

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE BEAR RIVER BASIN WATER SYSTEM

RECEIVED

DEC 06 2023

CIVIL CASE NUMBER: 79576

Claim ID: 11-1115  
Date Received: 12/6/23  
Receipt No: C117467  
Claim Fee: 50.00 By: mb

IDWR/Preston

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of claimant(s) Pacificorp Phone ( 801 ) 220-7803  
Mailing address 1407 W North Temple STE 110 Salt Lake City, UT Zip 84116  
Street or Box City State  
Email address (optional) buffi.morris@PacifiCorp.com
2. Date of priority: (Only one per claim) 3/14/1889 (Explain priority date selected in Remarks)  
Month/Day/Year (YYYY)
3. Source of water supply (Check one) Ground Water ( ) or Other (✓) (a) Ovid Creek  
which is tributary to (b) Bear River
4. a. Location of point of diversion is: Township 12S, Range 44E, Section 31,  
SW 1/4 of NW 1/4, Govt. Lot 2, BM, County of Bear Lake Co  
Parcel no. PacifiCorp is centrally assessed by the State of Idaho, BL Co does not assign specific parcel no.s  
Additional points of diversion, if any: See Supplemental POD List  
If available, GPS Coordinates See list under #5
- b. If instream flow, beginning point of claimed instream flow is:  
Township \_\_\_\_\_, Range \_\_\_\_\_, Section \_\_\_\_\_, \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4,  
Govt. Lot \_\_\_\_\_, BM, County of \_\_\_\_\_  
Ending point is: Township \_\_\_\_\_, Range \_\_\_\_\_, Section \_\_\_\_\_, \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4,  
Govt. Lot \_\_\_\_\_, BM, County of \_\_\_\_\_
5. Description of existing diversion works (dams, reservoirs, ditches, wells, pumps, pipelines, headgates, etc.),  
including the dates of any changes or enlargements in use, the dimensions of the diversion works as  
constructed and as enlarged and the depth of each well.  
~~7 diversion locations. More details are included in the attached narrative. 42.3438997, -111.3535345 ;~~  
42.3434306, -111.3482090; 42.3335519, -111.3530561; 42.3419215, -111.3574615; 42.3397953,  
-111.3591687 ; 42.3383565, -111.3592005 ; 42.3375928, -111.3615152

6. Water is claimed for the following purposes:

(dates are inclusive MM-DD) (cfs) (acre-feet)

For Irrigation purposes from 4/15 to 7/10 amount 0.5 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 0.5 (cfs) and/or (b) (acre-feet)

8. Non-irrigation uses; describe fully (e.g., Domestic: Give number of households served; Stockwater: Type and number of livestock, etc.)

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE              |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|-----------------|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE              | NW | SW | SE |        |
| 12s | 43E | 36  | 8  |    |    | 40 |    |    |    |    |    |    |    |    |                 |    |    |    | 48     |
| 12s | 44E | 29  |    |    |    |    |    |    |    |    |    | 4  | 17 |    |                 |    |    |    | 21     |
|     |     | 30  |    |    |    |    |    |    |    |    |    |    |    |    | 21              | 20 | 41 | 36 | 118    |
|     |     | 31  | 21 | 41 | 41 | 40 | 30 | 3  | 44 | 41 | 41 | 46 | 43 | 42 | 23              | 31 | 19 |    | 506    |
|     |     |     |    |    |    |    |    | L1 | L2 |    |    | L3 | L4 |    |                 |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    | Total PPU Acres |    |    |    | 693    |

Parcel no(s). Total number of acres irrigated 498

10. In which county(ies) are lands listed above as place of use located? Bear Lake

11. Do you own the property listed above as place of use? Yes (✓) No ( )  
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.  
11-1096, 11-1114, 11-1115, and 11-1116 all share a common diversion system and acres. or None ( )

13. Remarks (Include an explanation of the priority date selected):

Priority date is based upon decree.

Attachments include:

Narrative

Decree Excerpt (relative info)

