

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1528

This Lease Contract ("**Lease**") is between the Idaho Water Resource Board ("**Board**"), and

LESSOR: PACIFICORP AN OREGON CORP
1407 W NORTH TEMPLE STE 110
SALT LAKE CITY, UT 84116

SUPPORT DATA
IN FILE # 13-062

RECEIVED
JUN 03 2022
DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on December 06, 2021.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)
13-962	3/9/1916	BEAR RIVER, tributary to GREAT SALT LAKE	1,500	
13-963	3/28/1916	BEAR RIVER, tributary to GREAT SALT LAKE		3,997.2
Combined Limit Totals			1,500	3,997.2
Combined Lease Totals			1,500	3,997.2

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2022 to December 31, 2026. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1528

5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1528

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: PACIFICORP AN OREGON CORP
1407 W NORTH TEMPLE STE 110
SALT LAKE CITY, UT 84116

By [Signature]
Title Water Rights Administrator
Date 6/1/2022

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By [Signature]
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 6/3/22

Lease approved by IDWR [Signature]

Date 6/3/22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1528

ATTACHMENT A WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 13-962, 13-963

BEAR RIVER NWNW Sec. 28 Twp 10S Rge 40E CARIBOU County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
13-962	POWER	1/01	to	12/31	1,500 cfs	
13-963	POWER FROM STORAGE	1/01	to	12/31		3,997.2 AF
Totals:					1,500 cfs	3,997.2 AF

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
10S	40E	33																

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
10S	40E	33																

Total Acres: 0.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1528

8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1528

13-962 & 13-963
Effective until December 31, 2026

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



- Water Supply Bank Lease POD
- ▤ Water Supply Bank Lease POU
- ▭ Township/Range
- ▭ Sections
- QQ



0 500 1,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 06 2021

DEPARTMENT OF
WATER RESOURCES

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

Designated Applicant PacifiCorp, an Oregon Corporation
(Select one owner – see item 1A on the application)

Water Right No. 13-963
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☒ | ☐ | Signatures and contact information for all owners of the water right to be leased or sold on this application. |
| 1B | ☐ | ☒ | An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☐ | ☒ | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | ☐ | ☒ | Description of a water right portion offered to the Water Supply Bank. |
| 3 | ☒ | ☐ | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |
| 4A | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 4G | ☒ | ☐ | Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code . |

Department Use Only

Fee Amount \$ <u>250</u>	Received By: <u>ku</u>	Date Received: <u>12.6.21</u>	Receipt # <u>C111431</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>PacifiCorp.</u>	

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant PacifiCorp, an Oregon Corporation

Mailing Address Attn: Buffi Morris 1407 W North Temple, Suite 110, Salt Lake City, UT 84116

Street City State Zip Code

Email Address buffi.morris@pacificorp.com

Phone Number 801.220.7803

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Buffi Morris Organization PacifiCorp

Professional Title Water Rights Administrator Email Address buffi.morris@pacificorp.com

Mailing Address 1407 W. North Temple, #110, Salt Lake City, UT 84116 Phone Number 801.220.7803

☒ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☒ The full water right is being offered to the Bank.

OR

☐ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, complete **Attachment 2**.

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3**.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).
- B. Please provide a description of the current water diversion and delivery system.
The original diversion system, consisting of a dam and flume, was removed in 2006. This water right has been in the WSB since 2013.
- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. 13-962 is the non-consumptive power right associated with this storage water right.
- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. The Bear River
- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. This water right has been in the WSB since 2013.
- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☒ No ☐
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed. The Cove Hydro Plant was decommissioned in 2006. The water right then in non-use status and a non-use extension was granted by IDWR which expired in 2013. At that time PacifiCorp submitted an application to lease the water right to the WSB--the current lease expires December 31, 2021. A portion of the water was transferred and permitted for use approximately 1.25 miles south of the original location.
- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe. Yes ☐ No ☒

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

- A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?
If lease, specify the years when the use of water will be suspended: 2022 to 2027 (maximum lease period 5 calendar years).
(Year) (Year)
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
PacifiCorp is interested in leasing the water to the water supply bank for up to five (5) years while it determines the best possible alternative for use of the water.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.



