs from July 15<sup>th</sup> to August 1<sup>st</sup>, and
- 15 cfs from August 1<sup>st</sup> to September 15<sup>th</sup>

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<sup>1</sup> The Bear Lake Settlement Agreement is an agreement entered into on April 10, 1995 between PacifiCorp, the “Bear Lake Group,” and the “Irrigators.”

- G. Stored water released from Bear Lake will be subject to transit losses as provided for in the Dietrich and Kimball Decrees so as to protect natural-flow water rights. The decreed transit losses are as follows: 1½ percent of the stored water flowing from the Bear Lake outlet works to above Grace Dam and an additional 1 percent transit loss for stored water remaining between each of the following points: Grace Dam and the diversion for West Cache Canal; between the diversion for West Cache Canal and the Idaho-Utah State Line; and between the Idaho-Utah State Line and Cutler Reservoir.
- H. The movement of natural flow and stored water within the system will be subject to travel time as provided for generally in the Dietrich and Kimball Decrees. It has been determined that the travel time from Outlet Canal to Corinne is approximately 5 days. Therefore, the travel time used in the accounting models will be different from the travel time identified in the decrees.
- I. A summation of total natural flow and stored water available for diversion by reach will be made and the appropriate division and regulation of such flows within the reaches will be the responsibilities of the states and their respective river commissioners or watermasters.

### **III. DISTRIBUTION**

An integrated water delivery schedule of all Bear River Lower Division main stem water rights deliverable in both Idaho and Utah has been created and incorporated into the states' computer accounting models. During a water emergency, the states will provide timely diversion measurements and regulation with weekly reporting to the Engineer-Manager as described in Section VII of the Procedures for Lower Division Water Delivery. The following will apply:

- A. Natural flow will be distributed according to priority of rights on the main stem Bear River in the Lower Division, based on Water Delivery Schedule No. 1 set forth in Appendix C.
- B. Stored water from Bear Lake will be accounted for and distributed to storage water contract holders up to their contracted amount provided by Utah Power.
- C. Tributary streams will be administered by state officials having jurisdiction in Idaho and Utah.
- D. Based upon studies performed by the States of Idaho and Utah, it has been determined that depletions to the mainstem Bear River from existing groundwater development (as of April 2003) are approximately 4.9 c.f.s. in Idaho and 4.1 c.f.s. in Utah. These depletions, relative to the total flows in the Bear River, are small and cannot be accurately measured and accounted for using the mainstem gages on the Bear River. Therefore, under these Interim Procedures during a Lower Basin

water emergency, groundwater depletions will not be accounted for or administered in the distribution of water according to the integrated water delivery schedule set forth herein. Both states shall continue to monitor and study the impact of groundwater diversions on the flows of the Bear River, and the effects of groundwater depletions will be included as required by each state under the water distribution and accounting laws and administrative rules of that state. To prevent or mitigate depletions to the mainstem Bear River from future groundwater appropriations, the Director of the Department of Water Resources in Idaho shall act pursuant to and in conformance with the groundwater management plan for the Bear River Ground Water Management Area promulgated by the Idaho Department of Water Resources, and the State Engineer in Utah shall act pursuant to and in conformance with the provisions of the Interim Cache Valley Ground-water Management Plan promulgated by the Utah Division of Water Rights.