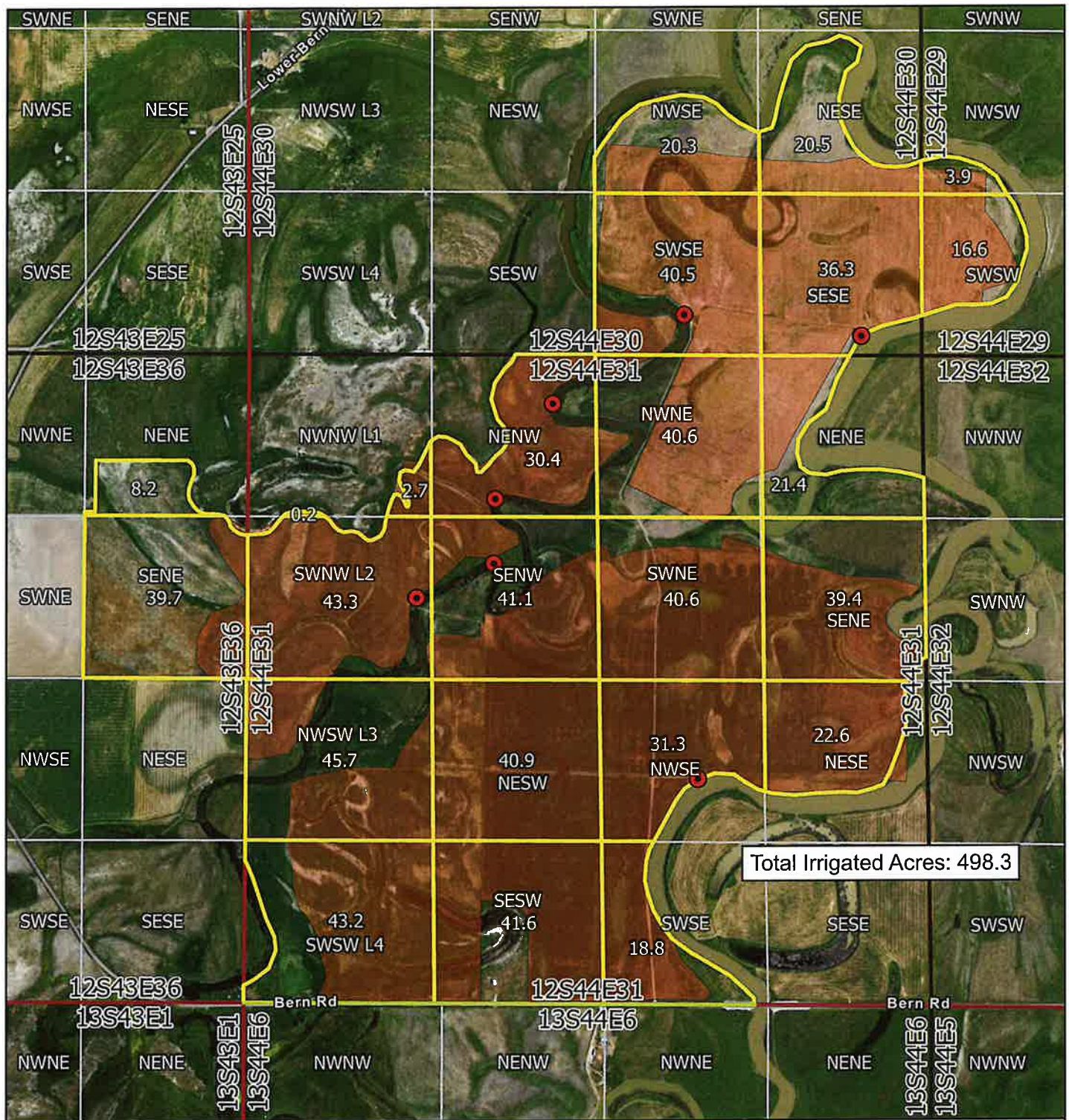
Photos of Portable Pump/Hose/Gun

Affidavit from Operator

Supplemental POD/POU form5

Name of claimant(s) PacifiCorp

Claim ID

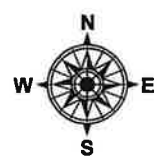


Total Irrigated Acres: 498.3

NAIP 2021

### Legend

- PODs
- PPU
- Irrigated Acres
- Township & Range
- Sections
- QQs



## Water Right Claims 11-1096, 11-1114, 11-1115, and 11-1116

Permissible Place of Use Map

Bear Lake County, ID

14. Basis of claim (Check one) Beneficial Use ( ) Posted Notice ( ) License ( ) Permit ( ) Decree (✓)

Court 6th Judicial Decree Date March 25, 1982 Plaintiff v. Defendant Hirschi et al vs. IDWR

If applicable provide IDWR Water Right Number 11-1115

15. **Signature(s)**

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Bear River Basin Water System Adjudication."

(b.) I/We do ( ) do not (✓) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 5

**For Individuals:** I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) [Signature] Date: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

**For Organizations:** I do solemnly swear or affirm under penalty of perjury that I am, and that I have signed the foregoing document in the space below as the

Water Rights Administrator of Pacifi Corp  
Agent's title (Please print) Name of organization (Please print)

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature] Date 10/25/2023

Printed Name of Authorized Agent Buffi Morris

16. **Notice of Appearance:**

Notice is hereby given that I, (please print) \_\_\_\_\_, will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_

Name of claimant(s) PacifiCorp Claim ID \_\_\_\_\_

**Narrative for Bear River Basin Adjudication Claims**

**11-1096, 11-1115, 11-1116, 11-1117**

**PacifiCorp ID# IDBE-0130**

**2) Date of Priority**

Based on 1982 Decree Hirschi vs. IDWR. Excerpts of the decree are attached.