Signature of Designated Applicant

PacifiCorp

Printed Name

11/22/2021

Date

Signature of Authorized Representative

Buffi Morris, Water Rights Administrator

Printed Name

11/22/2021

Date

Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). _____

	Designated Applicant	Applicant #2	Applicant #3
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>13-963</u>	<u>storage hydro power</u>		<u>3997.24</u>	
	Total Amounts:		<u>3997.24</u>	

2. Source of water Bear River tributary to Great Salt Lake

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

June 6, 2022

PACIFICORP
1407 W NORTH TEMPLE STE 110
SALT LAKE CITY, UT 84116

**RE: WATER SUPPLY BANK LEASE CONTRACT 1528
FOR WATER RIGHTS 13-962 & 13-963**

Dear Lessor:

Water right **13-962 & 13-963** was leased into the Water Supply Bank (Bank) as of January 1, 2022, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2026**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Eastern Region
Water District No. 11
Buffy Morris



322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

May 25, 2022

PACIFICORP
1407 W NORTH TEMPLE ST 101
SALT LAKE CITY, UT 84116

**RE: APPLICATION TO LEASE WATER RIGHTS 13-962 & 13-963 TO THE WATER SUPPLY BANK
CONTRACT 1528**

******TIME SENSITIVE RESPONSE REQUIRED******

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The right will automatically be released from the Bank on **December 31, 2022**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:
"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Buffi Morris

Parker, Cody

From: Parker, Cody
Sent: Thursday, May 5, 2022 10:25 AM
To: watermasterdist11@gmail.com; Cefalo, James; Holliday, Michael
Subject: WSB Lease Contract 1528 and Rental Agreement 625
Attachments: LC1528_ReviewMemo.docx; RA625_MoveMap.pdf; RA625_RentalAgreement.docx; RA625_ReviewMemo.docx; LC1528_LeaseContract.docx

Good morning,

Attached are the documents for a lease (WRs 13-962 & 13-963) and rental (13-963) for Pacificorp. They are leasing the entirety of water rights and renting 2 acre-feet storage from right 13-963 to use for fish propagation storage ~1.2 miles south of the original storage location from an unnamed spring. This is a renewal of the same transaction authorized in 2020. Please let me know if you have any comments.

Thank you

Cody Parker
Water Rights Supervisor
Idaho Dept. of Water Resources

Memorandum

To: Water rights 13-962 and 13-963 files
From: Cody Parker
Re: Evaluation of WSB lease application 2221
Date: April 26, 2022

Purpose

13-962 is a natural-flow power generation water right on the Bear River. 13-963 is storage and power from storage associated with the same power generation operation. The purpose of this lease is to enter the rights into the Bank in their entirety for a five-year period and rent some of the volume under water right 13-963 for fish propagation storage through rental application 2222. This lease-rental package is a renewal of the same from 2020 (the rights have been leased to the Bank since 2013).

Authority To File

The lease applicant is PacifiCorp. Owner of record for the two water rights is also PacifiCorp. The applications were signed by Buffi Morris, who is listed as the "Water Rights Administrator". In a 2020 letter from Rocky Mountain Power, the author states "...corporate authority has been properly delegated to Rocky Mountain Power employees who transact on behalf of PacifiCorp". The author goes on to list names of people authorized to sign on behalf of PacifiCorp, one of which is Buffi Morris. No concerns regarding the authority to file.

Water Right Validity

A general adjudication has not been completed for the Bear River basin but the district court appears to have decreed these two rights in 1920. The two rights received an approved Extension of Time to Avoid Forfeiture in 2007. The extension stated that resumption of beneficial use should occur on or before March 1, 2013. The rights were entered into the Bank from 2013 through 2021. No concerns regarding the validity of these rights.

Injury to Other Water Rights

The nonuse of these rights should not by itself cause any injury to other water rights. Injury and enlargement questions associated with the related rental are treated separately in the rental review.