**Water Delivery Schedule No. 1  
Lower Division Main Stem Bear River**

WATER RIGHT	NOTES	PRIORITY			FLOW (CFS)	OWNER
		YR	M	D		
13-00966		1879	5	1	2.20	GENTILE VALLEY (HARRIS, A. W.)
25-6299		1880	5	1	3.00	■ Reese, W. Lee etux
25-6300		1880	5	1	1.50	■ Reese, W. Lee etux
25-7522		1880	5	1	0.50	■ Bert D. Reese & Sons, Inc.
25-9437		1880	5	1		PacifiCorp
13-00970		1880	5	1	6.50	☐ NELSON DITCH CO.
13-00969A		1882	5	1	3.46	SMITH-BOSEN
13-00973		1882	5	1	13.00	☐ RIVERDALE IRRIGATION CO.
13-07631		1882	5	1	0.42	SMITH, HYRUM J, BOSEN, A C, AND GREEN, MELVIN
13-07632		1882	5	1	1.58	BOYACK
13-7881		1882	5	1	0.04	BOYACK
13-00621		1883	5	7	0.80	☐ WHEELER FAMILY TRUST
13-00971		1883	6	10	3.00	☐ RIVERDALE PRESTON IRRIGATION CO.
13-00975		1883	7	10	5.00	» WEST CACHE IRR. CO. (BATTLE CREEK)
13-00681B		1884	5	2	1.00	☐ WHEELER FAMILY TRUST
13-00682B		1884	5	2	0.50	☐ WHEELER FAMILY TRUST
13-00683		1884	5	2	0.50	☐ WHEELER FAMILY TRUST
29-2856		1889	3	1	333.00	» Bear River Canal Company
11-07474		1889	5	1	11.50	☐ EIGHT MILE RANCH LLC
11-07475		1889	5	1	12.50	EIGHT MILE RANCH LLC (leased to LAST CHANCE)
11-00256		1889	5	1	2.50	☐ EIGHT MILE RANCH LLC
13-07657		1889	5	1	2.00	EIGHT MILE RANCH LLC
13-00959		1889	6	1	33.00	☐ GENTILE VALLEY IRRIGATION CO. LTD.
13-00953	1	1889	7	30	4.00	JOHNSON, E. P.
25-7523		1889			0.50	■ Bert D. Reese & Sons, Inc.
29-1912	2	1890			30.00	First Commercial Trust; USFWS; Wetlands Management Co. LLC
11-00531C		1892	5	1	2.02	P4 PRODUCTION LLC (Soda Creek - leased to LAST CHANCE)
11-00531D		1892	5	1	1.00	P4 PRODUCTION LLC (Lessee: OREGON TRAIL GOLF COURSE OF SODA SPRINGS)
25-6467		1894	5	1	0.50 *	■ Elnor Goodwin Trust et al
25-6881		1894	5	1	*	■ Samuelson, Valoran A. etux
13-00954		1895	3	21	2.40	BEAR RIVER MEADOWS LLC
29-3481		1895	8	12	4.50	Gilbert, Robert
13-00991C		1897	3	1	200.00	» LAST CHANCE CANAL CO. LTD.
13-00964		1898	8	31	1.00	☐ GENTILE VALLEY (ELLSMORE)
13-00965		1898	8	31	0.90	☐ GENTILE VALLEY (HARRIS)
13-00974		1899	9	12	186.00	» WEST CACHE IRRIGATION CO.
25-3505		1899	9	12	1.50	■ Munk Jorgensen Pump Company
11-00253		1900	5	1	1.50	CHRISTENSEN, CHRIS
13-00960B		1901	2	23	2.58	☐ SKABELAND, DAVID
13-00960D		1901	2	23	2.00	☐ HOGAN, WAWN S.
13-00960E		1901	2	23	26.22	☐ GENTILE VALLEY (THATCHER IRR. CO.)
13-00960F		1901	2	23	4.20	☐ SKABELAND, DAVID
13-00992C		1901	5	14	240.00	» LAST CHANCE CANAL CO. LTD.
29-2857		1901	5	14	133.00	» Bear River Canal Company
13-00972A		1902	6	10	6.36	☐ RIVERDALE PRESTON IRRIGATION CO.
13-00972B		1902	6	10	0.14	☐ HIGLEY, JOHN L
29-3698	2	1902			(2000 AF)	US Fish & Wildlife Service
29-3739	2	1902			75.20	Bear River Club
29-1855	P	1903	12	1	270.00	Pacificorp dba Utah Power (Cutler)
13-00961		1904	4	18	7.00	☐ RAY SAUER FARMS, INC.
13-07919		1904	4	18	5.00	☐ BARTHLOME, DAVID
29-2633		1904	6	18	95.00	» Bear River Canal Company