**4) Point of Diversion**

There are a total of seven (7) diversions used by the claimant. Five diversions are located on Ovid Creek, four of which operate by means of a portable pump and portable mainline/hose mounted on a trailer. See attached photo. The fifth pump is a portable pump which can convey water from Ovid Creek through a mainline to irrigate the northerly portion of the PPU (located in T12SR44E Sec.29 SWSE).

Two diversions are located directly on the Bear River. Per the decree, the source is Ovid Creek, which water is authorized through an exchange from the Bear River. The decree recognizes that diversion of the Ovid Creek water rights occurs from the Bear River. Likewise, Water District 11 recognizes the two pumps as existing and currently deliver the Ovid Creek water rights to them when available.

This claim includes all seven diversions as an accomplished transfer and reflects that water is delivered through each of the diversions for each of the four combined water rights 11-1096, 11-1114, 11-1115, 11-1116.

**5) Diversion Works**

Bear River-North Pump (shown on IDWR records as the POD for 11-1116) – Pump size- 100 HP and delivers 900 gpm

Bear River- South Pump (shown on IDWR records as POD for 11-1114) – Pump size- 150 HP and delivers 1500 gpm

Ovid Creek- North Pump (shown on IDWR records as POD for 11-1096)- Pump size- 100 HP and delivers 900 gpm

Ovid Creek- remaining 4 PODs (replacing POD for 11-1115) - Portable pump, 1/4mile hose and end gun- moved along Ovid Creek to the four locations as shown on maps- 75 HP pump, 500-600 gpm.

**9) Place of Use**

The place of use is described as a Permissible Place of Use (PPU). A map is attached that shows the acres by QQ within the PPU. Many of the QQs are not Government Lots, but the GIS

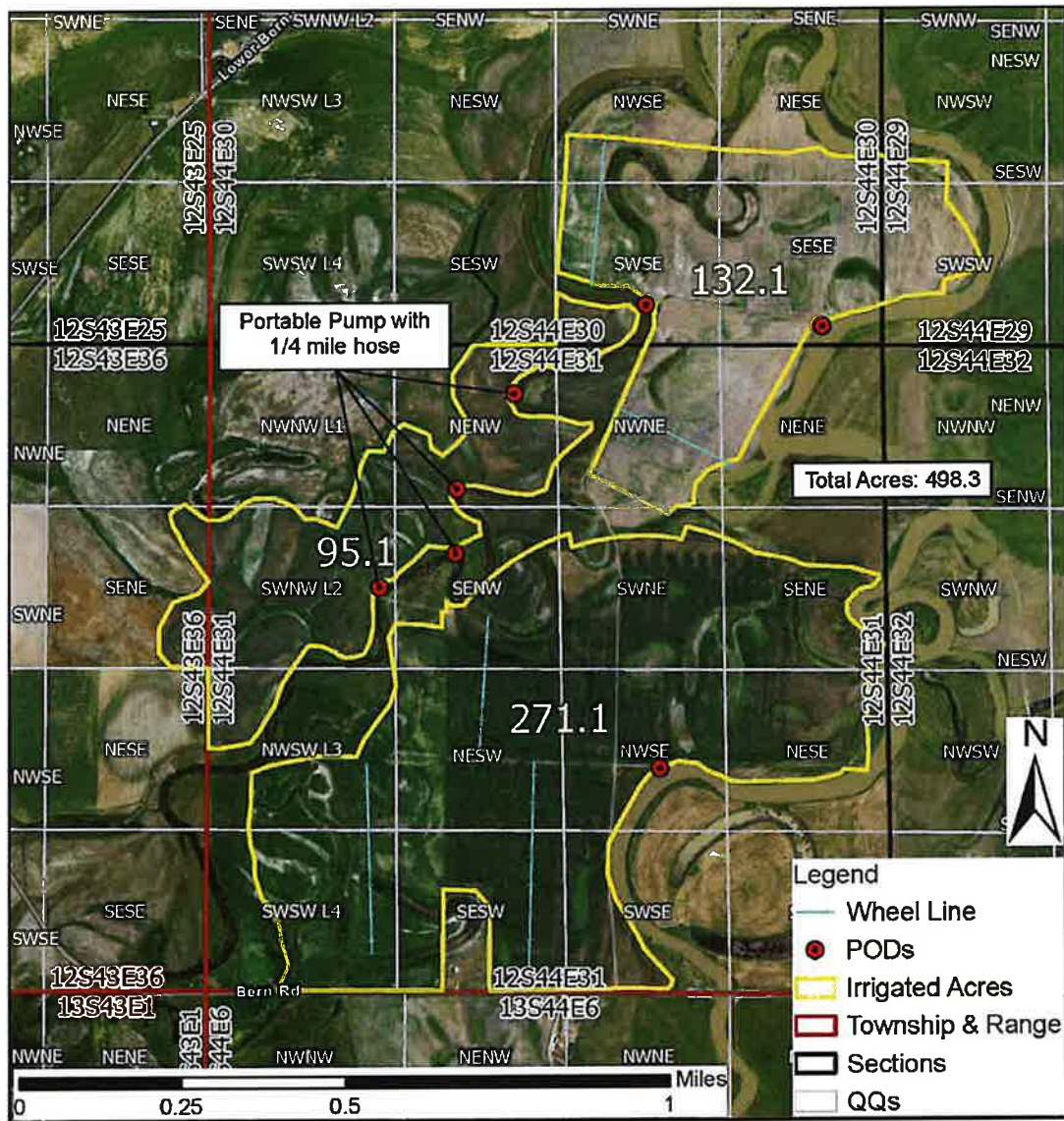
mapped acreage exceeds the Legal Acres assigned (40 acres). The Public Land Survey System GCDB available for preparing this claim has notable discrepancies in the Legal Acres vs. the Actual GIS acres. To preserve the total PPU acreage as a whole, the GIS mapped acres are used to describe the PPU acreage by QQ. Adjustments may be required to redistribute the acres by QQ with the availability of more accurate GIS data.

