

BEAR RIVER COMMISSION

106 West 500 South, Suite 101
Bountiful, UT 84010-6232
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MINUTES

BEAR RIVER COMMISSION REGULAR MEETING ONE-HUNDRED FIFTH COMMISSION MEETING

November 16, 2004

COMMISSION MEMBERS

Chair

Dee C. Hansen

Idaho Members

Karl J. Dreher
Rodney Wallentine
Dean M. Mathews

Utah Members

D. Larry Anderson
Blair Francis
Charles W. Holmgren

Wyoming Members

Patrick T. Tyrrell
Sam Lowham
Gordon Thornock

ENGINEER-MANAGER

Jack A. Barnett
Suite 101
106 West 500 South
Bountiful, UT 84010

The regular meeting of the Bear River Commission was called to order by Chair Dee Hansen at 1:45 p.m. on Tuesday, November 16, 2004 at the Idaho Water Center in Boise, Idaho. This was the one-hundred and fifth meeting of the Commission. Hansen welcomed everyone to the meeting and thanked Karl Dreher for hosting the meeting. He asked all in the room to introduce themselves. An attendance roster is attached as Appendix A.

Chairman Hansen presented the proposed agenda for the meeting. There were no changes to the agenda. A copy of the approved agenda is attached as Appendix B. The Commission then moved to agenda item II and considered the draft minutes of the April 20, 2004 Commission meeting. There was one minor change on page 8. In the Wyoming state report, Tyrrell had discussed how much money Wyoming had for the IT initiative and the number should be \$1.4 million instead of \$1.5 million. It was also noted that the revised Lower Division Procedures will be attached to the minutes. There was a motion to approve the minutes with the one amendment and with the attachment. The motion was seconded and carried.

The time was then turned to Commissioner Larry Anderson for the Secretary-Treasurer's report under agenda item III. Anderson distributed two handouts and reviewed the information with the Commission. A copy of the handouts is attached as Appendix C. There was a motion to accept the FY 2004 financial report. The motion passed. Anderson reported that all state dues have been received. The U.S. Fish & Wildlife Service will be billed shortly for the Corinne Gage. Anderson indicated that by the end of this fiscal year the Commission will be within budget. Currently the Commission is slightly over on the Engineer-Manager's time. This will correct itself as the Commission begins working with the EPA grant as the Engineer-Manager will be able to charge some of his time against the grant. The Commission will make projections of the state dues in April.

Chair Hansen then moved to agenda item IV and invited Eulalie Langford to address the Commission. Langford distributed a document on Idaho House of Representative letterhead regarding a United States Army Corps of Engineers Feasibility Study and then read the document. A copy of the document is attached as Appendix D. There was a motion that the Engineer-Manager write a letter recommending the study with a provision that past dollars spent count as cost-share. There was no second to the motion and the motion died. Commissioner Tyrrell indicated that the Commission needs to look more closely at this issue before committing to anything. Commissioner Anderson commented that he also feels it needs a closer review and if a study is done it ought to be broader than just flood control. It is hard to find someone who will pay for flood control. Langford pointed out that the reason the study is directed at flood control is because the Corps of Engineers works on flood control. Others would benefit by the study. Commissioner Dreher asked about the element of timing. Langford indicated that there is no element of timing. It was suggested that the issue be placed on the April Commission meeting agenda. Dave Cottle from Bear Lake Watch indicated that the drought has brought many things forward. What this group can do is get a basin-wide approach to storage. The Corps study is the start. Cottle stated that the Commission is in the leadership role to make the Bear River Basin as efficient as possible for the people. Bear Lake Watch is supportive of Langford's position and encourages the Commission to look at this issue.

The question was asked that if the Commission responded today, what would the path be for this study? Langford indicated that the Congressional delegation would make the decision as to whether or not the study would be funded as the funding would have to come from the Congress. There would be an earmark write-in for the Corps of Engineers to do the study. This needs to be included in a funding bill for the next session of Congress. Commissioner Dreher indicated that Idaho has an unprecedented involvement of its legislature on water problems throughout the State of Idaho. There is an interim committee with a specific working group that was established to look at water issues in the Bear River Basin. He asked if Langford had dialoged with that working group. Langford indicated that she had made a presentation similar to the one she gave to the Commission. The working group was in favor of sending a resolution to the Congress. A resolution is being prepared and will be presented to the Idaho legislature.

Commissioner Anderson asked if the Commission should assign the TAC to look at the background and history of PacifiCorp's policies relating to holding the lake at 5918 or lower, how much water was dumped in 1999 that could have been in the reservoir if there was a different policy and what impact would that have had on the Bear River. There was a motion for the TAC to look at the "what if's." The motion was seconded. Commissioner Tyrrell indicated that if there are interim questions, letters might be constructed to Langford. Langford indicated that this would be fine. The Commission is involved because it is charged by the federal government to manage the Bear River. The motion passed.

Chair Hansen then moved to agenda item V and asked Connely Baldwin to discuss PacifiCorp issues. Baldwin distributed a handout on river operations and a copy of this handout is attached as Appendix E. Baldwin then reviewed the river operations handout. The low elevation this fall was at 5903.09 on October 27. The irrigation allocation last year was made later than

normal (April 10) to make sure that the estimated high lake elevation in the spring was as accurate as possible. The plan was to not use water until mid June but in May (May 17) there was an emergency call and the Outlet Canal was opened. Soon rains came, the Outlet Canal was closed to storage releases and was not reopened until well into June. Baldwin pointed out that the Dietrich Decree makes allowance for some natural flow that accumulates in Bear Lake and Mud Lake that is considered natural flow which can be called on by downstream users and so PacifiCorp made releases of this natural flow through the Outlet Canal (about 300 cfs for about four hours). This is another tool that can be used to supply water and keep the river in balance without using storage water.

Baldwin then discussed the Amended and Restated Bear Lake Settlement Agreement. The motivation for this agreement was to allocate the losses. There are two types of losses, in channel transit losses of storage water and also the system losses or the water that flows below Cutler Dam during the irrigation season. Baldwin provided copies of this new agreement and then reviewed Exhibit A of the Agreement. In footnote 5, there is one change. It has moved the allocation date to April 10. There was a motion that this Amended and Restated Bear Lake Settlement Agreement be included with the minutes. The motion was seconded and carried. A copy of this document is attached as Appendix F. Baldwin concluded his report by stating that there is no need to dredge in 2005. PacifiCorp can deliver the water which will be allocated.

The time was then turned to Barry Burnell for the Water Quality Committee report. Burnell reported that the committee has derived an organizational structure where Walt Baker will chair the committee and Burnell will be the vice chair and note taker. This past summer the Water Quality Committee toured the Bear River watershed and began discussing the EPA grant. There will be one contract with Utah State University (USU) and one with Idaho National Laboratory (INL). The USU will have three tasks: 1) the development of a watershed information system, a web-based interactive tool; 2) the water quality trading program development; 3) an outreach and education program. The Water Quality Committee made some minor modifications to a proposed contract with USU. The Committee recommends that the Commission sign the USU contract. The second part of the grant is modeling. Modeling would be focused on areas of the Bear River that have the greatest likelihood for pollution trading to occur. This modeling would use an existing model that INL has developed and would enhance that existing model. INL would do this modeling. A contract with INL is not far enough along that the committee can recommend the signing of a contract. The committee will conduct a review of the INL contract and once that review is completed the committee would like authorization to enter into the INL contract. The subject of the authorization to sign contracts was moved to the Management Committee's part of the agenda.

Chair Hansen then moved to agenda item VII, the report of the Operations Committee. Commissioner Francis reported that the committee received a report from Don Barnett regarding the Upper Division. If Bear Lake is below 5911, Woodruff Narrows Reservoir, with some transfers from Wyoming, would have the capability of storing 31,190 af of water (37.09 on the staff gage). Sulphur Creek Reservoir and Whitney Reservoir would be able to fill to capacity during the 2005 run-off. The committee discussed modifications to the delivery schedule which were previously

approved. All modifications have been clarified. There was one modification discussed regarding Dave Skabeland as he did not have a contract with PacifiCorp but now has a contract. The water right numbers are 13-00960B and 13-00960F. The delivery schedule is to be changed to show that Skabeland has a contract with PacifiCorp. The committee moved and accepted this modification. Francis then reported that most people adjusted their operations this year to better utilize their water and timely rains helped. The small pumpers in Utah, in general, cooperated and turned off except for one. The Idaho pumpers are trying to reach an agreement with PacifiCorp. There was no early call for regulation in the Upper Division. The committee reviewed last year's deliveries. There were no questions for Francis.

The Commission then heard the report of the Records & Public Involvement Committee. Commissioner Holmgren filled in for Commissioner Mathews, as chair of the committee, who was unable to attend the Commission meeting because of illness. The committee addressed publications of interest. The Engineer-Manager received a communication from the University of New Mexico Law School asking how the Bear River Commission is organized and how it works. The law school wants an extensive survey completed. The committee concluded that it would defer responding to the survey until April. Other items of interest are the recently issued USGS reports concerning the NAWQA studies and the news that a new round of NAWQA studies are planned, a Cache Valley hydrology study, the EPA grant, and information concerning the history of the Bear River region which is available at Utah State University. The committee discussed stream gaging and Don Barnett provided information regarding the gages below Woodruff and below Pixley. The Records & Public Involvement Committee recommends that a DCP unit be placed below the Woodruff Narrows Reservoir. This would affect the budget by approximately \$900. Holmgren moved that the Secretary-Treasurer sign a contract with the U.S. Geological Survey to put a DCP unit at the Woodruff Narrows Reservoir gaging station below the dam. The motion was seconded. Anderson clarified that they are talking about the FY 06 budget and the Commission is authorizing him to enter into a contract with the U.S. Geological Survey for \$52,825. This is \$900 more than was approved previously. The motion passed.

Holmgren then stated that Bob Fotheringham had reported to the committee and suggested that the Commission look for seed money for more automated gages within the Bear River Basin and perhaps have a future line-item in the budget to work with a website. The committee also discussed the possibility of asking the TAC to look into furthering a website with regard to the automation of the river. Larry Anderson indicated that a person on Todd Adam's staff has expertise in putting together web pages. Utah is willing to contract with the Commission for his time and to have developed a web page so it can be used. The cost estimate would be \$5,000 or less. Jack Barnett suggested that the TAC and the Engineer-Manager be assigned the task of investigating the options of a website. They could present a report at the April Commission meeting. Commissioner Tyrrell indicated that his reluctance is with regard to the budget constraints. It was determined that the TAC and the Engineer-Manager will look at this issue.