**Water Delivery Schedule No. 1  
Lower Division Main Stem Bear River**

<b>WATER RIGHT</b>	<b>NOTES</b>	<b>PRIORITY YR</b>	<b>M</b>	<b>D</b>	<b>FLOW (CFS)</b>	<b>OWNER</b>
11-02006		1 1905	10	5	0.80	DREWERY, HARRY
13-00957		P 1905	12	28	500.00	UTAH POWER & LIGHT CO. (Grace)
29-2146		P 1906	12	1	135.00	Pacificorp dba Utah Power (Cutler)
13-00958		P 1908	7	6	500.00	UTAH POWER & LIGHT CO. (Grace)
29-2147		P 1908	12	1	135.00	Pacificorp dba Utah Power (Cutler)
13-00955		1909	8	9	138.16	» LAST CHANCE CANAL CO. (BENCH B)
13-00956		1909	12	31	25.60	» LAST CHANCE CANAL CO. (BENCH B)
11-00449		1910	5	1	0.20	P4 Production LLC (Soda Creek - leased to LAST CHANCE)
13-00967		P 1910	6	17	1000.00	UTAH POWER & LIGHT CO. (Oneida)
11-00262		1910	7	29	54.00	» LAST CHANCE CANAL CO.
13-00968		P 1911	1	18	1500.00	UTAH POWER & LIGHT CO. (Oneida)
11-00248		1911	3	1	3000.00	UTAH POWER & LIGHT CO. (Stewart)
11-00249		1912	9	11	2500.00	UTAH POWER & LIGHT CO. (Stewart)
29-2148		P 1912	12	2	500.00	Pacificorp dba Utah Power (Cutler)
29-2858		1914	5	1	43.00	» Bear River Canal Company
13-02310		1 1914	5	6	0.25	OREGON SHORT LINE RAILROAD CO.
13-02066		1914	12	11	100.00	» CUB RIVER IRRIGATION CO.
25-3031		1915	5	4	2.00	■ Larson, Leland U. et al
13-00962		P 1916	3	9	1500.00	UTAH POWER & LIGHT CO. (Cove)
13-00963		P 1916	3	28	(4000 AF)	UTAH POWER & LIGHT CO. (Cove)
25-6236		1916	5	15	3.00	■ Munk Jorgenson Pump Company
25-5132		1916			6.00	» West Cache Irrigation Company
25-7045		1916			4.00 *	■ Munk, A. Robert et al
25-7046		1916			*	■ Thain Dairy, Inc.
25-6322		1917	5	1	3.00 *	■ Munk, Robert A.
25-6323		1917	5	1	*	■ George T. Tarbot Estate
25-6324		1917	5	1	*	■ Fisher, John Lee
25-6910		1917	5	1	2.00 *	■ Ballard, R. Mel Roy
25-6911		1917	5	1	*	■ Ballard, M. Landell
25-6912		1917	5	1	*	■ Ballard, Nolan R.
25-6913		1917	5	1	*	■ Ballard, Kenneth R.
25-6914		1917	5	1	2.00	■ Allen, John E.
25-6915		1917	5	1	2.00 *	■ Reese, Daryl C. et al
25-6939		1917	5	1	*	■ Ballard, R. Mel Roy
25-6318		1917	5	1	7.00 *	■ Benson-Bear Lake Irrigation Company
25-8346		1917	5	1	*	■ Benson-Bear Lake Irrigation Company
EX 581		1917	5	1	*	■ W. D. Johnson & Sons
EX 802		1917	5	1	*	■ W. D. Johnson & Sons
EX 1194		1917	5	1	*	■ Watterson, J. T.
25-5087		1917	6	15	5.00	■ King Irrigation Co.
25-6890		1917	7	5	4.88 *	■ Spackman, Perry, et al.
25-6891		1917	7	5	*	■ Buttars, Lloyd et ux
25-6892		1917	7	5	*	■ Buttars, Lloyd et al
25-6893		1917	7	5	*	■ Rock Bottom Limited
29-1589		1917	8	2	3.50	Anderson, Garon Eli
29-995		1917	8	2	2.00	Lazy "B" Cattle & Land Company
25-6626		1918	5	1	3.00 *	PacifiCorp
25-6625		1918	5	1	*	■ Pitcher, Larry
25-9944		1918	5	1	*	■ Brough, Laura
25-6627		1918	5	1	*	■ Simmonds, Jerry et al
25-6628		1918	5	1	*	■ Simmonds, Jerry
25-3517		1918	5	1	6.00 *	■ Munk, A. Robert et al