All four water rights 11-1096, 11-1114, 11-1115, and 11-1116, are used in combination to irrigate 498 acres within the 693-acre PPU. Each right has an acre-limit based upon the original decreed acres, as follows:

|         |                                                                                      |
|---------|--------------------------------------------------------------------------------------|
| 11-1096 | 375 acre-limit                                                                       |
| 11-1114 | 419 acre-limit                                                                       |
| 11-1115 | 25 acre-limit                                                                        |
| 11-1116 | 79 acre-limit (decreed quantity is 83 acres, but historical practices suggest 79 ac) |

Originally, these rights were decreed in pairs and were granted to Paul Kunz or Parley Kunz, on adjacent properties. When they were obtained by the same owner, the water rights were combined in use across all of the acres in an accomplished transfer, as represented on this claim.

North and west of Ovid Creek has historically been irrigated through a portable mainline/hose with end gun. South and east of Ovid Creek has historically been irrigated through wheel lines, and more recently, the addition of two pivots. The map below illustrates the location of the wheel lines across the farm. A total of 498 acres were irrigated between 2016-2021.



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11-P

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MAR 26 1982

Department of Water Resources

Stephen S. Dunn

MERRILL & MERRILL  
CHARTERED

SPAULDING BUILDING

P. O. BOX 991

POCATELLO, IDAHO 83204

PHONE: (208) 232-2286

ATTORNEYS FOR: Defendant  
Utah Power & Light Co.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF BEAR LAKE

FRANK HIRSCHI; GROVE PHELPS; )  
REED KUNZ; PAUL KUNZ; STEPHEN )  
KUNZ; PARLEY KUNZ; WAYNE KUNZ; )  
LARRY ALLEMAN; CLOYD C. WALLEN- )  
TINE and DONNA LEE WALLENTINE, )  
husband and wife; RICHARD LOVELAND )  
and NORMA N. LOVELAND, husband )  
and wife; and LEON HARDCASTLE; )  
and DEAN KUNZ and LAURA KUNZ, )  
husband and wife, )

Plaintiffs,

vs.

DEPARTMENT OF WATER RESOURCES, )  
STATE OF IDAHO; UTAH POWER & )  
LIGHT COMPANY, a corporation; and )  
RUSSELL D. STOKER, as Watermaster )  
of District 11, Bear River; and WATER )  
DISTRICT II, a municipal corporation, )  
and LAST CHANCE CANAL COMPANY, )  
an Idaho corporation, )

Defendants.

CASE NO. 2932

JUDGMENT

The above entitled matter having come on for two evidentiary hearings, briefs being submitted by all parties, and the Court having entered Findings of Fact and Conclusions of Law dated March 12, 1982,

IT IS NOW, THEREFORE, ORDERED, ADJUDGED AND DECREED that Judgment be, and the same is hereby, entered granting water rights in and to Ovid Creek, Bear River, and the Montpelier Creek Wastewater, with the priority date, time of use, diversion point, place of use and other essential requisites as set forth more fully on Tables A, B and C, attached hereto and by this reference incorporated herein as if set forth in full.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff, Wayne Kunz, be required to install a measuring device approved by the Idaho Department of Water Resources to determine the amount of wasted