Holmgren then indicated that the Records & Public Involvement Committee recommends that the Lower Division Procedures be included with the April 20, 2004 minutes. He then reported that

the September Bear Lake Symposium was well attended and successful and he gave an overview of the proceedings. As far as future public events, with the EPA grant there will be public meetings with stakeholders. There were no questions for Holmgren.

Chair Hansen then asked Jack Barnett to give the Engineer-Manager's report. Barnett reported that the TAC has some ongoing assignments. One assignment is to continue to look at the adequacy of the USGS gaging program. The TAC looked at the part-time gage at Pixley. The Pixley gage is only operated during the summertime and during that time there is little or no spill at Pixley. We really don't know how much water is showing up at Pixley unless the two canals (one on each side) are also gaged. The TAC is also looking at the Bear River below Smith's Fork gage because there was some thought that this might be considered to be dropped by the USGS. The TAC spent time looking at the success of the new real time data collection. The TAC is assigned to keep abreast of the automation and encourage future automation. Jack then indicated that Joanna Endter-Wada from USU is doing a case study of the Bear River Basin with regard to drought management. Jack will report at the April meeting on the progress of this case study. A copy of the drought management document is attached to these minutes as Appendix G.

Pat Tyrrell was then asked to present any items from the Management Committee. Tyrrell indicated that the Management Committee discussed the EPA grant. He moved that the Commission allow the contracts to be signed with two signatures, that of the Secretary-Treasurer and the other the Engineer-Manager. It was clarified that the Water Quality Committee will review the contracts before they are signed. The motion was seconded and carried. Tyrrell then indicated that the Management Committee discussed the budget and a delay of future budget discussions awaiting a recommendation from the Records & Public Involvement Committee on the automation of gages. Tyrrell reported that the Commission needs to approve an addendum to the contract with the Engineer-Manager to allow him to administer the EPA grant. The work would be done under the same charge rate as the Commission currently gives from the contract. Tyrrell then moved that the Engineer-Manager be allowed to administer the EPA grant. The motion was seconded and carried. There were no questions for Tyrrell.

The Commission then moved to the state reports. Commissioner Anderson reported that Utah will have a new governor taking office on January 3, Jon Huntsman, Jr. It is expected that he will make many changes in the state government. The governor has a transition team and meetings will begin with various agencies in the next few weeks. There are two task forces which have been created in the legislature, one is a task force which has been operating for 6-7 months and has been looking at the Division of Water Rights issues. They have addressed the issue of giving the State Engineer more authority. There are three proposed bills which they hope to take to the legislature. The second task force was just created and charged to report back to the legislature by July 1, 2005 on the way the State of Utah will fund the Lake Powell pipeline and the Bear River development project.

Commissioner Tyrrell reported that John Teichert is in Casper before the Water Development Commission trying to advance a storage project in the Smith's Fork drainage. One

problem in the past in this particular area is the lack of a taxing entity. Draft documents are being prepared to form such an entity. There will be a few bills before the legislature dealing with water issues. There may be an effort to modify the instream flow bill. The State Engineer will be seeking to repeal an earlier statute that is set up which required the State Engineer to maintain and operate a state water library. This was never funded. The State Engineer will be adding language to a statute which will make electronic work in the office much easier by removing certain requirements and allowing electronic documents. Tyrrell reported that a presentation was made this fall to the joint Ag Committee with regard to low penalties for water theft. Language will be introduced to stiffen the penalties for violations of the water codes.

Hal Anderson gave the report for Idaho as Commissioner Dreher needed to leave for another meeting with the Governor. Dreher wanted to thank everyone for coming to the Water Center. There are many other issues besides low lakes in the water administration area. In the Eastern Snake Plain they are dealing with senior spring users claiming injury by junior ground water users.

Chair Hansen asked for any additional items for the Commission. There being no other business, it was determined that the next Commission meeting would be held on Tuesday, April 19, 2005 in Salt Lake City. It was requested that the November meeting be moved up one week to November 8, 2005. The meeting was adjourned at 3:26 p.m.

ATTENDANCE ROSTER

BEAR RIVER COMMISSION REGULAR MEETING

Idaho Water Center
Boise, Idaho
November 16, 2004

IDAHO COMMISSIONERS

Karl J. Dreher
Rodney Wallentine

WYOMING COMMISSIONERS

Patrick T. Tyrrell
Sam Lowham
Gordon Thornock
Sue Lowry (Alternate)
Jade Henderson (Alternate)

FEDERAL CHAIR

Dee C. Hansen

UTAH COMMISSIONERS

D. Larry Anderson
Blair R. Francis
Charles Holmgren
Joseph Larsen
Norman Weston

ENGINEER-MANAGER & STAFF

Jack A. Barnett
Don A. Barnett

OTHERS IN ATTENDANCE

IDAHO

Hal Anderson, Department of Water Resources
Barry Burnell, Department of Environmental Quality
Bill Ondrechen, Department of Water Resources
Pete Peterson, Water Master

UTAH

Todd Adams, Division of Water Resources
Will Atkin, Division of Water Rights
Bob Fotheringham, Division of Water Rights

WYOMING

Kevin Payne, State Engineer's Office
Kevin Wilde, State Engineer's Office

OTHERS

Connely Baldwin, PacifiCorp
Randy Budge, Bear River Water Users Association
Claudia Cottle, Bear Lake Watch
Dave Cottle, Bear Lake Watch
Dan Davidson, Bear River Canal Company
Joanna Endter-Wada, Utah State University
Ron Jensen, Bear Lake Regional Commission
Eulalie Langford, Idaho Legislature

APPENDIX A
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Patrick Lambert, U.S. Geological Survey
Conrad Michaelson, Bear Lake Co. Commissioner
Mitch Poulsen, Bear Lake Regional Commission
Don Riches, Emerald Beach HOA
Theresa Selfa, Utah State University
Jody Williams, PacifiCorp

**PROPOSED
AGENDA**

Bear River Commission Regular Meeting
November 16, 2004

Idaho Water Center
Conference Room ABCD
322 E. Front Street
Boise, Idaho

COMMISSION AND ASSOCIATED MEETINGS

November 15

12:00 p.m.	Technical Advisory Committee Meeting, Conference Room C	Barnett
3:00 p.m.	Water Quality Committee Meeting, Conference Room B	Burnell/Wagner

November 16

9:00 a.m.	Operations Committee Meeting, Director's Conference Room	Francis
10:00 a.m.	Joint meeting of Operations Committee and Records & Public Involvement Committee, Director's Conference Room	
11:00 a.m.	Records & Public Involvement Committee Meeting, Director's Conference Room	Mathews
12:00 p.m.	Informal Meeting of Commission, Director's Conference Room	Barnett
12:30 p.m.	State Caucuses and Lunch	Dreher/Tyrrell/Anderson
1:30 p.m.	Commission Meeting, Conference Room ABCD	Hansen

REGULAR COMMISSION MEETING

November 16, 2004

Convene Meeting: 1:30 p.m., Chair Dee Hansen

I.	Call to order	Hansen
	A. Introductions	
	B. Welcome of guests and overview of meeting	
	C. Approval of agenda	
II.	Approval of minutes of last Commission Meeting (April 20, 2004)	Hansen
III.	Report of Secretary/Treasurer	Anderson
IV.	Consideration of storage needs	Langford

APPENDIX B
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| V. | PacifiCorp issues | Baldwin |
| | A. Water deliveries in 2004 | |
| | B. Prospects for water deliveries in 2005 | |
| | C. Amended Settlement Agreement | |
| | D. Dredging next spring | |
| VI. | Report of the Water Quality Committee | Burnell/Wagner |
| VII. | Report of the Operations Committee | Francis |
| VIII. | Report of the Records & Public Involvement Committee | Mathews |
| IX. | Engineer-Manager and TAC report | Barnett |
| X. | Items from the Management Committee | Tyrrell |
| XI. | State Reports | |
| | A. Utah | Anderson |
| | B. Wyoming | Tyrrell |
| | C. Idaho | Dreher |
| XII. | Other Items | Hansen |
| XIII. | Next Commission Meeting | Hansen |

Anticipated adjournment: 3:30 p.m.

BEAR RIVER COMMISSION

STATEMENT OF INCOME AND EXPENDITURES

FOR THE PERIOD OF JULY 1, 2003 THRU JUNE 30, 2004

INCOME	CASH ON HAND	OTHER INCOME	FROM STATES	TOTAL REVENUE
Cash Balance 07-01-03	78,527.91			78,527.91
State of Idaho			35,000.00	35,000.00
State of Utah			35,000.00	35,000.00
State of Wyoming			35,000.00	35,000.00
US Fish & Wildlife		6,200.00		6,200.00
Interest on Savings		1,752.61		1,752.61
 TOTAL INCOME TO JUNE 30, 2004	 78,527.91	 7,952.61	 105,000.00	 191,480.52

DEDUCT OPERATING EXPENSES

	APPROVED BUDGET	UNEXPENDED BALANCE	EXPENDITURES TO DATE
Stream Gaging/USGS Contract	50,300.00	0.00	50,300.00
 SUBTOTAL	 50,300.00	 0.00	 50,300.00
 EXPENDED THROUGH COMMISSION			
Personal Services Jack	49,585.00	0.04	49,584.96
Travel (Eng-Mgr)	1,200.00	-241.43	1,441.43
Office Expenses	1,600.00	-348.08	1,948.08
Printing Biennial Report	2,000.00	927.07	1,072.93
Treasurer Bond & Audit	1,400.00	1,300.00	100.00
Printing	1,600.00	-95.35	1,695.35
Contingency	5,000.00	832.74	4,167.26
 SUBTOTAL	 62,385.00	 2,374.99	 60,010.01
 EPA WATER QUALITY GRANT	 724.65	 0.00	 724.65
 TOTAL EXPENSES	 113,409.65	 2,374.99	 111,034.66
 CASH BALANCE AS OF 06-30-04			 80,445.86

APPENDIX C
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BEAR RIVER COMMISSION

DETAILS OF EXPENDITURES

FOR PERIOD ENDING JUNE 30, 2004

584	JACK BARNETT	12,650.67
585	CIRRUS	724.65
586	JACK BARNETT	4,361.15
587	JACK BARNETT	4,663.25
588	USGS	50,300.00
589	JACK BARNETT	4,392.17
590	JACK BARNETT	4,829.42
591	JACK BARNETT	4,154.14
592	CNA SURETY	100.00
593	HERALD JOURNAL	70.00
594	VOID	0.00
595	VOID	0.00
596	JACK BARNETT	4,469.13
597	CARIBOU COUNTY SUN	52.04
598	NEWSPAPER AGENCY CORP	100.00
599	THE NEWS-EXAMINER	56.24
600	THE LEADER	48.70
601	THE IDAHO ENTERPRISE	57.08
602	JACK BARNETT	4,560.12
603	UINTA COUNTY HERALD	74.75
604	KEMMERER GAZETTE	41.65
605	JACK BARNETT	4,602.02
606	JACK BARNETT	5,155.84
607	JACK BARNETT	65.52
608	JACK BARNETT	5,506.12
	TOTAL EXPENSE	111,034.66