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WATER RIGHT	NOTES	PRIORITY			FLOW (CFS)	OWNER
		YR	M	D		
25-6908		1918	5	1	*	■ Falslev, Larry
25-6909		1918	5	1	*	■ Falslev, Michael B. etux
29-993	1	1918	9	4	0.23	Whitaker, Lloyd N.
25-6624		1918			3.00	■ Elner Goodwin Trust
25-3040		1919	5	1	1.50 *	■ Elner Goodwin Trust et al
25-6882		1919	5	1		■ Williams, Duane
25-10879		1919	5	1		Barcus, Carolyn
25-7441		1919	5	1	0.20	■ Pitcher, Larry
25-4523		1919	6	1	1.17	■ Smithfield West Bench Irrigation Company
25-6319		1919	6	1	0.86	■ Falslev, Larry
25-6320		1919	6	1	1.64	■ Falslev, LaRon et al
25-8167		1919	6	1	0.78	■ Marchant, Raymond V. et al
25-8178		1919	6	1	1.66	■ Clair C. Larkin Family Trust et al
25-8332		1919	6	1	0.72	■ Mather, Gerald W. etux
25-8723		1919	6	1	0.58	■ Wheeler, Allen
29-996		1919	12	9	3.00	Warwood, Garry etux
25-6925		1919			4.00	■ Hill Irrigation Company
29-1539		1920	1	7	1.12	Petersen, Earl Lewis
29-1001		1920	2	17	3.50	Gibbons, Don L. etux
25-3041		1920	3	3	3.00	■ Larson, Leland U. et al
25-6301		1920	5	1	2.00	■ Lee Reese and Sons LLC
25-3518		1920	6	1	2.20	■ Wood, Charles W. etux
29-1003		1920	6	8	1.93	Douglas, Jerry G. et al
29-1789		1920	6	8	1.93	Fridal, Keith R. etux
29-2649		1920	6	8	1.93	Thompson, Lindon
25-6917		1920	6	12	2.00	■ Topaz Marketing Limited Partnership; Willard and Seletta Pitcher Trust; and William E. Beckstead Dairy Farm, Inc.
25-6923		1920	6	17	2.50	■ MRC Trust
11-02081	P	1922	6	12	1500.00	UTAH POWER & LIGHT CO. (Soda)
25-5977		1922			2.50	■ Falslev, Harold N.
29-1506	P	1923	12	19	2500.00	Pacificorp dba Utah Power (Cutler)
29-991		1924	9	13	1.24	Ferry, John Y. et al
29-1010		1925	6	22	3.50	Norman, Newell K. et al
29-2149		1925	7	22	1.50	Riverbend Land and Cattle Co.
29-2451		1925	7	22	2.50 *	Thompson, Miriam S. et al
29-2452		1925	7	22	*	Thompson, Grant L.
29-2453		1925	7	22	3.50	Barker, DeVerl
13-02111	1	1926	3	29	0.20	NELSON, TAYLOR
25-7047		1927			2.00 *	■ Ballard, R. Mel Roy
25-7048		1927			2.00	■ Allen, John
25-7049		1927			*	■ Reese, Daryl C. et al
29-1014		1928	11	11	1000.00	USA Fish & Wildlife Service
29-238		1928	12	14	3.00	Marriott, Randy
25-3058		1929	6	10	1.00	■ Munk, A. Robert
25-7813		1930			2.50	■ Wheeler, Regan
25-6023		1932	3	0	2.30	■ Watterson, James T. et al
13-02148		1943	3	9	0.25	○ JENSEN, FLOYD
11-01102		1945	6	1	0.32	LOVELAND, RICHARD
11-07768		1945	6	1	2.68	ROGERS, VINCE
25-3264		1955	10	8	1.90	■ Allen, John E.
25-3266		1955	10	11	(72 AF)	■ Cowley, Bruce et al
25-9827	1	1955	10	11	2.00	PacifiCorp