JUDGMENT - Page 1

MAY 14 1986

TABLE A  
SCHEDULE OF WATER RIGHTS ESTABLISHED IN FID CREEK

|                |                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. PAUL KUNZ:  |                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 11-1096 (a)    | <u>Priority Date</u> 3/14/1889<br><u>Period of Use</u> 4/15 to 7/10<br><u>Amount in c.f.s.</u> 7.5<br><u>Point of Diversion</u> SW SE S.30, NWSE, S. 31, T. 12 S. R. 44 E.<br><u>Place of Use</u> NWSW, SWSW, S. 29 T. 12 S R. 44 E; NESE, NWSE, SWSE, SESE, S. 30 T. 12 S R. 44 E; NENE, NWNE, SWNE, SENE, NENW, NESW, SESW, NESE, NWSE, SENW, NWNW, SWNW, SWSE, S. 31 T. 12 S R. 44 E.<br><u>Number of Acres</u> 375  |
| 11-1114 (b)    | <u>Priority Date</u> 1955<br><u>Period of Use</u> 4/15 to 7/15<br><u>Amount in c.f.s.</u> 7.5<br><u>Point of Diversion</u> SW SE S. 30, NWSE, S. 31, T. 12 S. R. 44 E.<br><u>Place of Use</u> NWSW, SWSW, S. 29 T. 12 S. R. 44 E; NESE, NWSE, SWSE, SESE, S. 30 T. 12 S., R. 44 E; NENE, NWNE, SWNE, SENE, NENW, NESW, SESW, NESE, NWSE, SENW, NWNW, SWNW, SWSE, S. 31 T. 12 S., R. 44 E.<br><u>Number of Acres</u> 419 |
| 2. PARLEY KUNZ |                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 11-1115 (a)    | <u>Priority Date</u> 3/14/1889<br><u>Period of Use</u> 4/15 to 7/10<br><u>Amount in c.f.s.</u> .5<br><u>Point of Diversion</u> (amended) <del>NENE S. 1 T. 12 S., R. 44 E.</del><br><u>Place of Use</u> NWNW S. 31 T. 12 S., R. 44 E.<br><u>Number of Acres</u> 25                                                                                                                                                      |
| 11-1116 (b)    | <u>Priority Date</u> 1955<br><u>Period of Use</u> 4/15 to 7/15<br><u>Amount in c.f.s.</u> 1.66<br><u>Point of Diversion</u> NENE S. 31 T. 12 S., R. 44 E.<br><u>Place of Use</u> (amended) <del>NENE S. 31 T. 12 S., R. 44 E.</del><br><u>Number of Acres</u> 83.3 43                                                                                                                                                   |

MAY 14 1996

XI.

Because of the method of irrigation, using Ovid Creek, the general low flat area, the slow flow of water through the old Bear Lake outlet, the use of sloughs and low areas, it is impossible to quantify the amount of water used. The plaintiffs used all of Ovid Creek and the high water in seepage created by a combination of circumstances and irrigated all of their land under the Ovid Creek drainage by the flood and sub-irrigation.

XII.

Through the use of their sprinkler systems the plaintiffs have been more successful in that they have been able to irrigate a greater number of acres, over an extended period of time and raise a greater variety of crops than they could historically by flood and sub-irrigation from the Burn Dam.

XIII.

Two of the plaintiffs, Wayne Kunz and Grove Phelps, claim waters by reason of their use of waste water from the Montpelier Creek Irrigation Company, who constructed a reservoir on Montpelier Creek which increased the flow of water down the creek during the irrigation season. They use these waste waters in irrigating their lands.

XIV.

Neither plaintiffs, Wayne Kunz, or Grove Phelps, have established any right to the use of the waters from Ovid Creek or the old Bear Lake Outlet, and are limited to the waters coming from Montpelier Creek.

XV.

The Court finds that the plaintiffs have individually established certain early priority water rights based upon diversion and application to a beneficial use through flood irrigation and their historic uses of the Burn Dam, and also additional rights based upon later expansion and use of sprinkler irrigation systems, as set forth more specifically below.

MAY 14 1996

XVI.

Paul Kunz has established water rights on Ovid Creek as follows:

- (a) Priority Date 3/14/1889  
Period of Use 4/15 to 7/10  
Amount in c.f.s. 7.5  
Point of Diversion SW SE S. 30, NWSE, S. 31, T. 12 S. R. 44 E.  
Place of Use NWSW, SWSW, S. 29 T. 12 S R. 44 E; NESE, NWSE, SWSE, SESE, S. 30 T. 12 S R. 44 E; NENE, NWNE, SWNE, SENE, NENW, NESW, SESW, NESE, NWSE, SENW, NWNW, SWNW, SWSE, S. 31 T. 12 S R. 44 E.  
Number of Acres 375
- (b) Priority Date 1955  
Period of Use  
Amount in c.f.s. 7.5  
Point of Diversion SW SE S. 30, NWSE, S. 31, T. 12 S. R. 44 E.  
Place of Use NWSW, SWSW, S. 29 T. 12 S. R. 44 E; NESE, NWSE, SWSE, SESE, S. 30 T. 12 S., R. 44 E. NENE, NWNE, SWNE, SENE, NENW, NESW, SESW, NESE, NWSE, SENW, NWNW, SWNW, SWSE, S. 31 T. 12 S.; R. 44 E.  
Number of Acres 419

Paul Kunz no longer floods from the Burn Dam and has converted entirely to sprinkler irrigation. The Court finds that Paul Kunz put all but 20 of his 419 acres in the A.S.C.S. Soil Bank from 1966 to 1973 and did not make any use of his water rights during this period.