BANK RECONCILIATION

Cash in Bank per Statement 06-30-04	-2,365.92
Plus: Intransit Deposits	
Less: Outstanding Checks	
Total Cash in Bank	-2,365.92
Plus: Savings Account-Utah State Treasurer	82,811.78
TOTAL CASH IN SAVINGS AND IN CHECKING ACCOUNT	80,445.86

BEAR RIVER COMMISSION

STATEMENT OF INCOME AND EXPENDITURES

FOR THE PERIOD OF JULY 1, 2004 THRU NOV 15, 2004

INCOME	CASH ON HAND	OTHER INCOME	FROM STATES	TOTAL REVENUE
Cash Balance 07-01-04	80,445.86			80,445.86
State of Idaho			35,000.00	35,000.00
State of Utah			35,000.00	35,000.00
State of Wyoming			35,000.00	35,000.00
US Fish & Wildlife		0.00		0.00
Interest on Savings		966.90		966.90
 TOTAL INCOME TO NOV 15, 2004	 80,445.86	 966.90	 105,000.00	 186,412.76

DEDUCT OPERATING EXPENSES

	APPROVED BUDGET	UNEXPENDED BALANCE	EXPENDITURES TO DATE
Stream Gaging/USGS Contract	51,100.00	51,100.00	0.00
 SUBTOTAL	 51,100.00	 51,100.00	 0.00
 EXPENDED THROUGH COMMISSION			
Personal Services Jack	50,577.00	29,503.25	21,073.75
Travel (Eng-Mgr)	1,600.00	917.21	682.79
Office Expenses	1,600.00	864.55	735.45
Printing Biennial Report	2,000.00	2,000.00	0.00
Treasurer Bond & Audit	1,400.00	1,400.00	0.00
Printing	1,600.00	992.61	607.39
Contingency	5,000.00	5,000.00	0.00
 SUBTOTAL	 63,777.00	 40,677.62	 23,099.38
 EPA WATER QUALITY GRANT	 0.00	 0.00	 0.00
 TOTAL EXPENSES	 114,877.00	 96,549.38	 18,327.62
 CASH BALANCE AS OF 11-15-04			 163,313.38

APPENDIX C
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BEAR RIVER COMMISSION

DETAILS OF EXPENDITURES

FOR PERIOD ENDING NOV 15, 2004

609	JACK BARNETT	8,429.50
610	JACK BARNETT	4,647.32
611	JACK BARNETT	5,250.80
612	JACK BARNETT	4,771.76

TOTAL EXPENSE	23,099.38
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BANK RECONCILIATION

Cash in Bank per Statement 11-15-04	-465.30
Plus: Intransit Deposits	
Less: Outstanding Checks	

Total Cash in Bank	-465.30
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Plus: Savings Account-Utah State Treasurer	163,778.68
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TOTAL CASH IN SAVINGS AND IN CHECKING ACCOUNT	163,313.38
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BEAR RIVER COMMISSION

STATEMENT OF INCOME AND EXPENDITURES

FOR THE PERIOD OF JULY 1, 2004 THRU APRIL 15, 2005

INCOME	CASH ON HAND	OTHER INCOME	FROM STATES	TOTAL REVENUE
Cash Balance 07-01-04	80,445.86			80,445.86
State of Idaho			35,000.00	35,000.00
State of Utah			35,000.00	35,000.00
State of Wyoming			35,000.00	35,000.00
US Fish & Wildlife		12,400.00		12,400.00
Interest on Savings		2,139.72		966.90
 TOTAL INCOME TO APR 15, 2005	 80,445.86	 14,539.72	 105,000.00	 199,985.58

DEDUCT OPERATING EXPENSES

	APPROVED BUDGET	UNEXPENDED BALANCE	EXPENDITURES TO DATE
Stream Gaging/USGS Contract	51,100.00	0.00	51,100.00
 SUBTOTAL	 51,100.00	 0.00	 51,100.00
 EXPENDED THROUGH COMMISSION			
Personal Services Jack	50,777.00	8,629.50	42,147.50
Travel (Eng-Mgr)	1,200.00	163.58	1,036.42
Office Expenses	1,600.00	296.84	1,303.16
Printing Biennial Report	2,000.00	2,000.00	0.00
Treasurer Bond & Audit	1,400.00	1,300.00	100.00
Printing	1,600.00	525.51	1,074.49
Contingency	5,000.00	5,000.00	0.00
 SUBTOTAL	 63,577.00	 17,915.43	 45,661.57
 EPA WATER QUALITY GRANT	 0.00	 0.00	 0.00
 TOTAL EXPENSES	 114,677.00	 17,915.43	 96,761.51
 CASH BALANCE AS OF 04-15-05			 103,224.07

Theresa Selfa. 2004. "Shifting Populations in the New West." *The Changing Face of the Rural West Series*. Logan, UT: Western Rural Development Center.

Theresa Selfa and Ty Bailey. 2003. "How do Western Counties Use GIS?" *WRDC Research Report*, published at www.extension.usu.edu/wrdc

Raymond Jussaume, Theresa Selfa and Andrew Thompson. 2001. "Local Food Systems in Response to Globalization: Theoretical and Empirical Reflections." Book chapter in Sugiyamo and Nakano, eds. Globalization and International Agricultural Marketing (in Japanese).

FELLOWSHIPS AND GRANTS (Last Three Years)

2004. Utah State University, *Water Initiative Research Initiation Grant*. "Contributing to Drought Management Through Understanding Factors Influencing Human Conservation Behavior." Joanna Endter-Wada, Arthur Caplan, Peggy Petrzeka, Theresa Selfa, Co-Principal Investigators.

2004-5. USDA CSREES. *Drought Management-Utah*. Examining biophysical and social factors contributing to management of drought. July 1- June 30. David Chandler and Roger Kjelgren, Principal Investigators. Subcontract with Joanna Endter-Wada and Theresa Selfa, Natural Resources Policy Program.

2003. USDA *Community Food* Project grant. "Southwest Community Food and Agricultural Policy Outpost." Project to develop food and agricultural policy councils in the Four Southwestern States. October 2003-September 2005.

2002. Kellogg Foundation *Food and Society Program*. "Expanding Markets for Small-Scale, Alternative and Minority Farmers and Ranchers in the Southwest." National Center for Appropriate Technology, Henry A. Wallace Center for Agricultural and Environmental Policy, Farm to Table, Western Rural Development Center. February 2002-May 2005.

2001. USDA NRI Agricultural Systems Grant "Enhancing the Viability of Local AgroFood Systems" with Dr. Raymond Jussaume, Washington State University Department of Rural Sociology, Dr. Lucy Jarosz, University of Washington Department of Geography, Co- Principle Investigators. January 2001- May 2003.

CONSULTANCIES

2004. WorldWide Strategies. Contract with USAID - Croatia to Work with Local Governments to Develop Alternative Agricultural Products and Markets

2004. Bear River Association of Government, Economic Development Division. "Feasibility Study for Farmers' Transitioning to Organic Production Methods in the Bear River Region."

PROFESSIONAL MEMBERSHIPS

Agriculture, Food and Human Values Society
European Society for Rural Sociology
International Association for Society and Natural Resources
Rural Sociological Society
Society for Applied Anthropology

THERESA L. SELFA

**Research Assistant Professor, Department of Environment and Society
Utah State University
Logan, UT 84322-5215
(435) 797-0590 phone/(435) 797-3526 fax
e-mail: theresas@ext.usu.edu**

EDUCATION

- 2001. Ph.D. Development Sociology, Department of Development Sociology, Cornell University.
- 1992. M.C.P. Department of City and Regional Planning, UC Berkeley.
- 1984. B.A. English Literature, Whitman College, Walla Walla, WA.

TEACHING AND RESEARCH POSITIONS (Last Four Years)

- January 2003- **Research Assistant Professor**, Department of Environment and Society and **Research Associate**, Natural Resources and Environmental Policy Program, Utah State University, Logan, UT.
Current Research on Utah Drought Management Initiative -Examining water institutions and policy options for managing water under drought conditions; factors shaping public perceptions and behaviors about water use and conservation.
- October 2003- **Senior Research Associate**, Western Rural Development Center, Utah State University. Logan, UT.
Sept. 2004 Research, evaluation and trainings with land grant university partners on rural issues in the West.
- August 2001- **Program Manager**, Western Rural Development Center; **Adjunct Assistant Professor**,
Sept. 2003 Department of Sociology, Utah State University, Logan, UT.
- Jan. 2001- **Post-Doctoral Research Associate**, Washington State University, Department of Rural Sociology.
Sept. 2001 Pullman, WA.
- Summer 2000 **Instructor**, Cornell University, Department of Rural Sociology, Ithaca, NY

PUBLICATIONS (Last Four Years)

- Theresa Selfa and Joan Qazi. 2005. "Place, Taste, or Face-to Face? Understanding Producer-Consumer Networks in 'Local' Food Systems in Washington State." *Agriculture and Human Values*, Vol. 22. .
- Joan Qazi and Theresa Selfa. 2005. "The Politics of Building Alternative Agro-Food Networks in the Belly of Agro-industry." *Food, Culture, and Society*, Vol. 7(2) December.
- Theresa Selfa. 2005. Forthcoming "Using Qualitative Methods for Community Research." *Community-Centered Research* series. Logan, UT: Western Rural Development Center.
- Theresa Selfa. 2004 "Mobilizing at the Frontier: Framing Social Justice Claims in a Natural Resources Management Project in Rondônia, Brazil." *Society and Natural Resources*, Vol 17 (8). September.
- Theresa Selfa. 2004. Book Review of Taking Stands: Gender and the Sustainability of Rural Communities. *Rural Sociology* Vol. 69 (2):316-318.