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WATER RIGHT	NOTES	PRIORITY			FLOW (CFS)	OWNER
		YR	M	D		
29-1169		1955	10	25	1.90	Cutler, Newell B.
25-3259		1955	11	10	3.00	■ Utah State University
25-3260		1955	11	10	3.00	■ Utah State University
29-1177		1955	12	21	1.50	McMurdie Family Trust
29-1178		1956	1	14	3.00 *	Hampton Ford Properties LLC
29-1179		1956	1	14	*	Goring, Sherie Rae
29-1180		1956	1	14	*	Hampton Ford Properties LLC
29-1183		1956	5	11	2.00	Lazy "B" Cattle & Land Company
11-01101		1956	6	1	1.60	WALLENTINE, CLOYD
25-3296		1956	7	23	3.00	■ Falslev, Larry J.
29-1195		1957	3	29	2.00	Harold Selman Inc.
25-3311		1957	9	4	2.00	■ Falslev, Harold N.
29-1200		1957	9	18	1.50	Peterson, Earl Lewis
29-1215	1	1958	12	2	2.00	Adams, Lloyd R.
29-1187	1	1959	8	20	1.00	Haycock, Warren C. etux
29-2632	1	1959	8	20	1.00	Payne, DeVerl and Irene I., Trustees
25-3358		1960	1	6	2.00	■ Rogby, Jay Golden etux
29-1263		1960	3	10	1.81	Hansen, W. Eugene etux
11-01103		1960	6	1	1.48	HARDCASTLE, LEON
25-3379		1960	8	29	2.00 *	■ Johnson, Norval
25-3461		1960	8	29	*	■ Johnson, W.D.
25-3462		1960	8	29	*	■ Johnson, Lee
25-3382		1960	9	27	3.10	■ Bullen Family Trust et al
29-3609		1966	1	11	10.00	Bear River Silt Lands Company
25-4550	1	1966	4	4	3.00	■ Falslev, Larry
29-1483		1966	4	20	3.00	Richards, Lynn H. etux
25-4647		1966	7	12	2.00	■ Reese Clark Pump & Irrigation Company
25-4911	1	1969	6	6	0.68	■ Gossner, Edwin O.
29-1647		1971	7	6	2.00	Ferry, John Y.
13-07048		1973	6	21	1.82	○ BASTIAN, ROLEN V.
25-6017		1973	7	26	2.00 *	■ Spackman, Perry et al
25-9828		1973	7	26	*	PacifiCorp
25-6083		1973	12	7	0.54	■ Pitcher, Larry
13-07885		1974	1	14	0.22	○ HOLIDAY
13-07886		1974	1	14	0.29	○ ATKINSON
13-07887		1974	1	14	0.17	○ FUQUA
13-07888		1974	1	14	0.32	○ CLARK FAMILY TRUST
25-6167		1974	3	19	1.50	■ Clair C. Larkin Family Trust et al
29-1898		1974	7	25	1.00	Fridal, Keith
13-07081		1974	7	31	0.62	○ HODGES
25-6262		1974	9	17	2.50	■ CC Ranch Revocable Trust
25-6274		1974	11	5	1.50	■ Reese, Lee
25-6349	1	1975	3	7	0.83	■ Mather, Gerald W. etux
25-6366	1	1975	4	17	2.84	■ Western Dairymen Cooperative Inc.
25-6691		1975	11	3	3.80	■ Bullen Family Trust et al
25-6838		1976	3	16	1.75 *	■ Buttars, Lloyd etux
25-8211		1976	3	16	*	■ Buttars, Lloyd et al
25-8212		1976	3	16	*	■ Spackman, Perry, et al.
25-8213		1976	3	16	*	■ Rock Bottom Limited
29-2034		1976	4	2	1.00	Harold Selman Inc.
13-07129	1	1976	4	10	0.09	○ JENSEN, FLOYD
25-6852		1976	4	16	0.35	PacifiCorp

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**Lower Division Main Stem Bear River**

