

BEAR RIVER COMMISSION

106 West 500 South, Suite 101
Bountiful, UT 84010-6232
(801) 524-6320

RECEIVED

OCT 03 1994

Department of Water Resources

MEMORANDUM BR94-32

TO: The Management Committee
FROM: Jack A. Barnett, Engineer-Manager
SUBJECT: MONTHLY REPORT — August 1994
DATE: September 27, 1994

COMMISSION MEMBERS

Chairman

Charles J. Heringer, Jr.

Idaho Members

R. Keith Higginson
Rodney Wallentine
Floyd J. Jensen

Utah Members

D. Larry Anderson
Blair Francis
Calvin Funk

Wyoming Members

Gordon W. Fassett
J. W. Myers
S. Reed Dayton

ENGINEER-MANAGER

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

ATTORNEY

E. J. Skeen
Attorney At Law
536 East 400 South
Salt Lake City, UT 84102

Enclosed you will find the Professional Services Time sheet through August. You will note that we are almost 27 hours behind the average pace called for in our contract. There are a number of upcoming issues and meetings which will require increased time over the next several months. I have attended two meetings in Logan this month; the NAWQA Bear River meeting, and a meeting of the Lower Bear River Water Distribution System (LBRWDS) group. I anticipate visiting some of the stream gages and/or reservoir sites in the Upper and Central Divisions near the end of this month.

Shortly I will be dictating a memo to the Commission concerning the USGS NAWQA study. I feel that it is important for me to report to you in this memorandum issues discussed at a September 23 meeting of the LBRWDS group.

Enclosed you will find a number of documents obtained at the LBRWDS meeting. The first attachment is a two-page document titled "Minutes". The document begins with an "A" in the bottom right-hand corner of the first page. The minutes are from a meeting held on August 22, 1994. You can see from the attendance roster who participated in this meeting. I felt that a review of these minutes might be of interest to the Management Committee.

At the meeting held on September 23, there was some lively discussion focusing on the lack of water in the Bear River and on issues that might arise on or around October 1 when the Bear River Canal Company's

Page Two

(BRCC) irrigation right, as provided for in the Dietrich Decree, will cease and the canal company will be limited to a 150 cfs diversion for domestic and stockwatering purposes. Al Trout, representing the U.S. Fish and Wildlife Service indicated that, on October 1, he will expect that the Utah State Engineer will not allow the BRCC to take more than 150 cfs. Al went on to explain how most of his marshes have dried up but his plans call for the use of at least 300 cfs on October 1.

Carly Burton indicated that on Monday, September 19 the pumps were shut off at Bear Lake and that the river will be decreasing in flow. This will result in power plants being shut off along the river system and he anticipates that there will only be 300 cfs of natural inflow into Cutler Reservoir. This led to the realization by Al Trout that he may not get more than 150 cfs during the month of October. The Bear River Canal Company then offered that perhaps now would be a good time to petition the Bear River Commission to get involved in interstate distribution of water so that they would at least be prepared for what might have to be done next year. After some discussion, I came away with the feeling that the BRCC was probably not going to file a petition this year and they did give Carly Burton an assurance that they would not be taking actions that would require him to restart the pumps in order to meet their contractual commitment of providing 900 cfs to the BRCC.

The attached pages marked with "B" were then passed out by Carly Burton. You will find them most interesting as they demonstrate the very dry nature of the Bear River throughout the irrigation season and particularly the lack of flow in the Lower Division of the Bear River system. The first page is a record of the inflow into the Rainbow Inlet Canal. Carly's conclusion was that the inflow this year through the Rainbow Inlet Canal was less than the evaporation on Bear Lake. Hence, there was a loss of lake storage naturally in addition to the amount of water that was pumped from the lake.

The second page shows the discharge from the Outlet Canal. Most recent flows in mid-September are not recorded but flows were reduced to 400 cfs and then on September 19 the pumps were turned off and the discharge was terminated for the year. You will note that as of September 7, there had been 229,100 acre/feet discharged from the lake and Carly anticipated that the total discharge would be close to 250,000 acre/feet. The rate of discharge from the lake reduced as the irrigation season progressed for three reasons; 1) Utah Power was working with users to reduce their demand for water, 2) the pumps were not able to produce as much water as the lake elevation reduced, and 3) there was beginning to be a limiting factor with respect to the amount of water that would flow over the sand sill from the lake to the forebay of the pumps.

The third page shows the elevation of the lake throughout the year up to and including August 31. You will note that on August 31 the elevation was 5907.30 feet. Carly believes that if the lake could be dredged next spring and if a law suit does not preclude their dredging activities, at current elevations the maximum that their pumps would produce would be 1,000 cfs. Carly stated that the lake will continue to lose elevation this year until evaporation ceases.

Page Three

Typically the low lake elevation is sometime around November 1 and Carly believes that the lake may drop to an elevation of about 5906.5 by then.

The fourth page shows this years Bear Lake storage which on August 31, 1994 was 321,281 acre/feet. Carly made the comment that under worst case conditions he might only be able to pump 100,000 acre/feet next year. He indicated that he intends to write a letter to those holding contracts with Utah Power advising them of the serious conditions and allow them time to contemplate how they might plan for the worst case scenario.

The fifth page is the evaporation that Utah Power calculates occurred on the lake. They take a daily pan reading at Lifton and then multiply it by the surface area of the lake. They show that as of the end of September, 125,122 acre/feet had evaporated from the lake.

The next document that was passed out I have marked with a "C". This letter was passed out by Carly Burton. It is a letter he received from the Last Chance Canal Company. I have since received a copy of the letter as it was mailed to my office and a copy was also sent to Keith. The Bear River Canal Company and Utah Power, I would say at a minimum, found the letter provocative. Dave Styer, with the BRCC, indicated his intentions to respond to the letter and it led Mr. Styer to provide the group with a briefing paper he had prepared concerning the advantages of fall irrigation. I have enclosed Styer's paper and have marked it as document "D".

The Last Chance Canal Company letter refers to the newly created Bear River Water Users Association, Inc. Keith and I received a letter from Randy Budge, attorney for the Last Chance Canal Company, explaining the creation of the Association and providing us with a mission statement and the Articles of Incorporation. I have included that mailing with this memorandum and marked it as document "E". You will note on the third page of the letter that the next meeting of this organization will be held on October 20 in Logan and that J. Kent Hortin has been hired as the Executive Director of the organization.

After considerable discussion, the Committee reviewed a draft letter prepared by Carly which I have attached for your review and marked as document "F". There was some discussion about the need to add a paragraph relating to worst case scenarios and potential problems of dredging and law suits at Bear Lake. After that paragraph was approved, it was determined that the Committee would send a letter similar to the one enclosed to the Management Committee of the Bear River Compact Commission through the Commission offices.