- from Utah State University). Total Amount: \$99,999
- Great Basin Native Plant Marketing Study. Lone Peak Conservation Nursery, Utah Division of Forestry, Fire, and State Lands, 2001-2003 (PI). Funding from the U.S. Forest Service Market Improvement Program. Total Amount: \$28,000
 - Farm and Landscape Water Allocation and Conservation at the Rural-Urban Interface. National Research Initiative Competitive Grant, U.S. Department of Agriculture, 1997-2001 (Co-PI with Roger Kjellgren, Christopher Neale and Bruce Bishop from USU). Total Amount: \$246,000

TEACHING

Academic Programs Developed and Administered

Natural Resource and Environmental Policy Program, 1991-present
National Environmental Policy Act (NEPA) Graduate Certificate, 2002-present
Interdisciplinary Graduate Certificate in Natural Resource and Environmental Policy, 1994-present
Partners in Science Student Internship Program, 1998-2001

Courses Taught at US

Water Law and Policy (graduate and undergraduate)
Professional Orientation for Environment and Society (undergraduate)
Interdisciplinary Natural Resource Policy Cornerstone Seminar (graduate)
Natural Resource Policy (undergraduate)
Natural Resource Management Conflicts (graduate)
Diversity Issues in Natural Resource Management (graduate and undergraduate)

SELECTED PUBLICATIONS

- Endter-Wada, J., J. Kurtzman, M. Butkus, D. Blahna, and C. Klien. 2003. *Long-Range Transportation Planning in Utah: Summary of Research Results From Interviews and Focus Groups*. Final Report from Phase II of the 2003 Utah Department of Transportation (UDOT) Benchmark Study.
- Kurtzman, J., J. Endter-Wada, and D. Blahna. 2002. *Utah's Rural Communities: Planning for the Future*. Publication No. NR/RF/007 in *Utah Recreation and Tourism Matters*, Institute for Outdoor Recreation and Tourism, Utah State University.
- Keenan, S. and J. Endter-Wada. 2002. *Conserving: The Logan Lifestyle*. Report on the Summer Conservation Initiative 2001. Prepared for Logan City Light and Power. Natural Resource and Environmental Policy Program, Utah State University.
- Endter-Wada, J., D. Blahna, R. Krannich, M. Brunson. 1998. A Framework for Understanding Social Science Contributions to Ecosystem Management. *Ecological Applications* 8(3): 891-904.
- Endter-Wada, J., et al. 1996. *Stewardship of Utah's Forests*. A Report of the Utah Forest Practices Task Force to the Energy, Natural Resources, and Agriculture Committee of the Utah Legislature.
- Endter-Wada, J., and R.J. Lilieholm, editors. 1995. Conflicts in Natural Resources Management: Integrating Social and Ecological Concerns. *Natural Resources and Environmental Issues* III. 98 pp.

PROFESSIONAL ACTIVITIES AND AFFILIATIONS

Member, Enlibra Toolkit Board of Advisors, Oquirrh Institute, 2001-2003
Chairperson, Utah Fish Health Policy Board, State of Utah, 1998-present
Chairperson, Utah Forest Practices Task Force, State of Utah, 1996
Member (1993-1999) and Chairperson (1996-1998), Outer Continental Shelf Advisory Board Scientific Committee, Minerals Management Service, Department of Interior, United States Government.
Member, Division of Forestry, Fire and State Lands Advisory Council, State of Utah, 1995-1998
Associate Editor, *Society and Natural Resources*, 1994-1997
Professional Associations: American Anthropological Association; American Sociological Association; International Association for Society and Resource Management

JOANNA ENDTER-WADA

Program Director, Natural Resource and Environmental Policy Program
Associate Professor, Department of Environment and Society
5215 Old Main Hill, Utah State University, Logan, Utah 84322-5215
phone: 435-797-2487 ~ email: Joanna.Endter-Wada@usu.edu

EDUCATION

Ph.D. 1987 Interdisciplinary Program in Comparative Culture, University of California at Irvine
M.A. 1979 Interdisciplinary Program in Comparative Culture, University of California at Irvine
B.A. 1977 Comparative Culture and Mathematics, University of California, Irvine

PROFESSIONAL EXPERIENCE

1991-present Faculty Member, Utah State University
1987-1992 Research Consultant (Social Science Research Associates; John Muir Institute for Environmental Studies; Human Relations Area Files at Yale University; Rocky Mountain Social Science)
1989-1990 Post-Doctoral Fellow, American Indian Studies Center, University of California at L.A.
1980-1984 Teaching Assistant and Teaching Associate, University of California, Irvine

RESEARCH

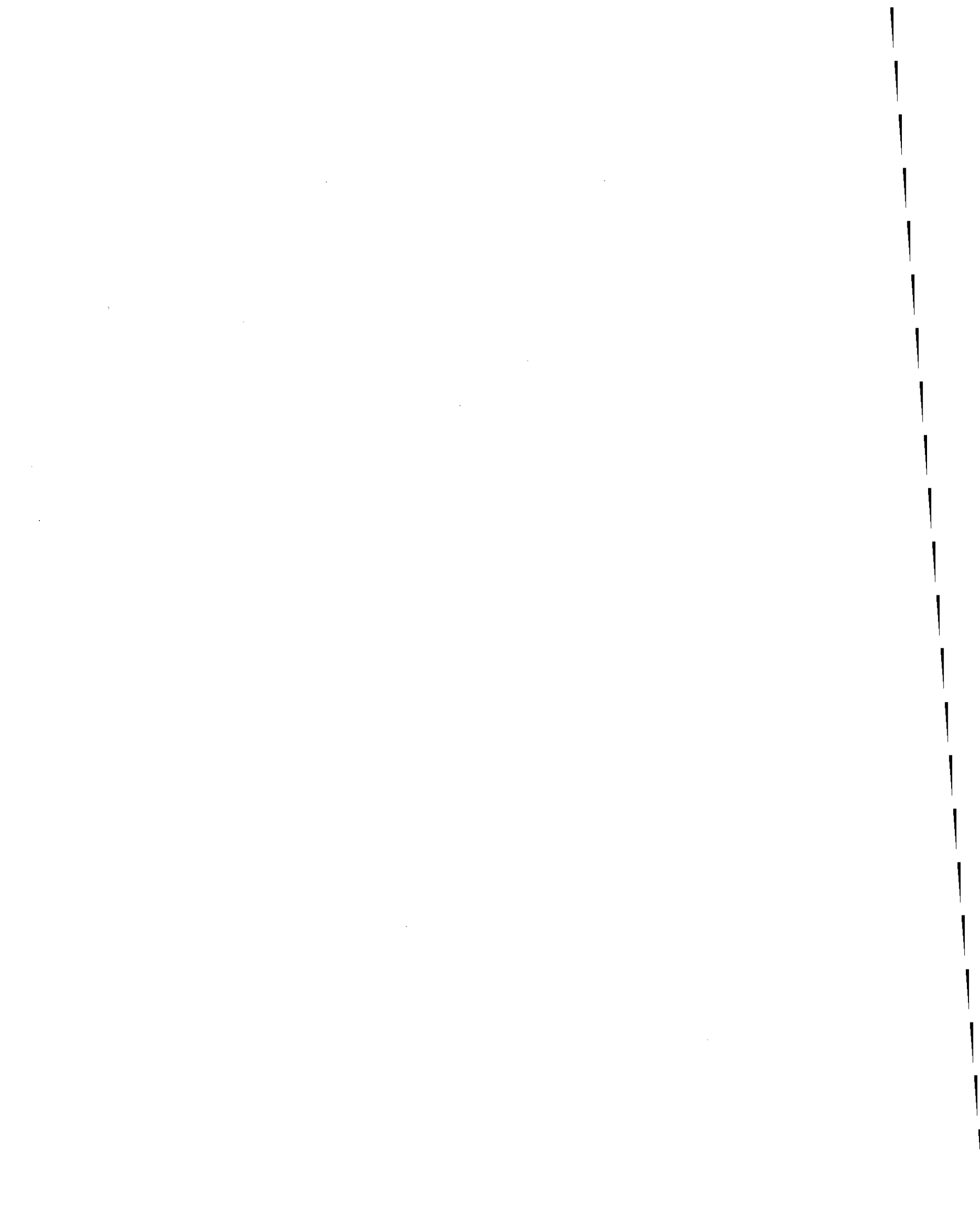
Research expertise is in natural resource policy, social science, and planning, with emphases on water, fisheries, and forest resources and on cross-cultural perspectives related to natural resource use and stewardship. Current funded research focuses on water conservation, native plant markets, drought management, forest planning, and transportation planning. Past research projects dealt with landscape water conservation, energy conservation, subsistence and social change in Alaska, commercial fishing off the central California coast, Exxon Valdez Oil Spill in Alaska, proposed high-level nuclear waste repository at Yucca Mountain in Nevada, the Central Utah Project and other water issues in Utah, and boomtowns in the U.S. Intermountain West. She has conducted research for government agencies, including the U.S. Dept. of Agriculture, the Minerals Management Service (U.S. Dept. of Interior), the National Park Service, the Utah Division of Forestry, Fire and State Lands, and the Utah Department of Transportation.

POLICY INVOLVEMENT

She has served the state of Utah by facilitating and chairing several statewide initiatives that involved bringing together numerous agencies and stakeholders to address contentious natural resource policy issues. She is the Chair of the Utah Fish Health Policy Board (1998-present) and was the Chair of the Utah Forest Practices Task Force (1996-1997).

RESEARCH CONTRACTS AND GRANTS (last five years)

- Drought Management, Utah. CSREES Special Grant. Interdisciplinary collaboration with David Chandler (hydrologist), Roger Kjelgren and Kelly Kopp (plant scientists), and Endter-Wada and Selfa (social science/policy). Total Amount: \$687,000.
- Contributing to Drought Management Through Understanding Factors Influencing Human Conservation Behavior. USU Water Initiative Research Initiation Grant, 2004-2005 (Collaborator with Art Caplan, Peggy Petrzalka, and Theresa Selfa). Total Amount: \$15,000
- Social-Economic Assessment for Forest Plan Revision on the Dixie, Fishlake, and Manti-La Sal National Forests. Subcontract with the UT Governor=s Office of Planning and Budget for the US Forest Service, 2002-2003 (PI). Total Amount: \$50,000
- Utah Department of Transportation Benchmark Survey: Attitudes Towards UDOT=s Decision-Making Process. Utah Department of Transportation, 2002-2003 (Co-PI with Dale Blahna (PI) and Steve Burr



***DROUGHT MANAGEMENT:
Social and Policy Options for Water Management Under Drought Conditions
~ A Case Study of the Bear River Basin ~***

Researchers: (see attached brief vitas)

- Joanna Endter-Wada, Ph.D.
- Theresa Selfa, Ph.D.

Natural Resource and Environmental Policy Program

Dept. of Environment and Society, Utah State University, Logan, Utah 84322-5215

Project: This case study will be conducted as part of a larger interdisciplinary research project focused on Drought Management. The research is being funded through a grant from the Cooperative States Research, Education and Extension Service (CSREES), U.S. Department of Agriculture.