Enlargement of Use

There are currently no other water rights authorizing diversion of water for the same purpose at this location. The associated rental application proposes a nature of use change for water right 13-963. The volume available for rent is not restricted in the companion rental because the use is going from one storage use to another within the same general area. Consumptive

use associated with evaporation at the lease and rental locations should be similar. Staff should be aware when processing other rentals of 13-963 that only a portion of the right is consumptive.

The lease application for 13-962 indicates the historical use has been fully nonconsumptive. A condition will be added to the right to ensure that a rental of 13-962 may only be used in a nonconsumptive manner.

Local Public Interest

There is no information available that suggests this application is inconsistent with the local public interest.

Beneficial Use/Conservation of Water Resources

The lease appears to be consistent with the conservation of water resources in Idaho.

Department Staff or Watermaster Comments

Comments were requested from IDWR Eastern region and the watermaster for Water District 11. Correspondence is included in the file.



RECEIVED

DEC 06 2021

DEPARTMENT OF
WATER RESOURCES

Buffi Morris

Sr. Property Agent / Water Rights Administrator

1407 West North Temple, Suite 110, Salt Lake City, Utah 84116

Office: (801) 220-7803 Cell: (801) 989-8817

November 22, 2021

Idaho Department of Water Resources
Water Supply Bank
322 E Front Street, Suite 648
PO Box 83720
Boise, Idaho 83702

RE: Application to Lease – 13-962
Application to Lease – 13-963
Application to Rent – 13-963

To Whom It May Concern:

PacifiCorp is requesting to lease water rights 13-962 and 13-963 to the Water supply Bank as the current contracts expire on December 31, 2021. Enclosed are two lease applications for the respective water rights and a check in the amount of \$500.00. Also enclosed is an application to rent a portion of its water right 13-963.

Please let me know if additional information is required to complete the transaction.

Sincerely,

Buffi Morris
Water Rights Administrator

Enclosures

2221 + 2222



*Richard J. Garlish
Vice President and General Counsel
Rocky Mountain Power
1407 W. North Temple, Suite 320
Salt Lake City, Utah 84111
801-220-2533*

August 10, 2020

RE: PacifiCorp Delegation of Signing Authority

To Whom It May Concern:

I am responding to your request for confirmation that corporate authority has been properly delegated to Rocky Mountain Power employees who transact on behalf of PacifiCorp.

The legal authority of PacifiCorp officers to bind the Corporation is granted pursuant to state law, the articles of incorporation and bylaws of the Company, and by authority delegated from Berkshire Hathaway Energy Company. This authority is further delegated to employees of Rocky Mountain Power pursuant to PacifiCorp's Corporate Governance and Approvals Process Policy.

Based upon the foregoing, the necessary authority to sign and enter into purchase and sale agreements, deeds, right-of-way easements, permits, leases, and other similar agreements have been delegated to the business unit level. Accordingly, the following employees may sign on behalf of PacifiCorp, an Oregon corporation, d/b/a Rocky Mountain Power.

- Curtis Mansfield, Vice President, Transmission and Distribution Operations
- Todd Jensen, Director, Vice President, Project Delivery
- Christopher Spencer, Managing Director, Distribution Support
- Joshua Jones, Director, Asset Management
- Roger Rigby, Director, Real Estate Transactions
- Brandon Smith, Director, Engineering/ Environmental
- Harold Dudley, Manager, Right of Way
- David Holt, Property Manager
- Rachel Boyack, Brian Bridge, Erik Carlson, Clayton Cook, Shawn Graff, Clint Herrera, Matt Janke, Chris Jorgensen, Mailia Lauto'o, Lisa Louder, Melissa Paskett, Buffi Morris, Delynn Rodeback, Jeff Shepherd, and Brian Young, Property Agent(s)

This authority may be updated from time to time as business needs warrant or when employees transfer from the positions listed above.

Should you have any questions or comments regarding this matter, please do not hesitate to contact me at (801) 220-2533. Thank you in advance.

Very truly yours,

Richard J. Garlish
Vice President and General Counsel



People ▼

Richard

Garlish



Richard Garlish

Vice President & General Counsel at Rocky Mountain Power
Salt Lake City Metropolitan Area · 500+ connections



Rocky Mountain Power

Join to Connect