This monthly report is given to the Management Committee in part to seek guidance or approval with respect to travel. In addition to the travel I anticipate taking near the end of this month, which I feel is essential to look at some of the USGS and river commissioner practices in measuring flows in the Upper and Central Divisions, I have the opportunity to travel to Garden City (Bear Lake) on October 14 and attend a meeting of the tri-state Water Quality Committee. I also have the opportunity to go to the Bear River Water Users Association

Page Four

meeting in Logan on October 20. I have received an invitation from Eulalie Langford to attend a meeting on October 28 at 1:00 p.m. in Montpelier. She called indicating that she has key legislators from two or three states and she strongly desires to have the Commission represented at the meeting of the LOVE Bear Lake organization. I have included a copy of her letter marked with a "G".

In addition to the above stated travel, I have committed to Larry Anderson to chair a panel that will be meeting on November 15 in Salt Lake City. The panel will discuss Bear Lake issues and will be part of a day-long program that Larry's office is sponsoring concerning water issues in the State of Utah. The panel that I will be moderating will include Carly Burton, representing Utah Power; Brent Rose, an attorney representing the Bear River Canal Company; and Merlin Olsen representing some of the interests around Bear Lake.

Don and I plan to immediately turn our attentions to preparing two documents relating to work assignments from the Management Committee. The first is a further revised list of the water rights in the Lower Division and the second is my analysis of the steps and procedures that the Commission might want to consider with respect to a potential petition to regulate the flows in the Lower Division.

I anticipate sending a thirty day notice to Commission members on or about October 28 advising them of the Commission meeting and the associated meetings. I will need to make a decision as to whether or not only the Technical Advisory Committee may choose to meet on November 28 prior to the November 29 Commission meeting or whether the Management Committee or other committees should also meet the day before.

I apologize for the length of this memorandum. I suggest that there are enough issues developing that it would be helpful to have a conference call between members of the Management Committee. I will be looking for a date, perhaps in the first week in October and I will be calling each of you after you have had a chance to review this long memorandum to ask when a conference call might be convenient.

np
enclosures

Bear River Commission

Professional Services Time

FY 1993 - 1994

Month	Time Spent During Month			Year To Date Time	Year To Date Time Required	Year To Date Hours Over Or Under
	Engineer- Manager	Staff Engineer	Equivalent Total			
July	9.75	7.50	14.25	14.25	30.00	-15.75
August	5.00	23.25	18.95	33.20	60.00	-26.80
September						
October						
November						
December						
January						
February						
March						
April						
May						
June						
YTD Total	14.75	30.75				
Equivalent		18.45				
% of Total	44%	56%				

MINUTES

A meeting of the Lower Bear River Water Distribution System was held on August 22, 1994 at 1:00 pm at the Division of Water Rights Office in Logan, Utah.

Those present at the meeting were as follows:

Carly Burton	Utah Power & Light Company
Terry Gnehm	Commissioner
Lee Sim	Water Rights
Gertrudys Adkins	Water Rights
Lloyd Hubbard	Lower B. R. Users (Acting Chairman)
Al Trout	Bear River Refuge
William Atkin	Water Rights
Robert M. Fotheringham	Water Rights
Jim Watterson	Amalga to Cutler Pumpers
Fred Selman	B. E. Pumpers
Howard Anderson	
Cal Funk	BRC
Rock Holbrook	UP&L Lifton Plant
Don Barnett	BRC
Charles Holmgren	Bear River Canal Company

Carly Burton discussed the letter that was mailed to all contracted irrigators who receive Bear Lake storage water. The major issue was the concern over watering stubble ground excessively in view of the low Bear Lake levels and continuing operating problems at Lifton. Lee Sim indicated that the State Engineer could not enforce cutbacks of storage use. Will Atkin reminded the group that there were reductions in 1992 but not in 1994. Fred Selman requested early notification if water will be reduced in 1995 so they could plan their farming operation ahead of time. Carly said that unless we have a very wet winter, significant storage reductions will occur next year.

Carly Burton discussed dredging permits at Bear Lake. Currently UP&L has a permit with Corps of Engineers but the permit with Idaho Dept. of Lands expired on April 16, 1994. A new permit application will be prepared and submitted in the fall of 1994.

Charles Holmgren reported on the formation of a Bear River Water Users Association to fight the pending lawsuit that will be filed by the Bear Lake Watch group. They discussed the possibility of a countersuit if needed.

Terry Gnehm asked about who takes the loss of water if Cutler Reservoir drops. Carly indicated the physical loss will occur to pumpers around the reservoir. Bob Fotheringham said that losses in terms of water rights are determined based on model calculations in the entire

system. Utah and Idaho need to resolve the model use issues in the future. At some point if Bear Lake releases stop, the Compact Commission would have to be involved in regulating water across state lines. Don Barnett said that first all water rights including ground water and tributaries would have to be evaluated and a priority system would have to be established before regulation could occur. Lloyd Hubbard asked what can be done now. Don said that the committee may want to consider bringing this issue to the Compact Management Committee for early consideration on distribution issues in 1995. A letter will be prepared for review by next committee meeting.

Jim Watterson said that the immediate problem was the use of Bear Lake storage water for stubble watering. It should be reduced to one watering and only if fall grain is going to be planted. The committee approved the plan to send a letter to all irrigators and irrigation companies with storage contracts to reduce stubble watering and wait until Bear Lake releases were shut off before watering stubble. The letter will be drafted by Carly Burton and mailed to committee members for final review and Lee Simm will mail the letter to the water users.

Al Trout reported on the refuge operation this past summer. He said the refuge area is reduced to 4,000 acres. The July flow at the Corinne gage is lowest on record. Only units 2 and 4 have water. Botulism is killing ducks but they are picking up birds every day in an effort to control the problem. Flow measuring devices are not yet installed. The refuge will need water as soon as possible this fall and the refuge will call for water under its rights on October 1.

There being no further business, the meeting was adjourned with the next meeting date set for Friday, September 23 at 10:00 a.m. in the Logan Office of the State Engineer.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Carly Burton".