Objectives:

The overall objective of this research is to document ways in which water users in the Bear River Basin have responded to recent drought conditions. In particular, we wish to explore the formal and informal mechanisms that have evolved to manage conflicts and further cooperation in the allocation and distribution of scarce water resources. This includes gathering information on the legal, administrative and procedural innovations that have occurred through negotiations and agreements in recent years. This research responds to a challenge issued in the final session of the Bear Lake Eco-Symposium (Sept. 23-24, 2004) for documentation of these issues.

More specifically, the research will focus on several areas of inquiry:

- how to evaluate and monitor the success of changes that have modified or supplemented the legal structure of appropriative rights in the Bear River Basin;
- ways in which water use efficiency as well as distributional equity considerations are addressed during periods of drought;
- the role of social interaction and interpersonal relationships in helping to “physically stretch” limited water supplies;
- the connection between short-term drought management and longer-term efforts to adapt area lifestyles to general conditions of aridity;
- the risks that drought may pose for local agricultural viability and food system security over the long-term;
- decision factors and policy options for managing water to maintain a desirable and appropriate mix of agricultural, residential, and recreational landscapes;
- societal trade-offs, conflicts, and irreversible effects that may be associated with various drought-management strategies.

In-depth interviews will be conducted with Bear River and Bear Lake water officials and water users. The interviews will be designed to obtain people’s perspectives and insights concerning changes in water use practices in response to drought. Interviewees will be selected to represent various sectors of societal water demands, including agriculture, conservancy districts, municipalities, landowners, industry, recreation, and the environment. We will talk with representatives of the Bear River Commission, Bear River Water Users Association, PacifiCorp, Bear Lake Watch, Inc., Bear River Regional Commission, government agencies, irrigation companies, recreational groups, environmental groups, and water districts.

by PacifiCorp in determining the actual quantity of water to be preserved for Bear Lake Recovery under Column I.

9. The "Estimated Balance for Lake Recovery," Column I, is calculated by subtracting the Estimated Annual Allocation quantity in Column E and the Estimated System Losses quantity in Column H from the Estimated Net Storage Water Available quantity in Column D. Note that the actual amount preserved for Bear Lake recovery in any given year will be determined once the actual system losses have been determined each year. If actual system losses exceed the Estimated System Losses, PacifiCorp will provide notice to the Advisory Committee stating the reason, and then release additional storage water from Bear Lake to cover the increased amount of system losses. If actual system losses are less than Estimated System Losses, PacifiCorp will hold the remaining water allocated to Estimated System Losses in Bear Lake for lake recovery.

- d. PacifiCorp will not deliver storage water from Bear Lake to new contracts, or otherwise additionally encumber its Bear Lake storage water, over and above the water allocated to the BRWUA on behalf of the Company Irrigators and the Small Irrigators for their existing Contracts.
 - e. No allocation of Bear Lake storage water will be made to the BRWUA on behalf of the Company Irrigators and Small Irrigators if PacifiCorp calculates the Estimated Lake Elevation (Column A) to be 5904 feet or below. If, however, PacifiCorp calculates that the Estimated Lake Elevation will be higher than 5904 feet, PacifiCorp will pump, subject to operating and legal constraints, in order to release water from Bear Lake until such time as its operation, together with anticipated evaporation, is expected to result in a calculated Bear Lake elevation of 5902 feet after evaporation and releases.
 - f. The Estimated Annual Allocation to the BRWUA on behalf of the Company Irrigators and Small Irrigators will be refined by PacifiCorp by pro-rating between the nearest even foot elevations set forth in the table above and below the actual Bear Lake elevation projected on April 10, calculated in tenths of a foot.
 - g. PacifiCorp's historical maximum delivery of Bear Lake storage water to the Company Irrigators and the Small Irrigators for supplemental irrigation was 245,000 acre feet in 1961. Two hundred forty-five thousand acre feet shall be the maximum Estimated Annual Allocation to Irrigators at all Bear Lake elevations above 5914.7 feet. However, under extreme conditions, and only when elevations are above 5914.7 feet, delivery of Bear Lake storage water to the BRWUA may exceed 245,000 acre feet in order to satisfy the Company Irrigators' and Small Irrigators' Contracts.
6. The "Decreed Transit Losses (Averaged)," Column F, represents the transit losses calculated for the purpose of this Agreement using an average of 3.6% to cover all reaches of the Bear River. The Decreed Transit Losses are deducted from the "Estimated Annual Allocation to Irrigators" (Column E). The actual transit losses will be calculated pursuant to the Dietrich and Kimball Decrees and accounted for in the Interstate Model.
7. The "Estimated Head Gate Delivery," Column G, is the aggregate quantity of supplemental Bear Lake storage water allocated to BRWUA on behalf of the Company Irrigators and Small Irrigators by PacifiCorp to be diverted at the Company Irrigators' and the Small Irrigators' individual head gates on the Bear River, and is determined by subtracting the total Decreed Transit Losses in Column F from the total Estimated Annual Allocation in Column E. PacifiCorp will make said Bear Lake storage water available to the Bear River for subsequent diversion by the Company Irrigators and the Small Irrigators at their individual head gates as described in Footnote 5(b) above.
8. The "Estimated System Losses," Column H, represents the operating losses to the Bear River System measured at the stream gauging station below the Cutler hydroelectric plant and are accounted for under the Interstate Model as Bear Lake storage water. The actual system losses will be calculated each year by the Interstate Model and be accounted for

FOOTNOTES TO EXHIBIT "A"


1. The "Estimated Lake Elevation," Column A, represents PacifiCorp's estimated, maximum water level in Bear Lake, in any given year, calculated by adding the forecasted amount of storable spring runoff (i.e. the forecasted flow in the Bear River less the flow required to satisfy natural flow rights) to the actual quantity of water then in storage in Bear Lake on April 10 of said year.
2. The "Calculated Storage Content," Column B, is the calculated content according to PacifiCorp data at each projected lake elevation.
3. The "Estimated Evaporation," Column C, represents the estimated amount of water lost out of Bear Lake in any given year due to evaporation, according to PacifiCorp data.
4. The "Estimated Net Storage Water Available," Column D, is calculated by subtracting the Estimated Evaporation in Column C from the Calculated Storage Content in Column B.
5. The "Estimated Annual Allocation to Irrigators," Column E, represents the total, estimated quantity of supplemental irrigation storage water determined as of April 10 to be available for release by PacifiCorp to the BRWUA on behalf of the Company Irrigators and by PacifiCorp to the Small Irrigators from Bear Lake pursuant to the Contracts during those periods when the elevation of Bear Lake is within the Irrigation Reserve range between 5914.7 feet and 5902 feet, subject to the following:
 - a. The Estimated Annual Allocation available at each estimated Bear Lake elevation is subject to the maximum flow rates deliverable through PacifiCorp facilities, PacifiCorp's historic Bear Lake operational practices, and other operating and legal constraints and subject to Contract limitations of each of the Company Irrigators and Small Irrigators.
 - b. PacifiCorp shall send written notice of the Estimated Annual Allocation to Company Irrigators to the Bear River Water Users Association (BRWUA) on behalf of the Company Irrigators and to the Small Irrigators or their duly appointed representatives with a copy to the Bear River Commission Engineer-Manager. The BRWUA shall apportion 92.2% of the Estimated Annual Allocation to Irrigators among the Company Irrigators. Such apportionment shall not exceed the Contract limitations of each of the Irrigators. BRWUA shall send written notice of its apportionment to PacifiCorp and the Bear River Commission Engineer-Manager annually prior to the commencement of the irrigation season. The remaining 7.8% of the Estimated Annual Allocation to Irrigators shall be apportioned to the Small Irrigators as follows: Idaho Small Irrigators 3.0% and Utah Small Irrigators 4.8%.
 - c. Unused water allocated to the BRWUA on behalf of the Company Irrigators or to the Small Irrigators under the Estimated Annual Allocation may not be accrued or carried over by the BRWUA or any Company Irrigator or Small Irrigator to any future year and will remain in Bear Lake for additional lake recovery.

EXHIBIT “A”
(To Amended and Restated Bear Lake Settlement Agreement)
BEAR LAKE IRRIGATION WATER ALLOCATION AND LAKE RECOVERY TABLE
(Quantities Expressed in Acre-feet)

(A) Estimated Lake Elevation (in feet) (Footnote 1)	(B) Calculated Storage Content (Footnote 2)	(C) Estimated Lake Evaporation (Footnote 3)	(D) Estimated Net Storage Water Available (Footnote 4)	(E) Estimated Annual Allocation to Irrigators (Footnote 5)	(F) Decreed Transit Losses (Averaged) (Footnote 6)	(G) Estimated Head Gate Delivery to Irrigators (Footnote 7)	(H) Estimated System Losses (Averaged) (Footnote 8)	(I) Estimated Balance for Lake Recovery (Footnote 9)
5923.65 (Full)	1,421,000							
5914.7	801,000	125,000	676,000	230,000 (100%)	8,200	221,800	17,000	429,000
5914	754,000	125,000	629,000	225,000 (98%)	8,100	216,900	17,000	387,000
5913	688,000	125,000	563,000	220,000 (96%)	8,000	212,000	17,000	326,000
5912	622,000	125,000	496,000	215,000 (93%)	7,800	207,200	17,000	264,000
5911	557,000	125,000	432,000	210,000 (91%)	7,600	202,400	17,000	205,000
5910	492,000	125,000	372,000	205,000 (89%)	7,400	197,600	17,000	150,000
5909	428,000	125,000	303,000	181,000 (79%)	6,700	174,300	17,000	105,000
5908	365,000	125,000	240,000	168,000 (73%)	6,000	162,000	17,000	55,000
5907	303,000	125,000	177,000	141,000 (61%)	5,000	136,000	17,000	19,000
5906	241,000	125,000	115,000	104,000 (45%)	3,700	100,300	17,000	- 6,000
5905	180,000	125,000	55,000	55,000 (24%)	2,000	53,000	17,000	- 17,000
5904	119,000	125,000	0	0 (0%)	0 (0%)	0 (0%)	17,000	0
5903	59,000	125,000	0	0 (0%)	0 (0%)	0 (0%)	17,000	0
5902	0	125,000	0	0 (0%)	0 (0%)	0 (0%)	17,000	0

THE ACTUAL QUANTITY OF WATER TO BE RELEASED FROM BEAR LAKE EACH YEAR IS MEASURED AT THE OUTLET CANAL GAGE AND CALCULATED BY ADDING THE QUANTITY IN COLUMN E TO THE QUANTITY IN COLUMN H.

BEAR RIVER WATER USERS ASSOCIATION,
INC.