WATER RIGHT	NOTES	PRIORITY			FLOW (CFS)	OWNER
		YR	M	D		
25-6855		1976	4	21	2.00	■ Ballard, M. Landell et al
25-6856		1976	4	21	0.23	■ Ballard, Mel Roy
25-6861		1976	5	4	2.00	■ Munk, A. Robert et al
25-6874		1976	5	21	1.69	■ Thain Dairy Inc.
25-6975		1976	7	20	0.52	■ Larson, Leland U. et al
25-6978		1976	7	23	2.00	■ Marchant, Raymond V. et al
25-7162		1977	2	2	1.10	■ Smith, Craig B.; Taggart, Spencer L. etux; Weeks, Merlin C. etux
25-7174		1977	2	15	0.74	■ Griffin, Duane W.
25-7329		1977	3	31	0.53	■ Dale V. Benson Trust et al
25-6688		1977	10	22	2.00	■ Robbins, Wilson Kalmar et al
25-8015	1	1979	6	13	(24 AF)	■ Floyd W. Dorius Family Trust
25-8128		1980	2	4	3.36	■ J. W. Rich & Rich LLC
13-07279		1980	5	3	25.00	» CUB RIVER IRRIGATION CO.
13-07288	P	1980	5	30	440.00	LAST CHANCE CANAL CO. LTD.
25-8183		1980	7	22	1.64	■ J. W. Rich & Rich LLC
29-2549	3	1980	12	22	150.00	» Bear River Canal Company
13-07297	P	1981	2	11	220.00	LAST CHANCE CANAL CO. LTD.
25-8263		1981	3	24	4.00	■ Munk, A. Robert
25-8268		1981	4	9	1.50	■ Innovasis Properties LLC
25-8272		1981	4	14	1.50	■ Lindley, William
29-2725		1981	4	22	50.00	» Bear River Canal Company
25-8297		1981	6	23	0.67	■ Dale V. Benson Trust et al
25-8389		1982	6	10	2.00	■ Lindley, Earl L. etux
25-8397		1982	7	26	3.00	■ Munk, A. Robert et al
25-8724		1986	3	11	1.78	■ Wheeler, Allan
29-3321		1987	6	11	300.00	» Bear River Canal Company
25-8949		1988	12	21	1.50	■ Archibald, Cecil
25-8991		1989	5	24	2.00	■ Utah State University
25-9014		1989	10	20	6.00	■ Todd Ballard Family Trust et al
29-3700		1992	8	26	1.00	Elwood Town

**Water Delivery Schedule No. 1  
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<b>WATER</b>	<small>NOTES</small>	<b>PRIORITY</b>	<b>FLOW</b>	
<b>RIGHT</b>		<b>YR</b>	<b>M D</b>	<b>(CFS)</b>
				<b>OWNER</b>

**Notes:** The following text and listings of storage water users are for informational purposes and assist in distribution in modeling efforts. Owners appearing in upper case letters divert water in Idaho and those with lower case letters divert water in Utah.

- » storage contract with PacifiCorp
- ☉ storage under PacifiCorp's allocation to Bear River Small Irrigators of Idaho
- storage under PacifiCorp's contract w/ Bear River Small Irrigators Inc. (Utah)

\* denotes diversion shared with other water right(s)

- 1 water rights not included in accounting models
- 2 water rights which can only divert when the river stage is high, not included in the accounting models
- 3 water right for winter use only
- P power right

Idaho unadjudicated claimed rights which only receive natural flow when the river is not in regulation, but which thereafter receive stored water under contracts with PacifiCorp.	<input checked="" type="checkbox"/> COOK, CLYDE <input type="checkbox"/> INGLET, ALEX P. <input type="checkbox"/> JOHNSON, B., ESTATE <input type="checkbox"/> LAMONT, BRUCE <input checked="" type="checkbox"/> WHITNEY, C.
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Water users who do not receive main stem Bear River natural flow but who do have contracts with PacifiCorp for stored water which is diverted from the main stem of the Bear River. Such use of stored water will be regulated pursuant to contracts and storage allocations to protect main stem Bear River natural flow water rights.	<input checked="" type="checkbox"/> FOSTER, RON <input type="checkbox"/> FOX, LAWRENCE <input type="checkbox"/> PHELPS, GROVE
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Diversion and use of Bear Lake storage water by PacifiCorp or its leasees on lands owned by PacifiCorp which do not have a main stem Bear River natural flow water right	PACIFICORP - KUNZ, CHARLES PACIFICORP - KUNZ, PARLEY PACIFICORP - KUNZ, PAUL
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Idaho unadjudicated claimed rights owned by PacifiCorp which only receive natural flow when the river is not in regulation, but which thereafter receive stored water from Bear Lake.	PACIFICORP - LIFTON STATION DOMESTIC/IRRIGATION PACIFICORP - SODA HYDRO PLANT IRRIGATION PACIFICORP - SODA HYDRO PLANT POWER PACIFICORP - SODA HYDRO PLANT POWER PACIFICORP - SODA HYDRO PLANT DOMESTIC PACIFICORP - GRACE DAM DOMESTIC PACIFICORP - GRACE DAM IRRIGATION PACIFICORP - GRACE HYDRO PLANT LAWN PACIFICORP - GRACE HYDRO PLANT DAM/IRRIGATION/STOCK PACIFICORP - ONEIDA HYDRO PLANT DOMESTIC PACIFICORP - ONEIDA HYDRO PLANT IRRIGATION PACIFICORP - ONEIDA HYDRO PLANT POWER
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