Carly Burton
Secretary

UTAH POWER & LIGHT COMPANY

STREAM DISCHARGE RECORDS

DAILY DISCHARGE (CFS)

AY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	DAY
1	144.00	190.00	155.00	127.00	166.00	158.00	151.00	155.00	39.00	4.90	7.10	0.00	1
2	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	2
3	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	3
4	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	4
5	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	5
6	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	6
7	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	7
8	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	8
9	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	9
10	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	10
11	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	11
12	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	12
13	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	13
14	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	14
15	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	15
16	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	16
17	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	17
18	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	18
19	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	19
20	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	20
21	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	21
22	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	22
23	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	23
24	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	24
25	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	25
26	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	26
27	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	27
28	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	28
29	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	29
30	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	30
31	156.00	190.00	157.00	129.00	160.00	181.00	258.00	147.00	39.00	4.90	8.70	0.00	31

ONTHLY

OT	6366.00	5338.00	4109.00	4205.00	3597.00	10020.00	6696.00	2271.00	1225.40	587.00	240.00	0.00
EA	205.00	178.00	133.00	136.00	128.00	323.00	223.00	73.30	40.80	18.90	7.74	0.00
AX	254.00	219.00	163.00	152.00	151.00	409.00	268.00	155.00	70.00	45.00	26.00	0.00
IN	144.00	134.00	113.00	125.00	109.00	158.00	160.00	38.00	3.00	4.90	0.00	0.00
CR	12630.00	10590.00	8150.00	8340.00	7130.00	19870.00	13280.00	4500.00	2430.00	1160.00	476.00	0.00

CT93-SEPT94 TOTAL 44654.40 MEAN 122.00 MAX 409.00 MIN 0.00 TOT ACR FT 88570.00

TOTAL MEAN DATE MAR 14 MIN UNIT DISCHARGE 2.90 CFS DATE JUN 30

MAX UNIT DISCHARGE (459.00 CFS 2.34 FT)

REMARKS:

STREAM DISCHARGE RECORDS

DAILY DISCHARGE (CFS)

[illegible]

30.00	155.00	155.00	175.00	358.00	210.00	9026.00	31101.00	33690.00	30353.00	4761.00
7.67	5.00	5.00	6.25	11.50	7.00	291.00	1037.00	1248.00	979.00	159.00
10.00	5.00	5.00	10.00	25.00	7.00	961.00	1550.00	1370.00	1060.00	779.00
5.00	5.00	5.00	5.00	7.00	7.00	7.00	508.00	1040.00	781.00	0.00
56.00	307.00	307.00	347.00	710.00	417.00	17900.00	61690.00	76740.00	60200.00	9440.00

AL	115524.00	MEAN	317.00	MAX	1550.00	MIN	0.00	TOT	ACR	FT	229100.00
----	-----------	------	--------	-----	---------	-----	------	-----	-----	----	-----------

AL	MEAN	MAX	MIN	TOT ACR FT
1	1.0	1.0	1.0	1.0
2	1.0	1.0	1.0	1.0
3	1.0	1.0	1.0	1.0
4	1.0	1.0	1.0	1.0
5	1.0	1.0	1.0	1.0
6	1.0	1.0	1.0	1.0
7	1.0	1.0	1.0	1.0
8	1.0	1.0	1.0	1.0
9	1.0	1.0	1.0	1.0
10	1.0	1.0	1.0	1.0
11	1.0	1.0	1.0	1.0
12	1.0	1.0	1.0	1.0
13	1.0	1.0	1.0	1.0
14	1.0	1.0	1.0	1.0
15	1.0	1.0	1.0	1.0
16	1.0	1.0	1.0	1.0
17	1.0	1.0	1.0	1.0
18	1.0	1.0	1.0	1.0
19	1.0	1.0	1.0	1.0
20	1.0	1.0	1.0	1.0
21	1.0	1.0	1.0	1.0
22	1.0	1.0	1.0	1.0
23	1.0	1.0	1.0	1.0
24	1.0	1.0	1.0	1.0
25	1.0	1.0	1.0	1.0
26	1.0	1.0	1.0	1.0
27	1.0	1.0	1.0	1.0
28	1.0	1.0	1.0	1.0
29	1.0	1.0	1.0	1.0
30	1.0	1.0	1.0	1.0
31	1.0	1.0	1.0	1.0
32	1.0	1.0	1.0	1.0
33	1.0	1.0	1.0	1.0
34	1.0	1.0	1.0	1.0
35	1.0	1.0	1.0	1.0
36	1.0	1.0	1.0	1.0
37	1.0	1.0	1.0	1.0
38	1.0	1.0	1.0	1.0
39	1.0	1.0	1.0	1.0
40	1.0	1.0	1.0	1.0
41	1.0	1.0	1.0	1.0
42	1.0	1.0	1.0	1.0
43	1.0	1.0	1.0	1.0
44	1.0	1.0	1.0	1.0
45	1.0	1.0	1.0	1.0
46	1.0	1.0	1.0	1.0
47	1.0	1.0	1.0	1.0
48	1.0	1.0	1.0	1.0
49	1.0	1.0	1.0	1.0
50	1.0	1.0	1.0	1.0
51	1.0	1.0	1.0	1.0
52	1.0	1.0	1.0	1.0
53	1.0	1.0	1.0	1.0
54	1.0	1.0	1.0	1.0
55	1.0	1.0	1.0	1.0
56	1.0	1.0	1.0	1.0
57	1.0	1.0	1.0	1.0
58	1.0	1.0	1.0	1.0
59	1.0	1.0	1.0	1.0
60	1.0	1.0	1.0	1.0
61	1.0	1.0	1.0	1.0
62	1.0	1.0	1.0	1.0
63	1.0	1.0	1.0	1.0
64	1.0	1.0	1.0	1.0
65	1.0	1.0	1.0	1.0
66	1.0	1.0	1.0	1.0
67	1.0	1.0	1.0	1.0
68	1.0	1.0	1.0	1.0
69	1.0	1.0	1.0	1.0
70	1.0	1.0	1.0	1.0
71	1.0	1.0	1.0	1.0
72	1.0	1.0	1.0	1.0
73	1.0	1.0	1.0	1.0
74	1.0	1.0	1.0	1.0
75	1.0	1.0	1.0	1.0
76	1.0	1.0	1.0	1.0
77	1.0	1.0	1.0	1.0
78	1.0	1.0	1.0	1.0
79	1.0	1.0	1.0	1.0
80	1			

E	1550.00 CFS	DATE JUN 25	MIN UNIT DISCHARGE	5.00 CFS	DATE FEB 20
	(18.99 FT)			

san borins 5/11/94.

UTAH POWER & LIGHT COMPANY

DAILY GAGE HEIGHT (FEET)

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	DAY
1	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	1
2	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	2
3	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	3
4	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	4
5	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	5
6	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	6
7	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	7
8	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	8
9	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	9
10	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10
11	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	11
12	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	12
13	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	13
14	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	14
15	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	15
16	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	16
17	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	17
18	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	18
19	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	19
20	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	20
21	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	21
22	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	22
23	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	23
24	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	24
25	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	25
26	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	26
27	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	27
28	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	28
29	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	29
30	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	30
31	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	31

MAXIMUM GAGE HEIGHT 11.62 MAY 13 MINIMUM GAGE HEIGHT 7.30 AUG 31

NOTE: ADD 5900 FEET TO GAGE HEIGHT TO OBTAIN ELEVATION

UTAH POWER & LIGHT COMPANY

RESERVOIR RECORDS

EVAPORATION (ACRE FEET)