By: 

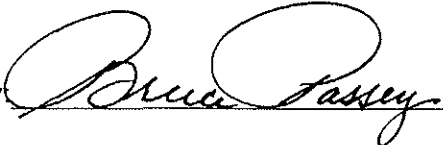
BEAR LAKE WATCH, INC., in its own behalf and
as successor-in-interest Jim Kimbal

By: 

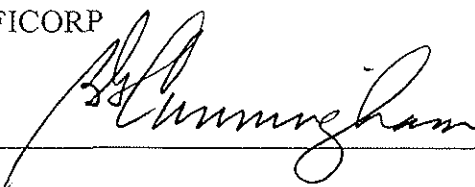
EMERALD BEACH, INC.

By: 

BEAR LAKE EAST, INC.

By: 

PACIFICORP

By: 

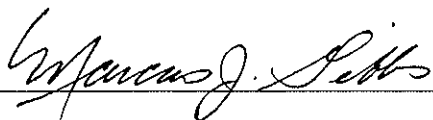
f. The headings of sections in this Agreement are provided for convenience only and will not affect its construction or interpretation. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

g. This Agreement will be governed by the laws of the State of Utah, without regard to its conflicts of laws principles.

h. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and the year first written above.

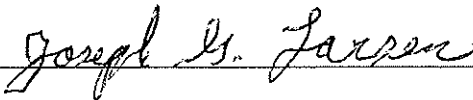
LAST CHANCE CANAL COMPANY

By: 

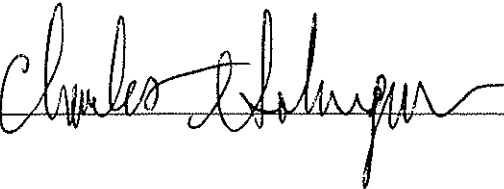
CUB RIVER IRRIGATION COMPANY

By: 

WEST CACHE IRRIGATION COMPANY

By: 

BEAR RIVER CANAL COMPANY

By: 

Signatures continue on the following page.

Bear Lake Watch, Inc.	c/o David R. Cottle 3539 Brighton Point Dr. Salt Lake City UT 84121 (801) 733-5243
Emerald Beach, Inc.	c/o Don C. Riches 8626 Scottish Dr. Sandy UT 84093-2132 (801) 944-9019
Bear Lake East, Inc.	Bruce Passey 4326 Rupp Court Taylorsville UT (801) 969-7787
PacifiCorp	Connely Baldwin Hydro Resources Department 1407 West North Temple, Suite 330 Salt Lake City, UT 84116

c. The rights and remedies of the Parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any Party in exercising any right, power or privilege under this Agreement or the documents referred to in this Agreement, nor the single or partial exercise of any such right, power or privilege, will operate as a waiver of such right, power or privilege. To the maximum extent permitted by applicable law, (i) no claim or right arising out of this Agreement or the documents referred to in this Agreement can be discharged by one Party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by the other Parties; (ii) no waiver that may be given by a Party will be applicable except in the specific instance for which it is given; and (iii) no notice to or demand on one party will be deemed to be a waiver of any obligation of such Party or of the right of the Party giving such notice or demand to take further action without notice or demand as provided in this Agreement or the documents referred to in this Agreement.

d. PacifiCorp may assign its interest in this Agreement to a successor without the prior consent of the other Parties so long as the successor assumes all of PacifiCorp's agreements, liabilities and obligations relating to Bear Lake. No other Party may assign this Agreement without the prior consent of each other Party. Subject to the preceding sentence, this Agreement will apply to, be binding in all respects upon, and inure to the benefit of the successors and permitted assigns of the Parties. Nothing expressed or referred to in this Agreement will be construed to give any person other than the Parties to this Agreement any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement.

e. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

giving notice shall be suspended only during the continuance of the events giving rise to the cause, provided that the affected Party is acting with all reasonable speed and due diligence to remedy the events giving rise to the cause of its inability to perform.

10. Copies of this Agreement shall be provided to the U.S. Army Corps of Engineers, the Idaho Department of Lands, the Bear River Commission, the Idaho Department of Water Resources, the Utah Divisions of Water Resources and Water Rights, and the Wyoming State Engineer's Office.

11. With respect to the rights and obligations of the Parties, this Agreement shall replace and supersede the Original Settlement Agreement in its entirety.

12. General Provisions:

a. Each Party to this Agreement will bear its expenses incurred in connection with the preparation, execution and performance of this Agreement, including all fees and expenses of agents, representatives, counsel and accountants.

b. All notices, consents, waivers and other communications under this Agreement must be in writing and will be deemed to have been duly given when (i) delivered by hand (with written confirmation of receipt), or (ii) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the appropriate addressees set forth below (or to such other addresses and fax numbers as a party may designate by notice to the other Parties):

Last Chance Canal Company	P O Box 287 Grace, ID 83241 _____
Cub River Irrigation Company	P O Box 215 Lewiston UT 84320 _____
West Cache Irrigation Company	Trenton, UT 84338 _____ _____
Bear River Canal Company	275 North 1600 East Tremonton UT 84337 _____
The Bear River Water Users Association, Inc.	_____ _____ _____

Irrigators' organization(s) may execute a counterpart to this Agreement stating the name of the representative organization, providing a statement of the individual Small Irrigators represented and proof of assignment of Contracts to the representative organization, and a statement of unconditional concurrence with the terms of this Agreement. Once the counterpart or counterparts to this Agreement are so executed and copies delivered to the original signatories, the organization(s) or entities shall be considered to be Parties to this Agreement. The Bear Lake Group does not agree or disagree with, or in any manner take part in, this provision of this Agreement.

7. The Parties acknowledge and agree that the Company Irrigators have entered into this Agreement voluntarily with the other Parties, for the purpose of allocating Bear Lake storage water for supplemental irrigation use in times of shortage, when nature does not otherwise provide a full supply. Nothing in this Agreement shall be construed as an abandonment or forfeiture of any appropriated or Contract rights of the Company Irrigators and Small Irrigators, or rights of Bear Lake Group under environmental laws, or other rights belonging to the Parties.

8. Subsequent to the implementation of the Interstate Model, certain of the Company Irrigators and Small Irrigators amended their Contracts with PacifiCorp. PacifiCorp entered into agreements with the States of Wyoming, Idaho and Utah dated October 5, 1999 and April 18, 2000 referencing PacifiCorp's operations at Bear Lake and in Bear River. Said Contracts and agreements made specific reference to the Original Settlement Agreement. By executing this Agreement, the Parties agree to the following:

- a. all references to the Original Settlement Agreement in the November 16, 1999 "Last Chance Bear Lake Storage Water Agreement" shall be replaced with and refer to this Agreement; and
- b. all references to the Original Settlement Agreement in the November 11, 1999 "West Cache Irrigation Company Amendatory Agreement" shall be replaced with and refer to this Agreement.
- c. any and all references to the Original Settlement Agreement in the October 5, 1999 and April 18, 2000 agreements with the States of Wyoming, Idaho and Utah and PacifiCorp shall be replaced with and refer to this Agreement;

To the extent the Parties to this Agreement have any legal or equitable rights, duties, or obligations under any agreement or contract containing references to the Original Settlement Agreement, each Party agrees that said references to the Original Settlement Agreement shall be replaced with and refer to this Agreement.

9. Any Party shall be excused from performance under this Agreement buy only during and to the extent that it is unable to perform, or its performance is delayed or interrupted, for a cause beyond its reasonable control. Such causes may include lack of water, labor or material, fire, storm, flood, acts of God, war (whether or not declared), labor disputes or an order or necessity of any governmental authority so long as the cause is not a result of any negligence of the Party claiming inability to perform. In the event of a claim of inability to perform pursuant to this provision, then the Party making such claim shall give immediate written notice with explanation to the other Parties. Following such notice, the affected obligations of the Party

3. The Advisory Committee shall remain in effect and consists of a representative of each of the Company Irrigators, representatives of the entity or entities comprising the Small Irrigators, each of the entities comprising the Bear Lake Group, representatives for PacifiCorp, and representatives from the Bear River Commission and the States of Idaho, Utah and Wyoming should they desire to participate, as well as other parties who have an interest in promoting the goals enumerated below. The purpose of the Advisory Committee will be to address and attempt to resolve through compromise and negotiations disagreements among the Parties and others concerning the use, operation and management of Bear Lake. Among other things, the purposes of the Advisory Committee will include the following;

- a. to promote water conservation and efficient use practices;
- b. to promote more reliable water supplies in Bear Lake and Bear River for all users;
- c. to promote soil and energy conservation and improved water quality;
- d. to pursue means other than litigation to resolve conflicts;
- e. to continue to support the concept of a single accounting model for administration of water in the Bear Lake/Bear River System; and
- f. to periodically review Exhibit "A" and recommend changes in that policy to PacifiCorp as may be appropriate.

4. PacifiCorp shall present its Estimated Annual Allocation to the Company Irrigators and Small Irrigators based upon the Estimated Lake Elevation of Bear Lake as set forth in Exhibit "A" or its anticipated flood control release projections at a meeting of the Advisory Committee. The Advisory Committee will meet at least annually as scheduled by the Advisory Committee or PacifiCorp.

5. The Company Irrigators shall be allocated 92.2% of the Estimated Annual Allocation to Irrigators as set forth in Column (E) of Exhibit "A." The 92.2% of the Estimated Annual Allocation to Irrigators shall be apportioned by the Company Irrigators among themselves according to a written apportionment schedule established by the Company Irrigators at their sole discretion and approved under the bylaws of the Bear River Water Users Association. The remaining 7.8% of the Estimated Annual Allocation to Irrigators shall be allocated by PacifiCorp to the Small Irrigators as follows: Idaho Small Irrigators 3.0% and Utah Small Irrigators 4.8%. The Idaho Small Irrigators and/or the Utah Small Irrigators may organize corporations or entities to which the individual Contracts of the Small Irrigators are assigned. The Parties do not object to such assignments so long as no more than 7.8% of the Estimated Annual Allocation to Irrigators is allocated to such corporations or entities. The Bear Lake Group does not agree or disagree with, or in any manner take part in, this provision of this Agreement.