XVII.

Parley Kunz has established water rights in Ovid Creek as follows:

- (a) Priority Date 3/14/1889  
Period of Use 4/15 to 7/10  
Amount in c.f.s. .5  
Point of Diversion (amended) NENE S. 1 T. 12 S., R. 44 E.  
Place of Use NWNW S. 31 T. 12 S., R. 44 E.  
Number of Acres 25
- (b) Priority Date 1955  
Period of Use 4/15 to 7/15  
Amount in c.f.s. 1.66  
Point of Diversion (amended) NENE S. 31 T. 12 S., R. 44 E.  
Place of Use (amended) NENE S. 31 T. 12 S., R. 44 E.  
Number of Acres 48 E.

MAY 14 1996

Parley Kunz is still flood irrigating 25 acres from the  
Burn Dam with his remaining lands all being sprinkler irrigated.

XVIII.

Dean Kunz has established water rights in Ovid Creek as follows:

- |     |                                     |                                                                                                                                                                                                                                  |
|-----|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) | <u>Priority Date</u>                | 3/14/1889                                                                                                                                                                                                                        |
|     | <u>Period of Use</u>                | 4/15 to 7/10                                                                                                                                                                                                                     |
|     | <u>Amount in c.f.s.</u>             | 1.5                                                                                                                                                                                                                              |
|     | <u>Point of Diversion</u>           | Lot 5 S. 1, T. 13 S., R. 43 E;<br>Lot 2 S. 1, T. 13 S., R. 43 E;<br>Lot 10 S. 1, T. 13 S., R. 43 E.<br>SESW, NESW, SENW, Lot 4, Lot 3,<br>Lot 2, S. 31, T. 12 S., R. 44 E;<br>Lot 2, Lot 10, Lot 11, S. 1,<br>T. 13 S., R. 43 E. |
|     | <u>Place of Use</u>                 |                                                                                                                                                                                                                                  |
|     | <u>Number of Acres</u>              | 79                                                                                                                                                                                                                               |
| (b) | <u>Priority Date</u>                | 1955                                                                                                                                                                                                                             |
|     | <u>Period of Use</u>                | 4/15 to 9/15                                                                                                                                                                                                                     |
|     | <u>Amount in c.f.s.</u>             | 6.18                                                                                                                                                                                                                             |
|     | <u>Place of Diversion (amended)</u> | Lot 2, 5, 10, T. 13 S,<br>R. 43 E. Sec. 1                                                                                                                                                                                        |
|     | <u>Place of Use</u>                 | SESW, NESW, SENW, Lot 4, Lot 3,<br>Lot 2, S. 31, T. 12 S., R. 44 E;<br>Lot 2, Lot 10, Lot 11, S. 1,<br>T. 13 S, R. 43 E; NESW S. 1,<br>T. 13 S, R. 43 E; NW1/4 S. 6,<br>T. 13 S, R. 44 E.                                        |
|     | <u>Number of Acres</u>              | 340.7                                                                                                                                                                                                                            |

Dean Kunz continues to flood irrigate 71 acres from the Burn Dam with all other acreage being sprinkled.

XIX.

Stephen Kunz has established water rights in Ovid Creek as follows:

- |     |                           |                               |
|-----|---------------------------|-------------------------------|
| (a) | <u>Priority Date</u>      | 1910                          |
|     | <u>Period of Use</u>      | 4/15 to 7/10                  |
|     | <u>Amount in c.f.s.</u>   | .36                           |
|     | <u>Point of Diversion</u> | NESE S. 36 T. 12 S, R. 43 E   |
|     | <u>Place of Use</u>       | NESE, S. 36, T. 12 S, R. 43 E |
|     | <u>Number of Acres</u>    | 18                            |
| (b) | <u>Priority Date</u>      | 1957                          |
|     | <u>Period of Use</u>      | 4/15 to 9/15                  |
|     | <u>Amount in c.f.s.</u>   | .66                           |
|     | <u>Point of Diversion</u> | NESE S. 36 T. 12 S, R. 43 E   |
|     | <u>Place of Use</u>       | NESE S. 36, T. 12 S. R. 43 E  |
|     | <u>Number of Acres</u>    | 33                            |

Stephen Kunz still flood irrigated 18 acres with the remaining property being sprinkler irrigated. Stephen Kunz's priority

MAY 14 1996

XXVII..

The Court further finds that water rights established by the plaintiffs, as set forth above, should be administered by the Watermaster of District II as separate from and in conjunction with his administration of the Bear River and its tributaries pursuant to the Dietrich Decree.

XIX.

The Court further finds that there is always a scarcity of water in the Bear River and that there is insufficient water to fill all established water rights.

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MAY 14 1996

### CONCLUSIONS OF LAW

#### I.

Plaintiffs brought this action for supplemental adjudication of water rights pursuant to Idaho Code 42-1405, and all water rights established pursuant hereto are expressly subject to the provisions of that statute.