	DEC	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	DAY
740.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1
814.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2
1251.22	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3
3985.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4
1251.22	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5
814.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	7
93 OCT94	TOTAL	125122.	MEAN	343.	MAX	1700.	MIN	0.	0.00	548.00	0.00	0.00	8
	TOTAL		MEAN		MAX		MIN						9
													10
													11
													12
													13
													14
													15
													16
													17
													18
													19
													20
													21
													22
													23
													24
													25
													26
													27
													28
													29
													30
													31
													32
													33
													34
													35
													36
													37
													38
													39
													40
													41
													42
													43
													44
													45
													46
													47
													48
													49
													50
													51
													52
													53
													54
													55
													56
													57
													58
													59
													60
													61
													62
													63
													64
													65
													66
													67
													68
													69
													70
													71
													72
													73
													74
													75
													76
													77
													78
													79
													80
													81
													82
													83
													84
													85
													86
													87
													88
													89
													90
													91
													92
													93
													94
													95
													96
													97
													98
													99
													100

RK31

Updated 12/1/94
Subject to review

SEP 22 1994

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
BRENT O. ROCHE
FRED J. LEWIS
KIRK B. HADLEY
MITCHELL W. BROWN
ERIC S. HUNN
DAVID E. ALEXANDER**

*ALSO MEMBER IL & WY BARS
**ALSO MEMBER MO BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE
AREA CODE 208
232-6101
—
FAX
208-232-6109

September 19, 1994

Carly B. Burton
Hydrological Supervisor
Utah Power & Light
1407 W. North Temple
Salt Lake City, Utah 84140

Re: Last Chance Canal Company - Bear Lake Storage

Dear Carly:

I am writing on behalf of the Board of Directors of Last Chance Canal Company to set forth their position and raise issues of concern regarding the delivery of Bear Lake storage water for the balance of the 1994 irrigation season and the anticipated curtailment of storage deliveries during the 1995 irrigation season given current drought conditions.

Your letter of August 15, 1994, providing an update concerning the Bear Lake storage is appreciated. Last Chance shares Utah Power's concern over crop land that is being irrigated solely for the purpose of improving soil moisture conditions after crops have been harvested. Be advised that Last Chance shareholders are not being provided any water from Bear Lake for use after crops are removed to improve soil moisture. Last Chance considers this practice to be extremely wasteful, not a beneficial use of water, contrary to the public interest, inefficient and a violation of the clear policy in Idaho (presumably Utah and Wyoming as well) to conserve water without wastage. Given the critical low Bear Lake levels and continuing drought conditions, this practice by other irrigators has the detrimental effect of continuing to lower Bear Lake levels which jeopardizes the supply of water available next year and, further alienates other Bear Lake users against the irrigators.

During this drought year and in previous drought years, Last Chance has been a leader in promoting water conservation and efficient irrigation practices. Last Chance is in the process of developing and implementing more formal conservation and efficiency policies and programs in an effort to further reduce consumption so the Bear Lake levels can be preserved and restored. Last Chance intends to actively participate in the newly-formed Bear River Water Users Association, Inc., and was instrumental in developing and securing the adoption of the Association's Mission Statement and Goals (copy enclosed), which you will note emphasizes the promotion of water conservation and efficient irrigation practices.

However, Last Chance as well as other canal companies and water users who are using their best efforts to conserve water in the drought conditions are very upset that some water users continue even to this date to use Bear Lake storage water to irrigate stubble after all crops are removed. While most water users do not follow this wasteful practice, the largest irrigator on the system, Bear River Canal Company, condones this practice by its shareholders which is continuing despite frequent demands by Utah Power and others that such use be permanently discontinued.

While Last Chance Canal has been drawing less than 50 cfs for several weeks now, Bear River Canal Company, continues to draw in excess of 700 cfs after all crops but alfalfa have been removed. Drawing nearly 80 percent of their full right appears far more than would be reasonable or necessary to irrigate remaining alfalfa crops and to permit any fall wheat to sprout. We note that your contract with Bear River Canal Company in paragraph IV.B. specifically provides that Bear River Canal Company "will not waste any of said 900 second feet, or said 150 second feet of water." We urge Utah Power to immediately curtail all deliveries to all water users supplied by contract from Bear Lake being used for the purpose of improving soil moisture conditions after all crops have been harvested given the critical level of Bear Lake and the water emergency that exists due to the persisting drought.

Last Chance further wishes to set forth its position concerning the anticipated curtailment and allocation of remaining Bear Lake storage for the 1995 irrigation season. During the most recent 1992 drought, Utah Power chose to allocate the water to the contract users based on a percentage of the average consumption by the users over the previous three years. We feel that this policy is totally unfair and inappropriate by creating an incentive and reward for excessive use and waste of water. In other words, the more water a user uses in wet and dry years, the more they will receive when a curtailment occurs as a result of drought conditions. Last Chance believes that the allocation during shortage should be just the opposite and reward users that conserve water and operate efficiently in order to provide an incentive for conservation rather than waste and excessive use.

While Last Chance had an allocation of 40,000 acre feet this year and could have used the entire amount, due to conservation and voluntary curtailment it is anticipated that the actual use this year will be about 29,000 acre feet. Last Chance chose not to use the full allocation available so that the water could remain in Bear Lake and be available for next season. Last Chance shareholders would effectively be punished if Utah Power again chose to allocate storage next year based on a percentage of the average use in previous years. Last Chance has reason to believe that the existing policy which encourages waste has in fact created an incentive for many water users to waste water and water stubble after crops are removed despite jeopardizing Bear Lake storage for next year in order to improve their allocation next year.

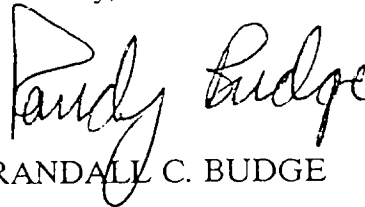
Carly B. Burton
Page 3
September 19, 1994

Accordingly, Last Chance would urge Utah Power to adopt and implement a policy for curtailment of storage water deliveries next year and in future drought years that creates the proper incentive by rewarding conservation and irrigation efficiency while punishing wasteful and inefficient practices. At a minimum, such allocations should be based on a percentage of the average water available to be used during the irrigation season, not the water actually used. Many other canal companies and water users on the Bear River support this position.

Last Chance would appreciate your consideration of the foregoing and would like to have the opportunity for further input on Utah Power's anticipated decision to curtail deliveries from Bear Lake storage next year.

Last Chance also supports Utah Power's efforts to dredge Bear Lake so that the remaining storage water down to elevation 5902 can be made available during next irrigation season and stands ready to support Utah Power in any manner that may be reasonable and necessary, acting either directly or through the newly-formed Bear River Water Users Association.