6. The Parties provide and hereby intend that the Small Irrigators participate in this Agreement either as set forth in Paragraph 5 above, or as one or two representative organizations receiving allocations of the Estimated Annual Allocation as set forth in Paragraph 5 above. If the Small Irrigators participate as one organization, said organization shall include all of the Small Irrigators. If the Small Irrigators participate as two organizations, said organizations shall be organized by State and include all Idaho Small Irrigators in one organization and all Utah Small Irrigators in one organization. Subsequent to the execution of this Agreement, the Small

the Bear River System (the "Interstate Model"), including the delivery of supplemental irrigation storage water out of Bear Lake allocated by PacifiCorp among the Company Irrigators and Small Irrigators holding Contracts with PacifiCorp as set forth herein; and

G. WHEREAS, because the Interstate Model improved the accuracy of accounting for Bear River natural flow and Bear Lake storage water use, PacifiCorp and certain of the Company Irrigators and Small Irrigators amended their Contracts to adjust the amount of Bear Lake storage water releases to them, which Contracts specifically made reference to the Original Settlement Agreement; and

H. WHEREAS, subsequent to the Original Settlement Agreement, PacifiCorp entered into certain agreements referencing the Original Settlement Agreement, among them the October 5, 1999 and April 19, 2000 agreements with the States of Wyoming, Idaho and Utah; and

I. WHEREAS, as contemplated in the Original Settlement Agreement, the Parties have been able to resolve conflicts by pursuing means other than litigation, and appropriate changes to the "Irrigation Water Allocation Lake Recovery Proposal for Bear Lake" have been demonstrated; and

J. WHEREAS, certain provisions of the Original Settlement Agreement are no longer applicable; and

K. WHEREAS, the Parties desire to amend and restate in its entirety the Original Settlement Agreement to facilitate the changes set forth above in this Agreement.

AGREEMENT

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED among the Parties as follows:

1. The Bear Lake Irrigation Water Allocation and Lake Recovery Table attached hereto as EXHIBIT "A" and incorporated by reference herein, is hereby approved by the Company Irrigators and Bear Lake Group, and adopted by PacifiCorp as established policy for the supplemental irrigation water delivery component of its operation and management of Bear Lake. The Bear Lake Irrigation Water Allocation and Lake Recovery Table attached as Exhibit "A" hereto replaces and supersedes the "Irrigation Water Allocation Lake Recovery Proposal for Bear Lake" table attached to the Original Settlement Agreement.

2. The Parties acknowledge and agree that PacifiCorp shall retain the authority and discretion to determine the "Estimated Lake Elevation" set forth in Column (A) of Exhibit "A;" adjust the "Estimated System Losses" set forth in Column (H) of Exhibit "A;" and make all decisions regarding the operation and maintenance of PacifiCorp's Bear River and Bear Lake system facilities. Under extreme conditions of unforeseen circumstances, and for good cause shown, PacifiCorp, after consultation with the Bear Lake Preservation Advisory Committee (the "Advisory Committee"), may adjust the Annual Allocation set forth in Column (E) of Exhibit "A."

AMENDED AND RESTATED
BEAR LAKE SETTLEMENT AGREEMENT

THIS AMENDED AND RESTATED BEAR LAKE SETTLEMENT AGREEMENT (the "Agreement") is made and entered into this 2nd day of July, 2004, by and between LAST CHANCE CANAL COMPANY, CUB RIVER IRRIGATION COMPANY, WEST CACHE IRRIGATION COMPANY, BEAR RIVER CANAL COMPANY, and THE BEAR RIVER WATER USERS ASSOCIATION, INC. (referred to collectively as the "Company Irrigators"); and BEAR LAKE WATCH, INC. in its own behalf and as successor in interest to JIM KIMBAL, EMERALD BEACH, INC., and BEAR LAKE EAST, INC. (referred to collectively as the "Bear Lake Group"); and PACIFICORP. The foregoing are sometimes referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

A. WHEREAS, PacifiCorp owns certain decreed rights under the Dietrich Decree in Idaho (*Utah Power & Light Company v. Last Chance Canal Company, Limited, et al.*, in Equity No. 203, July 14, 1920) and the Kimball Decree in Utah (*Utah Power & Light Company v. Richmond Irrigation Company, et al.*, February 21, 1922) to divert water from Bear River for storage in the top 21.65 feet of Bear Lake between elevations 5902 and 5923.65 and to operate, manage and release the same for irrigation in the Bear River Valley in Idaho and Utah; power generation incidental to releases for irrigation, stockwatering and flood control; and flood control and for other beneficial uses; and

B. WHEREAS, the Company Irrigators and certain individual small irrigators diverting water from Bear River under State granted water rights in the States of Idaho and Utah (the "Small Irrigators") hold contracts with PacifiCorp to receive Bear Lake storage water which has historically been applied to beneficial use for the supplemental irrigation of more than 157,000 acres in Idaho and Utah (the "Contracts"); and

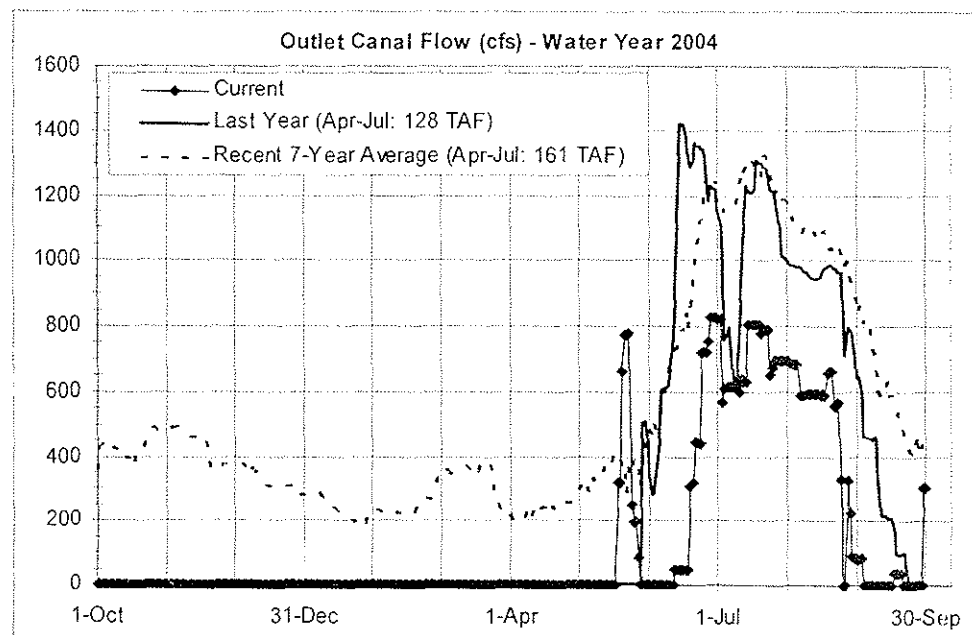
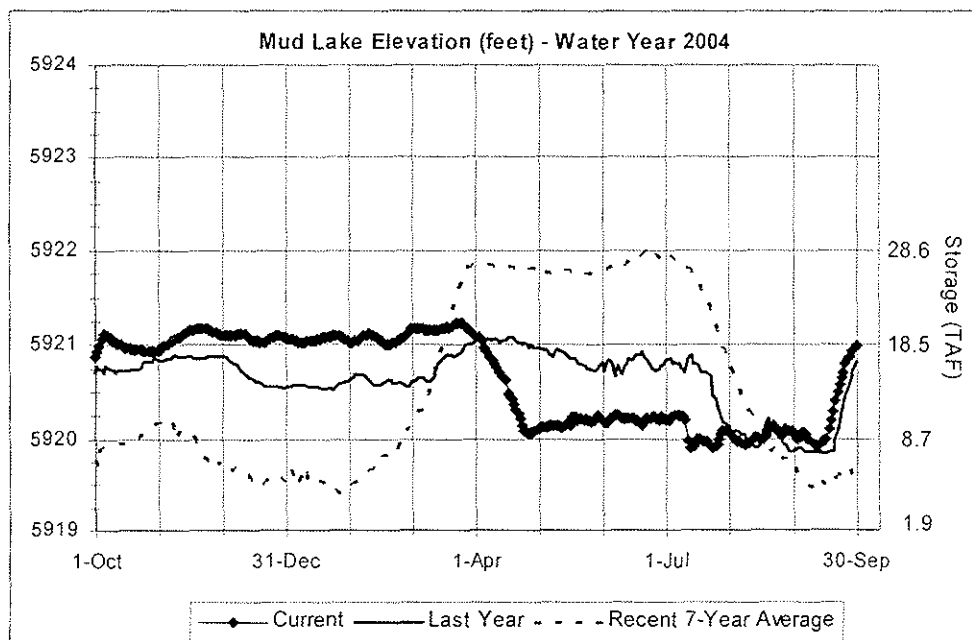
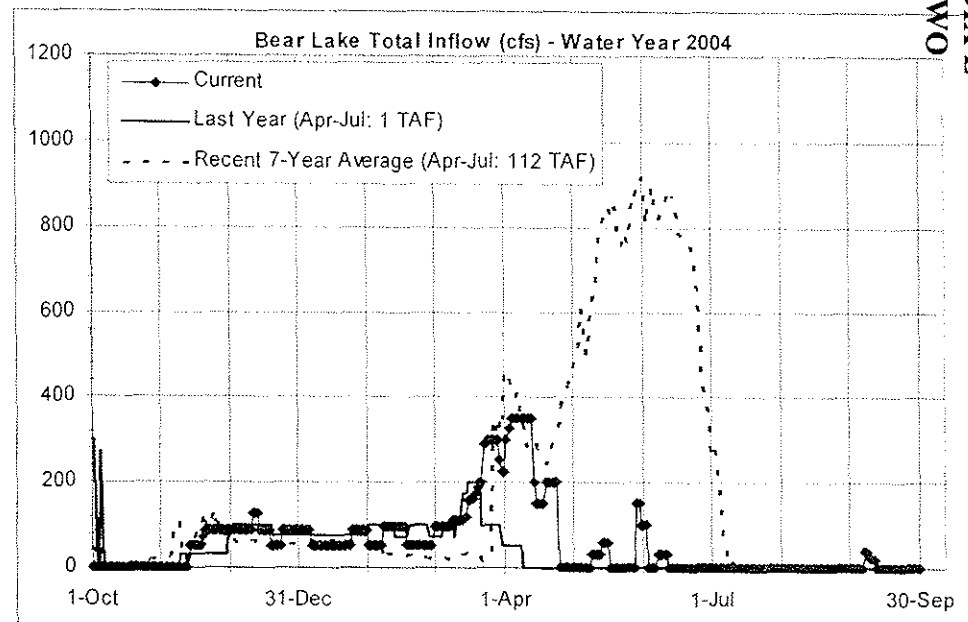
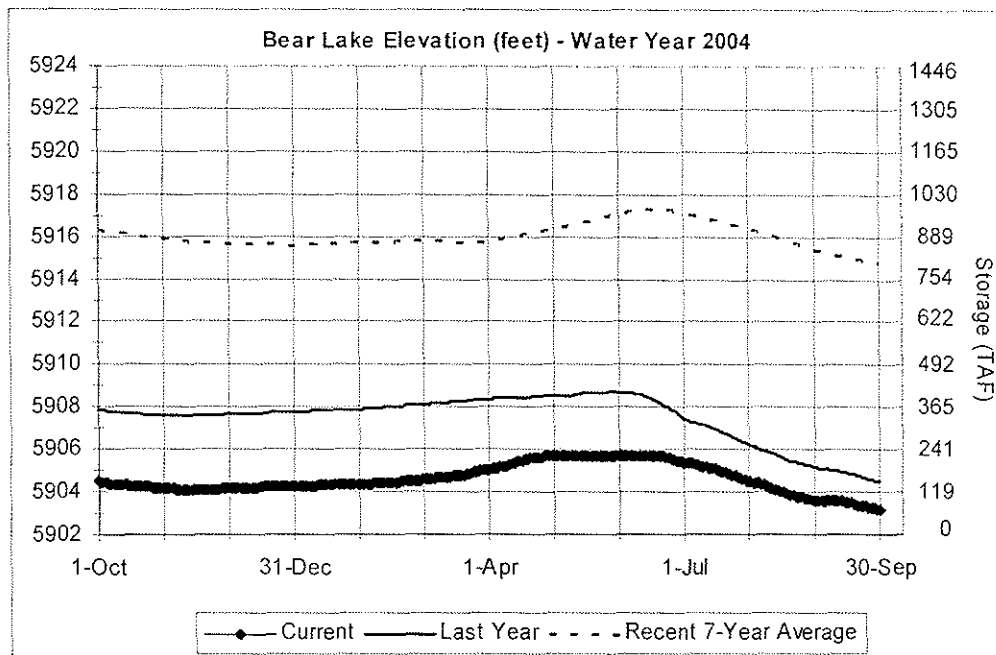
C. WHEREAS, the Bear Lake Group represents the interests of its members who consist of property owners around Bear Lake, recreationalists and others who use waters of Bear Lake for recreation, aesthetic and other non-consumptive purposes; and