#### II.

On July 14, 1920, the Federal District Court for the District of Idaho entered its Judgment and Decree, the so-called "Dietrich Decree", and thereby ordered to determine the rights of any and all persons or entities to the waters of the Bear River or any of its tributaries to the extent the Bear River flows through the State of Idaho, as more specifically set forth in said Decree as follows:

"That there is hereby drawn within the jurisdiction of this Court, for distribution for beneficial uses, under and pursuant to the terms of this Decree, all that portion of Bear River, as above described, commencing at a point directly north of Bear Lake in Section 34, Township 13 South, Range 44 East, Boise Meridian, which said point is marked and indicated by the 'Stewart Dam'; and headgates to the plaintiff's intake canal into Bear Lake Reservoir, known as the 'Rainbow Canal,' thence generally northwesterly through Idaho, to a point near the town of Alexander, thence in a general southerly direction to the boundary line between the State of Idaho and Utah, together with all intervening tributaries of the Bear River, which are decreed to constitute a single interdependent river system, to be administered under the terms of this decree."

#### III.

Defendants Utah Power & Light Company and the Last Chance Canal Company were granted certain water rights in the Dietrich Decree and no water right granted hereunder shall in any way affect or detract from those water rights which specifically confirmed hereby.

#### IV.

Pursuant to Idaho Code §42-1405, the Court determines that it has jurisdiction to adjudicate the plaintiff's water rights as they have established rights to use waters of the Bear River and

MAY 14 1996

its tributaries although they were not included in said Dietrich Decree as a party thereto nor were their water rights determined thereby. Said Dietrich Decree is otherwise binding upon plaintiffs in all respects including the findings of facts and conclusions of law upon which the Dietrich Decree was based.

V.

The Court concludes that the Dietrich Decree attempted to include all waters flowing into Bear River below Stewart Dam, but in fact did not. None of the plaintiffs herein were ever joined as parties to that action nor were their water rights determined thereby.

VI.

That plaintiffs have established various water rights by diversion and application to beneficial use, and the limits, duty and use of that water is as set forth more specifically in the Findings of Fact, above, for each of the plaintiffs respectively, and summarized in the attached Tables A, B and C.

VII.

The Court concludes that the water rights established by Paul Kunz and Parley Kunz are unaffected and not forfeited by the fact that their property was placed in the A.S.C.S. Soil Bank from 1966 through 1973.

VIII.

The Court concludes that Frank Hirschi has forfeited any water rights he may have previously established by non-use since 1970. The Court further concludes that he has not established any other water rights on the Bear River or its tributaries by estoppel, acquiescence or agreement with Defendant Utah Power & Light Co.

IX.

The Court concludes that Wayne Kunz be required to install a measuring device approved by the Idaho Department of Water Resources to determine the quantity of waste waters flowing from

MAY 14 1996

Montpelier Creek into the Bear River and that the amount of water be diverted from the Bear River pursuant to his water rights established above and be limited to quantities flowing into the Bear River from Montpelier Creek.

X.

To the extent that some of the plaintiffs who established water rights and the right to divert those waters at the Burn Dam have changed their points of diversion to other locations on Ovid Creek or the Bear River as set forth more specifically in the Findings of Fact, above, the Court concludes that they are entitled to continue to divert at the new points of diversion, within the limits of their respective rights set forth above.

XI.

The water rights granted to plaintiff by this action are, to be subject to the administration of the Watermaster for District II and administered as separate from and in conjunction with the Dietrich Decree and water rights set forth therein. The Court orders all of the parties to cooperate and comply with the Watermaster in the administration of any and all water rights granted in the Dietrich Decree and herein.

XII.

That judgment be entered in accordance with these Findings of Fact and Conclusions of Law.

DATED this 12<sup>th</sup> day of March, 1982.

  
FRANCIS J. RASMUSSEN  
District Judge

  
MAY 14 1986

Photos for BRBA Claims  
11-1096, 11-1114, 11-1115,  
11-1117  
*Pacificorp ID# IDBE-0130*



Photos are the portable mainline, pump, and end gun that are used at the 4 PODs on Ovid Creek.



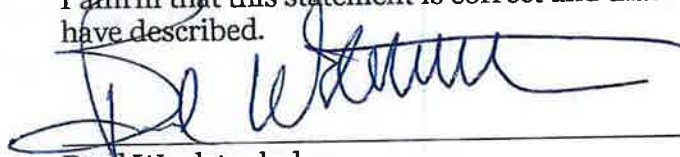
Affidavit of Brad Woolstenhulme  
Irrigation from Ovid Creek and Bear River  
Bear Lake County, Idaho

My name is Brad Woolstenhulme and I have been acquainted with the irrigation represented on the attached map since 2000. I know about this irrigation because I have leased the property from PacifiCorp since that time to the present.