Sincerely,



RANDALL C. BUDGE

RCB:rr

Enclosure

cc: Last Chance Canal Board of Directors
Bear River Canal Company
West Cache Canal Company
Cub River Canal Company
Bear River Water Users Association
R. Keith Higginson, Director, IDWR
Ron Carlsen, Eastern Region, IDWR
Pete Peterson, Bear River Water Master
Jack Barnett, Bear River Compact Commission
Bob Morgan, Utah State Engineer
Bob Fotheringham, State Engineer-Logan

DRAFT

FALL WATERING

DAVID B. STYER

PURPOSE: THE INTENT IS TO VERIFY FROM RESEARCH OF TECHNICAL DOCUMENTS THE SCIENTIFIC BASIS FOR THE LONG STANDING PRACTICE OF IRRIGATING IN THE FALL FOR PROPAGATION OF FALL WHEAT AND BARLEY, THE FALL PLANTING OF ALFALFA AND IRRIGATION OF "HEAVY (FINE TEXTURED) SOILS" IN THE FALL AS A CULTURAL PRACTICE.

THE HISTORICAL PRACTICE OF IRRIGATING LAND IN THE FALL PROBABLY MAY BE ATTRIBUTED TO A DISCOURSE OF JOHN A WIDTSOE¹ IN THE PRINCIPLES OF IRRIGATION PRACTICE. "OVER A LARGE AREA OF THE INTERMOUNTAIN COUNTRY ... FALL AND WINTER IRRIGATION HAVE LITTLE VALUE ... UNLESS THE TOTAL SEASONAL PRECIPITATION IS LOW, WHEN IRRIGATION DURING THE FALL MAY BE VERY HELPFUL."² HE GOES ON TO SAY "FALL IRRIGATION IS HIGHLY PROFITABLE"³ ... FOR (1) IT MAKES POSSIBLE A QUICKER AND MORE COMPLETE GERMINATION, AND (2) IT DELAYS THE TIME OF THE FIRST IRRIGATION, AND THE PLANT IS ENABLED TO ESTABLISH A STRONG ROOT SYSTEM."⁴ "THE SOIL WATER FILM THEN REMAINS LONG IN CONTACT WITH SOIL PARTICLES ... IS HEAVILY CHARGED WITH DISSOLVED PLANT FOOD, AND IS A VERY NUTRITIOUS MEDIUM FOR PLANT-GROWTH."⁵ "WATER STORED IN THE SOIL AT THE TIME OF PLANTING IS INVARIABLY MORE VALUABLE, UNIT FOR UNIT, THAN WATER APPLIED DIRECTLY AT THE TIME OF, OR IMMEDIATELY AFTER PLANTING."⁶ "FALL IRRIGATION HAS BEEN TRIED EXTENSIVELY ... AND ALMOST INVARIABLY WITH GREAT SUCCESS ... AND MAY BE THE MEANS OF MAKING THE SUMMER FLOW COVER A LARGER AREA OF LAND THAN WOULD OTHERWISE BE POSSIBLE."⁷

THE FALL WATERING OF GROUND IN THE FALL IN PREPARATION FOR A SPRING PLANTING IS ALSO COVERED BY DR. WIDTSOE.⁸ HE SAYS IT PROMOTES THE FERTILITY OF THE GROUND AT PLANTING⁹ AS WELL IMPROVING GERMINATION AFTER A DRY WINTER.¹⁰ IN AN INTERVIEW WITH DR. ROBERT HILL, USU AGRICULTURAL ENGINEERING AND UTAH STATE EXTENSION, ON THE GENERAL APPLICATION OF FALL IRRIGATION HE MENTIONED THE BENEFITS AS (1) THE SOIL WARMS FASTER BECAUSE COLD IRRIGATION WATER AS SOON; (2) BECOMES WARMER BY APPLICATION TIME; AND THERE IS BETTER LEACHING OF SALTS FROM THE SOIL WHEN WINTER PRECIPITATION DOES ADD TO THE SOIL WATER PROFILE.¹¹ A TELEPHONE INTERVIEW OF DR. REX NIELSON YIELDED THAT HE FELT ONE SHOULD GET THE WATER IN THE BANK (SOIL) AND THAT THE FREEZE THAW ACTIONS ON THE FINE TEXTURED SOILS AIDED IN AN INCREASE IN RESULTANT FERTILITY.¹² (DR. NIELSON WAS ASKED TO COMMENT ON THE WATERING AND FALL PLOWING OF FINE TEXTURED SOILS IN PARTICULAR.) ANOTHER TELEPHONE INTERVIEW WITH DR. HOWARD PETERSON CONFIRMED DR. NIELSON'S OPINIONS.¹³

EARLY FALL PLANTING OF ALFALFA WAS FOUND TO HAVE OCCURRED AT THE UTAH STATE EXPERIMENTAL STATION AT MILLVILLE, UTAH IN THE LATE 60'S AND EARLY SEVENTIES IN CONNECTION WITH AN EXPERIMENT ON CROP ROTATION, FERTILIZATION, AND IRRIGATION. IN " ... LATTER ... JULY, AFTER ... PEAS WERE HARVESTED, ... DISKED-HARROWED, SMOOTH HARROWED AND CULTIPACKED, ... ALL PLOTS WERE SPRINKLER IRRIGATED ..." ALFALFA

¹WIDTSOE, JOHN A.; THE PRINCIPLES OF IRRIGATION PRACTICE; NEW YORK, NEW YORK; MACMILLAN; 1914; P. 175.

²WIDTSOE; OP CIT.; P. 175.

³WIDTSOE; OP CIT.; P. 175

⁴WIDTSOE; OP CIT.; PP 175, 176.

⁵WIDTSOE; OP CIT.; P. 176.

⁶WIDTSOE; OP CIT.; P. 177.

⁷WIDTSOE; OP CIT.; P. 178.

⁸WIDTSOE; OP CIT.; P. 176.

⁹IBID.

¹⁰WIDTSOE; OP CIT.; P. 176.

¹¹HILL, ROBERT, PH.D.; INTERVIEW CONDUCTED BY DAVID STYER AUGUST 29, 1994.

¹²NIELSON, REX, PH.D.; INTERVIEW BY DR. ROBERT HILL OVER THE PHONE; AUG. 29, 1994

¹³PETERSON, HOWARD, PH.D.; INTERVIEW CONDUCTED BY DR. ROBERT HILL; AUG 29, 1994.

DRAFT

PLANTED AND "... CLIPPED EARLY IN OCTOBER ..."¹⁴ THE FINDINGS OF NEARLY AS MUCH YIELD THE FIRST YEAR OF PRODUCTION AS DURING THE SECOND YEAR OF PRODUCTION¹⁵ HAS LEAD TO A WIDESPREAD ADOPTION OF EARLY FALL PLANTING OF ALFALFA.