D. WHEREAS, the Parties have heretofore entered into that certain agreement entitled "Bear Lake Settlement Agreement," dated April 10, 1995 (the "Original Settlement Agreement"); and

E. WHEREAS, the signatories to the Original Settlement Agreement included two unincorporated associations of individual irrigators identified as the "Idaho Pumpers Association" and the "Utah Pumpers Association" (the "Associations"). The members of the Associations are referred to in this Agreement as the "Small Irrigators"; and

F. WHEREAS, as contemplated in the Original Settlement Agreement, the Parties have pursued with the states of Idaho, Utah and Wyoming the concept and implementation of a single interstate model and modeling process for the administration and distribution of water in

Graphs Comparing 2004 Water Year (labeled "Current") to 2003 Water Year ("Last Year") and Recent 7-year Average



SUMMARY OF BEAR LAKE/BEAR RIVER OPERATION FOR 2004 AND RUNOFF SCENARIO FOR 2005 USING 2004 CONDITIONS AS AN ANALOG

2004 Bear Lake Operation

Low elevation (fall of 2003)	5904.10	November 10, 200 ³ 4
High elevation	5905.72	May 16, 2004
Low elevation	5903.09	October 27, 2004
Bear Lake Irrigation Allocation	85,000 Ac. Ft.	
Apr. 1 runoff forecast	17,000 Ac. Ft. (7%)	– April through July
Rainbow Inlet Canal (April-July)	15,356 Ac. Ft.	
Outlet Canal-period of release	May 18 to September 2 (and a bit on Sept 29, 30)	
Outlet Canal total release^	99,508 Ac. Ft.	
Outlet Canal storage release*	77,049 Ac. Ft.	
Storage Saved	7,951 Ac. Ft.	

* As computed by PacifiCorp (note that the difference between the total release and the storage release is natural flow per Dietrich Decree for Mud Lake and Bear Lake Tributaries plus Rainbow Canal inflows)

Dietrich Decree Natural Flow from Lake and Bear Lake Tributaries:

April 20th to July 1st 50 CFS; July 1st to July 15th 35 CFS; July 16th to Aug 1st 25 CFS;
Aug. 1st to Sept. 15th 15 CFS

“System Loss” volume^ 10,866 Ac. Ft.

^ Due to uncontrolled flow from (welcome) rain events. Whenever water flows below Cutler during the irrigation season any storage water in the system at Cutler is the first water out. Natural flow goes to irrigators.

2005 Bear Lake Data and Allocation Scenario

Bear Lake elevation Nov 11, 2004	5903.28
Lake increase since Fall low	0.15 Ft.
High elevation**	5904.71
Allocation scenario based on estimated high:	39,000 Ac. Ft.

**Estimated high elevation is based on the same increase from Fall low to Spring high as in 2004.

The Honorable Michael B. Enzi
United States Senator
P. O. Box 12470
Jackson, WY 83002

The Honorable Barbara Cubin
United States Congresswoman
2515 Foothill Blvd., Suite 204
Rock Springs, WY 82901

The Honorable Craig Thomas
United States Senator
2632 Foothill Blvd, Suite 101
Rock Springs, WY 82901

The Honorable Orrin G. Hatch
United States Senator
8402 Federal Building
125 South State Street
Salt Lake City, UT 84138

The Honorable Rob Bishop
United States Congressman
324 25th Street
Suite 1017 Federal Building
Ogden, UT 84401

The Honorable Robert F. Bennett
United States Senator
4225 Federal Building
125 South State Street
Salt Lake City, UT 84138

The Honorable Larry E. Craig
United States Senator
801 East Sherman
Pocatello, ID 83201

The Honorable Michael Simpson
Att: Charles A. Barnes
Agriculture Director
1201 Falls Avenue E, Suite 24
Twin Falls, ID 83301

The Honorable Michael Crapo
United States Senator
801 East Sherman
Pocatello, ID 83201

Re: Feasibility study

Gentlemen,

A feasibility study by the United States Army Corps of Engineers is needed to determine the benefits and costs of providing flood control above Bear Lake.

Data gathered over the past fifty or more years by the states of Wyoming, Utah, and Idaho; Utah Power and Light Company; the Bear River Commission; and the Bear Lake Regional Commission will be utilized by the Corps of Engineers in the proposed study. The total cost of this data gathering runs into hundreds of thousands of dollars. A portion of these past local expenditures should be allowed as the local match required to fund a Corps of Engineers feasibility study.

Your support of legislation to fund a feasibility study by the Corps of Engineers is respectfully requested. I further request that a portion of the above mentioned local expenditures be allowed as the required local match for funding the proposed study.

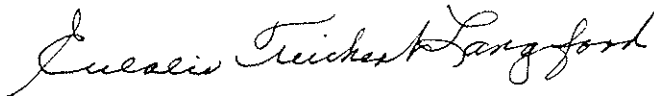
Sincerely,

The Bear Lake Regional Commission, the Bear River Commission, the State of Wyoming, and Utah Power and Light Company have spent thousands of dollars in collecting data regarding water quantity in Bear Lake and Bear River. The Wyoming Water Development Commission has spent \$174,000 dollars in studies of the Cokeville Reservoir Project on Smith's Fork and approximately \$350,000 on the Bear River Plan—all state funds. The Bear River Commission has spent approximately \$45,000 per year in state funds for the stream gaging program. Extending that over the past twenty years would give a figure of \$900,000. Over the life of the Commission, it amounts to over \$2,000,000. All of the data compiled by these studies will be required by the Corps of Engineers for the proposed feasibility study. Therefore, all of the money spent in gathering that data can be considered local match for funding the study.

It is estimated that a feasibility study of the possibility of using the Rocky Point site for flood control could cost as much as \$600,000. A study of the entire Bear River drainage to determine other flood-control possibilities would cost even more. We are asking Congress to allow that a portion of the funds previously expended be counted as the local match for the feasibility study.

A study by the Corps of Engineers will help us to understand the benefits of providing flood control and will determine the feasibility of such projects. We need that study. We need your endorsement. We need that right now. I realize that this short notice, however, your commitment, if at all possible, is needed today. Please, join in asking for Congressional approval of that study and for the use of past local expenditures as the local match required in order for the study to be funded.

Sincerely,

A handwritten signature in cursive script, reading "Eulalie Teichert Langford".

Eulalie Teichert Langford
333 North Second Street
Montpelier, Idaho 83254-1207
November 16, 2004



House of Representatives State of Idaho

UNITED STATES ARMY CORPS OF ENGINEERS FEASIBILITY STUDY

In setting forth the purposes of the Bear River Commission, Article I. Section A. of the Bear River Compact as Amended states in part, "to provide for efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River;." It is for that reason that I am before you today to discuss the need for a Corps of Engineers Study of the Bear River Basin.

In order to settle a lawsuit in the 1970s, Utah Power was court-ordered to keep Bear River within its banks. Without public input, Utah Power determined that to accomplish this water must be released from Bear Lake in the fall of the year to make room for the spring runoff. This is done whenever the elevation of Bear Lake is above 5,918 feet above sea level at the close of the irrigation season. The most recent releases occurred in 1997, '98, and '99. During such releases and during the following winters, the run-of-the-river is sent downstream along with the surface water removed from Bear Lake. Had no releases occurred in the 1990s, we know that the elevation of Bear Lake would be more than four feet higher than it now is. Under the settlement agreement, this would provide more water for irrigation. Instead, all of this water finds its way to Great Salt Lake where the principle beneficiary is the ecology of Great Salt Lake.

Is it possible that if all of the water sent downstream from Bear Lake and Bear River in the name of flood control over that past thirty-four years were stored in Bear Lake that the lake would now be full or nearly full? A Corps of Engineers study would answer that question.

What is the feasibility of providing flood control above Bear Lake? What are the benefits of providing flood control? Are there sites where flood control could be provided? What are the costs and benefits involved? There is an opportunity to operate the entire river system in tandem with Bear Lake and in a manner that will minimize fluctuation of the lake. This opportunity and the benefits thereby derived must be defined. The public needs this information. A Corps of Engineers study would answer these questions and provide this information.

Flood control above Bear Lake would make possible a policy that Bear Lake would be the "first to fill and last to empty." Benefits would include:

- More water for irrigation.
- Minimized fluctuation of lake levels.
- Improved spawning habitat for Bear Lake Cutthroat Trout.
- Boat-launching capability at both East Beach and North Beach State Parks.
- Allow filling of Woodruff Narrows Reservoir.

The United States Army Corps of Engineers is the federal agency responsible for flood control. A previous Corps of Engineers study did not look at all of the sites, nor did it take into consideration all of the benefits listed above. The first phase of a flood control project would necessarily be a feasibility study. This study would require a 50-50 match—50% local and 50% federal funds. With Congressional approval, previous local expenditures can be used as the local match.