DR. JOHN A. WIDTSE said "IN HARMONY WITH THE SPIRIT OF ECONOMIZING IRRIGATION WATER, THE SOWING OF FALL GRAIN SHOULD BE MADE A GENERAL PRACTICE IN IRRIGATED SECTIONS."¹⁶ HAGAN, ETAL IN 1967 REFERS TO THE FALL IRRIGATION OF SMALL GRAINS AND SAYS "SOIL WATER SUPPLY SHOULD BE AT A HIGH LEVEL DURING EARLY GROWTH TO ASSURE RAPID AND COMPLETE DEVELOPMENT OF THE ROOT SYSTEM. THIS CAN OFTEN BE ACCOMPLISHED BY A PREPLANTING IRRIGATION, A GENERALLY RECOMMENDED PRACTICE EXCEPT IN AREAS WHERE RAINFALL HAS OR IS EXPECTED TO FULLY RECHARGE THE SOIL STORAGE CAPACITY AT OR SOON AFTER PLANTING. THIS AIDS IN GERMINATION AND EARLY GROWTH. A HIGH SOIL WATER LEVEL IS DESIRABLE DURING REPRODUCTIVE AND EARLY GRAIN DEVELOPMENT STAGES OF THE GRAINS SINCE THIS RELATIVELY SHORT INTERVAL IS SO CRITICAL TO SUCCESSFUL PRODUCTION."¹⁷ THESE WORDS ARE A REPETITION OF DR. WIDTSE'S ASSERTIONS 50 YEARS EARLIER.¹⁸ IN THE 1990 EDITION OF IRRIGATION OF AGRICULTURAL CROPS IT IS REPORTED FROM GARDEN CITY, KANSAS EXPERIMENTS THAT "... WHEN AN INITIAL IRRIGATION IS USED TO WET THE PROFILE, SEASONAL IRRIGATION IS NOT NEEDED BEFORE BOOT STAGE, AND IRRIGATION THAT RENEWS (SIC) THE PROFILE AT HIS STAGE PROVIDES THE IRRIGATION FOR HIGH YIELDS."¹⁹ EXPERIMENTS IN SOUTH-CENTRAL WASHINGTON SEEM TO CONFIRM THIS. TEXAS EXPERIMENTS ALSO POINT TO IMPROVED EFFICIENCY FOR CROP PRODUCTION OF PREPLANT WATERING.²⁰ IN THE SOUTH WEST U.S. "INITIAL IRRIGATION (PRE-PLANT OR EMERGENCE) PROVIDES SOIL WATER STORAGE ... LIMITS ... CRITICAL WATER DEFICITS."²¹

THE ONLY TIMES FALL IRRIGATION IS NOT ENCOURAGED IS WHEN FALL AND WINTER PRECIPITATION WILL MORE THAT ADEQUATELY FILL THE SOIL PROFILE SO THAT WHEN THE CROP IS PLANTED IT IS FULL.

THIS IS ONLY A DRAFT SO CONCLUSIONS ARE NOT DRAWN.

¹⁴HADDOCK, JAY L., TAYLOR, STERLING A., AND MULLIGAN, CLEVE H.; IRRIGATION, FERTILIZATION AND SOIL MANAGEMENT OF CROPS IN ROTATION; LOGAN, UT; UTAH EXPERIMENT STATION-USU; 1974; P. 3.

¹⁵HADDOCK; OP CIT; P 13.

¹⁶WIDTSE; OP CIT; P 241.

¹⁷HAGAN, ROBERT M., HAISE, HOWARD R., AND EDWINSTER, TALCOTT W.; IRRIGATION OF AGRICULTURAL LANDS, MADISON, WISCONSIN, USA; AMERICAN SOCIETY OF AGRONOMY, 1967; P 635

¹⁸WIDTSE; OP CIT.; PP 175, 176

¹⁹STEWART, B.A. AND NELSON, D.R.; IRRIGATION OF AGRICULTURAL CROPS; MADISON, WISCONSIN:AMERICAN SOCIETY OF AGRONOMY, 1990; P. 617.

²⁰IBID.

²¹STEWART, OP CIT.; P. 619.

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
BRENT O. ROCHE
FRED J. LEWIS
KIRK B. HADLEY
MITCHELL W. BROWN
ERIC S. HUNN
DAVID E. ALEXANDER**

*ALSO MEMBER IL & WY BARS
**ALSO MEMBER MO BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE
AREA CODE 208
232-6101
—
FAX
208-232-6109

September 13, 1994

R. Keith Higginson, Director
Norman C. Young, Administrator
Idaho Department of Water Resources
1301 N. Orchard Street
Boise, Idaho 83706

Jack A. Barnett
Engineer-Manager
Bear River Commission
106 West 500 South, Suite 101
Bountiful, Utah 84010-6232

Re: Bear River Water Users Association, Inc.

Dear Keith, Norm and Jack:

On September 8, 1994, in Logan, Utah, the initial organizational meeting of the Bear River Water Users Association was held. The meeting was attended by representatives from the major irrigation companies on the Bear River in Idaho and Utah, Last Chance Canal Company, Cub River Canal Company, West Cache Canal Company and Bear River Canal Company, together with numerous individual irrigators and pumpers who rely upon Bear River and Bear Lake for water supplies, in addition to representatives from various governmental entities.

As a result of the meeting a decision was made to form the Bear River Water Users Association ("BRWUA") to represent the interests of Bear River Basin water users, to protect their water rights, to promote the efficient use of water resources in Bear River and to achieve water, soil and energy conservation and improved water quality. Enclosed please find a copy of the Mission Statement and Goals that were adopted. BRWUA is in the process of incorporating under Utah law as a non-profit corporation. Enclosed is a copy of the Articles of Incorporation that will be filed shortly for your information and files.

R. Keith Higginson
Norman C. Young
Jack A. Barnett
Page 2
September 13, 1994

J. Kent Hortin, a retired former Chairman of the Bear River RC&D was employed as the Executive Director. A Board of Directors and officers were also elected. Their names and addresses are as follows:

<u>Name</u>	<u>Representing:</u>
Lee T. Summers, President 9660 W. 11200 N. Tremonton, Utah 84337	Bear River Canal Company
Marcus J. Gibbs, Vice President 632 Highway 34 Grace, Idaho 83241	Last Chance Canal Company
Gale C. Moser, Director Lewiston, Idaho	Cub River Canal Company
Joseph G. Larsen, Director 5397 W. 7200 N. Newton, Utah 84327	
Jerry C. Simmonds, Director 47 W. 1200 N. Tremonton, Utah 84338	Utah Pumpers
J. Kent Hortin, Executive Secretary 597 Wasatch Boulevard Smithfield, Utah 84335	

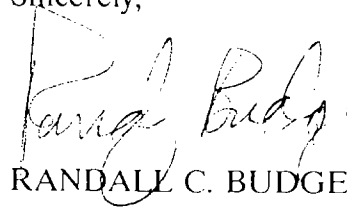
Legal representation presently consists of myself as the attorney for Last Chance Canal Company in Idaho, and Brent Rose, whose address is One Utah Center, Suite 1000, 201 South Main Street, Salt Lake City, Utah 84111-2208, as attorney for Bear River Canal Company in Utah.

The canal company interests collectively represent approximately 140,000 acres. Efforts are being taken to expand the membership to include other canal companies and individual pumpers and water users in the Bear River Basin that have common interests in supporting and pursuing the Mission Statement and Goals.

R. Keith Higginson
Norman C. Young
Jack A. Barnett
Page 3
September 13, 1994

The next organizational meeting will be October 20 in Logan, Utah to pursue these things and also develop more specific action plans to accomplish these stated goals.

Sincerely,



RANDALL C. BUDGE

RCB:rr

Enclosures

cc: DRWUA Board of Directors
J. Kent Hortin, Exec. Director
Carly Burton, Utah Power & Light
Ron Carlsen, Eastern Div., IDWR
Pete Peterson, Bear River Watermaster
Brent Rose

BEAR RIVER WATER USERS ASSOCIATION

MISSION STATEMENT

THE MISSION OF THE BEAR RIVER WATER USERS ASSOCIATION IS TO REPRESENT THE INTERESTS OF BEAR RIVER BASIN WATER USERS, TO PROTECT THEIR WATER RIGHTS, TO PROMOTE THE EFFICIENT USE OF WATER RESOURCES IN BEAR RIVER AND TO ACHIEVE WATER, SOIL AND ENERGY CONSERVATION AND IMPROVED WATER QUALITY.

GOALS

1. TO CREATE A VIABLE ORGANIZATION WITH A BROAD BASE OF MEMBERS REPRESENTING THE INTERESTS OF IRRIGATION WATER USERS IN THE BEAR RIVER BASIN.
2. TO PROTECT THE ESTABLISHED WATER RIGHTS OF ASSOCIATION MEMBERS IN BEAR RIVER, BEAR LAKE AND THEIR TRIBUTARIES.
3. TO SUPPORT MAXIMUM BENEFICIAL USE OF ALL WATERS WITHIN THE BEAR RIVER BASIN IN THE INTERESTS OF THE ASSOCIATION.
4. TO PROMOTE GREATER DEPENDABILITY OF WATER SUPPLIES AVAILABLE TO ALL USERS.
5. TO PROMOTE WATER CONSERVATION AND EFFICIENT IRRIGATION PRACTICES.
6. TO PROMOTE THE USE OF TECHNIQUES TO ACHIEVE WATER, SOIL AND ENERGY CONSERVATION AND IMPROVED WATER QUALITY THROUGHOUT THE BEAR RIVER BASIN.
7. TO PROMOTE COOPERATION AND ALLEVIATE CONFLICTS BETWEEN AND AMONG WATER USERS IN THE BEAR RIVER BASIN.
8. TO PURSUE MEANS OTHER THAN LITIGATION TO FULFILL THE BRWUA MISSION.
9. TO CONTINUOUSLY MONITOR AND EVALUATE THE BEAR RIVER BASIN, LEGISLATION AND OTHER LEGAL AND POLICY DEVELOPMENTS AFFECTING THE ASSOCIATION'S MISSION AND MEMBERS AND TAKE APPROPRIATE ACTION WHEN NEEDED.

**ARTICLES OF INCORPORATION OF
BEAR RIVER WATER USERS' ASSOCIATION, INC.**

a Non-Profit Water Corporation

THE UNDERSIGNED, in order to form a non-profit water corporation, under and pursuant to the provisions of the Utah Nonprofit Corporation and Co-operative Association Act, §16-6-1 et seq., 1953, as amended, hereby declares and certifies as follows:

**ARTICLE I
NAME**

The name of the corporation is BEAR RIVER WATER USERS' ASSOCIATION, INC.
(hereinafter the "Association").

**ARTICLE II
NON-PROFIT STATUS**

The Association shall be a non-profit corporation.

**ARTICLE III
DURATION**

The Association shall have perpetual existence unless sooner terminated in the manner provided by law.

**ARTICLE IV
POWERS AND PURPOSES**

In furtherance and in no way in limitation of the powers now or hereinafter conferred upon non-profit corporations by the laws of the State of Utah, the nature of business of the Association and the objects, purposes and powers to be transacted, promoted, exercised or carried on by it are:

A. to represent Bear River Basin water users who are members of the Association, and to protect and defend their water rights and other common rights and interests in and to water stored in Bear Lake in the states of Utah and Idaho and the natural flow of the Bear River and its tributaries in the states of Utah, Idaho and Wyoming; to promote the efficient use of water resources in the Bear River and to achieve water, soil and energy conservation and improved water quality;

B. to protect and defend the members of the Association against claims of the United States, or of any other government, state, district or municipality, or of any agency or instrumentality thereof, or of any private entity or person, which are determined to be adverse to the common rights and interests of the members of the Association;

C. to have the power to make and perform contracts of any kind and description, including contracts with the United States, or of any other government, state, district or municipality, or of any agency or instrumentality thereof, or of any private entities or persons, which are deemed to be in the common interest and which will serve the common good of the members of the Association;

D. to cooperate in the creation and implementation of a common system for the monitoring and reporting of the natural flows in the Bear River and its tributaries, the storage and release of water in Bear Lake, and the diversion and beneficial use of water within the entirety of the Bear River System;

E. to conduct its affairs, transact its business, and carry on operations in the States of Utah, Idaho and Wyoming, and to exercise the power and authority granted by the

corporation and other laws of said states; and

F. to do any and all acts and things, and to exercise any and all other powers which are not now nor hereafter prohibited by law in carrying on its business, or for the purpose of attaining or furthering any of its objectives.

ARTICLE V MEMBERSHIP

A. Members of the Association (hereinafter the "Members") may include:

(1) mutual water corporations having legal rights under the laws of the States of Utah, Idaho and Wyoming to divert surface water from the main stem of the Bear River and from Bear Lake for irrigation purposes (hereinafter sometimes referred herein to as "Corporate Members");

(2) individual water users having legal rights in said States to divert surface water from the main stem of the Bear River and from Bear Lake for irrigation purposes, whose rights and interests are not represented by a Corporate Member (hereinafter sometimes referred to herein as "Individual Members"); and

(3) other entities and persons, approved for membership by the Board of Trustees (hereinafter sometimes referred to herein as "Other Members"), having rights and interests in the diversion and use of surface and underground water tributary to the Bear River throughout the Bear River hydrologic system (hereinafter the "Bear River Water System").

B. The Association is hereby authorized to issue certificates evidencing the

Members' interest in the business, affairs and assets of the Association. Membership certificates shall be issued in two classes, Full Membership Certificates and Contributing Membership Certificates, as follows:

(1) Full Membership Certificates shall be issued to Corporate Members and Individual Members. The holders of Full Membership Certificates shall be voting members of the Association as hereinafter set forth. Full Membership Certificates shall be issued in shares. The number of shares authorized to be issued to each Corporate Member and each Individual Member shall be determined based upon the number of acres irrigated by each said Member according to their respective water rights.

(2) Contributing Membership Certificates shall be issued to the Other Members. The holders of Contributing Membership Certificates shall be non-voting Members. No shares shall be issued to Other Members under Contributing Membership Certificates.

ARTICLE VI VOTING RIGHTS

With respect to all matters required to be submitted to a vote of the Members of the Association, each share shall have equal voting rights with each other, and each share shall be entitled to one vote.

ARTICLE VII ASSESSMENT OF SHARES

A. All shares issued by the Association under Full Membership Certificates shall be subject to periodic assessment as determined by the Board of Trustees to pay all costs

and expenses incurred by the Association, and to otherwise carry out the purposes of the Association as set forth in these Articles. Assessments shall be equal per share.

B. Contributing members may be assessed by the Association under Contributing Membership Certificates at the discretion of the Board of Trustees.

C. The Board of Trustees is authorized to fix the amount of the assessment of shares under Full Membership Certificates and Contributing Membership Certificates from time to time, and to make them payable at such times or intervals and upon such notice, and upon such methods as the Board of Trustees may prescribe.

D. Holders of Full Membership Certificates who fail to pay any assessment when due shall, in addition to all other remedies available to the Association, forfeit all voting rights so long as any assessment shall remain unpaid.

ARTICLE VIII BOARD OF TRUSTEES

A. The powers of the Association shall be exercised and its affairs managed by a governing board of not less than five (5) trustees (the "Board"), to be constituted as follows:

(1) each Corporate Member shall designate one person representing said Corporate Member who shall be eligible for election to the Board of Trustees, whereupon the Corporate Members present at a meeting duly called for such purpose shall elect up to five (5) individuals from those so designated, to serve on the Board to represent the interests of the Corporate Members;

(2) the Individual Members present at a meeting duly called for such purpose shall elect two (2) Individual Members to serve on the Board to represent the interests of the Individual Members; and

(3) the Other Members present at a meeting duly called for such purpose may elect two (2) persons to serve on the Board to represent the interests of the Other Members. The trustees representing the Other Members shall be non-voting members of the Board.

B. The members of the Board shall serve for two (2) year terms; except that the term of office for one-half of the initial members shall be for a period of only one (1) year, so as to provide for staggered terms thereafter.

C. The initial members of the Board and the initial term of office for each shall be as follows:

<u>NAME</u>	<u>REPRESENTING</u>	<u>TERM OF OFFICE</u>
Lee T. Summers	Corporate Member	2 Years
Marcus J. Gibbs	Corporate Member	2 Years
Joseph G. Lawrence	Corporate Member	1 Year
Gale C. Moser	Corporate Member	1 Year
Jerry C. Simmonds	Individual Member	2 years
James T. Watterson	Individual Member	1 Year

ARTICLE IX OFFICERS

The officers of the Association shall include a President, Vice-President and Secretary-treasurer. The President of the Association shall be the Chairman of the Board. The President and the Vice President shall be elected by the Board from among the membership of the Board. The Secretary-treasurer shall be appointed by the Board, and need not be selected from among the membership of the Board.

ARTICLE X MEMBERS' MEETINGS

The members shall convene an annual meeting and other special meetings on such dates, and at such times and places as shall be prescribed by the Board.

ARTICLE XI LIMITATIONS

No part of the net earnings or the assets of the Association shall inure to the benefit or, or be distributable to, its members, directors, officers, or other private persons except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes of the Association as set forth herein.

ARTICLE XII PRINCIPAL PLACE OF BUSINESS AND REGISTERED AGENT

A. The principal place of business of the Association shall be located at Bear River Canal Company, 279 North 1600 East, Tremonton, Utah, 84337, but the corporate

business may be carried on and branch offices may be established elsewhere in the States of Utah, Idaho and Wyoming.

B. The registered agent of the Association is J. Kent Hortin, whose address is 597 Wasatch Blvd., Smithfield, Utah 84335..

ARTICLE XIII INCORPORATOR

The name and address of the incorporator of the Association is as follows:

Lee T. Summers

Bear River Canal Company
279 North 1600 East
Tremonton, Utah 84337

ARTICLE XIV DISSOLUTION

In the event of dissolution, each member of the Association, including former members, shall receive his proportionate share of the Association's property and assets based upon patronage insofar as is practicable, and as their legal interests may appear, after paying or providing for the payment of all debts and obligations of the Association.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this _____ day of September, 1994.

LEE T. SUMMERS, President
Bear River Canal Company

STATE OF UTAH)
: ss.
County of Box Elder)

The undersigned, Lee T. Summers, President of Bear River Canal Company, being first duly sworn upon oath, deposes and says that he is the incorporator mentioned in the foregoing Articles of Incorporation, and that the incorporator has commenced and it is his bona fide intention to continue to carry on the business mentioned in the foregoing Articles of Incorporation.

LEE T. SUMMERS, President
Bear River Canal Company

SUBSCRIBED AND SWORN to before me this _____ day of September, 1994.

My Commission Expires

NOTARY PUBLIC
Residing at: _____

I HEREBY ACCEPT MY APPOINTMENT AS
REGISTERED AGENT OF THE ASSOCIATION

J. Kent Hortin

SEP 26 1994

William R. Waite,
President;
Barbara Grandy,
Recording Secretary;
Eulalie Langford,
Corresponding Secretary;

LOVE Bear Lake, Inc.

P. O. Box 386
Montpelier, Idaho 83254
Telephone 208-847-1732

Olean Parker,
Vice President;
Mary Ann Evans,
Treasurer;
Marion Parker,
Historian.

September 23, 1994

Mr. Jack Barnet, Engineer/Manager
Bear River Commission
106 West 500 South Suite 101
Bountiful, Utah 84010-6232

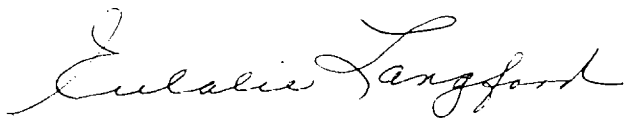
Dear Mr. Barnet,

A meeting for the purpose of discussing the need for future reservoir construction and water conservation measures along the Bear River/Bear Lake watershed will be held at the Planning and Zoning Room at the Montpelier City Hall at 534 Washington Street in Montpelier on Friday, October 28 at 1 p.m.

An in-depth discussion will take place regarding the possibility of raising the elevation of Bear Lake, evaluating the benefits of such action to the tri-state area, and exploring the means to accomplish this.

Your attendance at this meeting and participation in this discussion will be very helpful. Please, schedule this event on your calendar and plan to attend.

Sincerely,



Eulalie Langford
Corresponding Secretary
LOVE Bear Lake, Inc.