The attached map titled Water Right Claims 11-1096, 11-1114, 11-1115, 11-1116 is accurate in describing the acres irrigated during the time I have operated the property. I have initialed the map in the bottom portion of the map.

Areas marked in brown and shown in the legend as Irrigate Acres is correct.

I affirm that this statement is correct and that I myself have done and seen the things I have described.



Brad Woolstenhulme

8-23-25

(date)

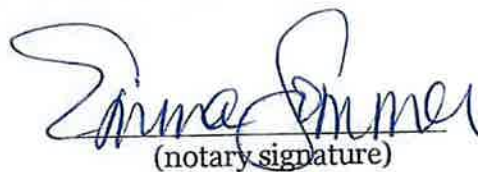
State of Idaho

County of Bear Lake

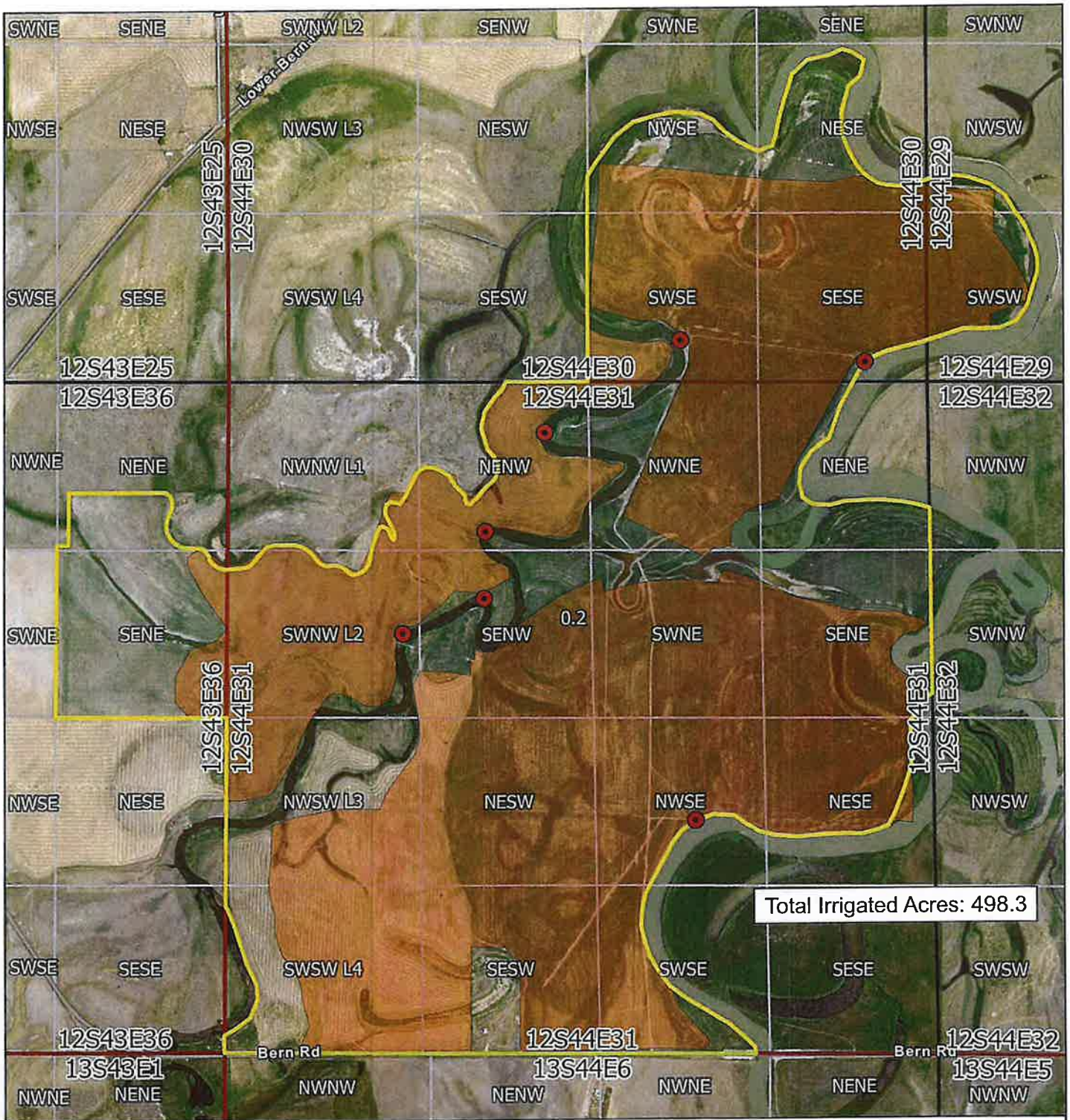
This document was signed before me by Brad Woolstenhulme  
on 8-23-25 (name)

(date)



  
(notary signature)

My commission expires 1-29-2028

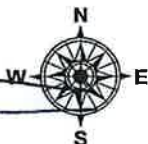


0 0.25 0.5 1 Miles

NAIP 2021

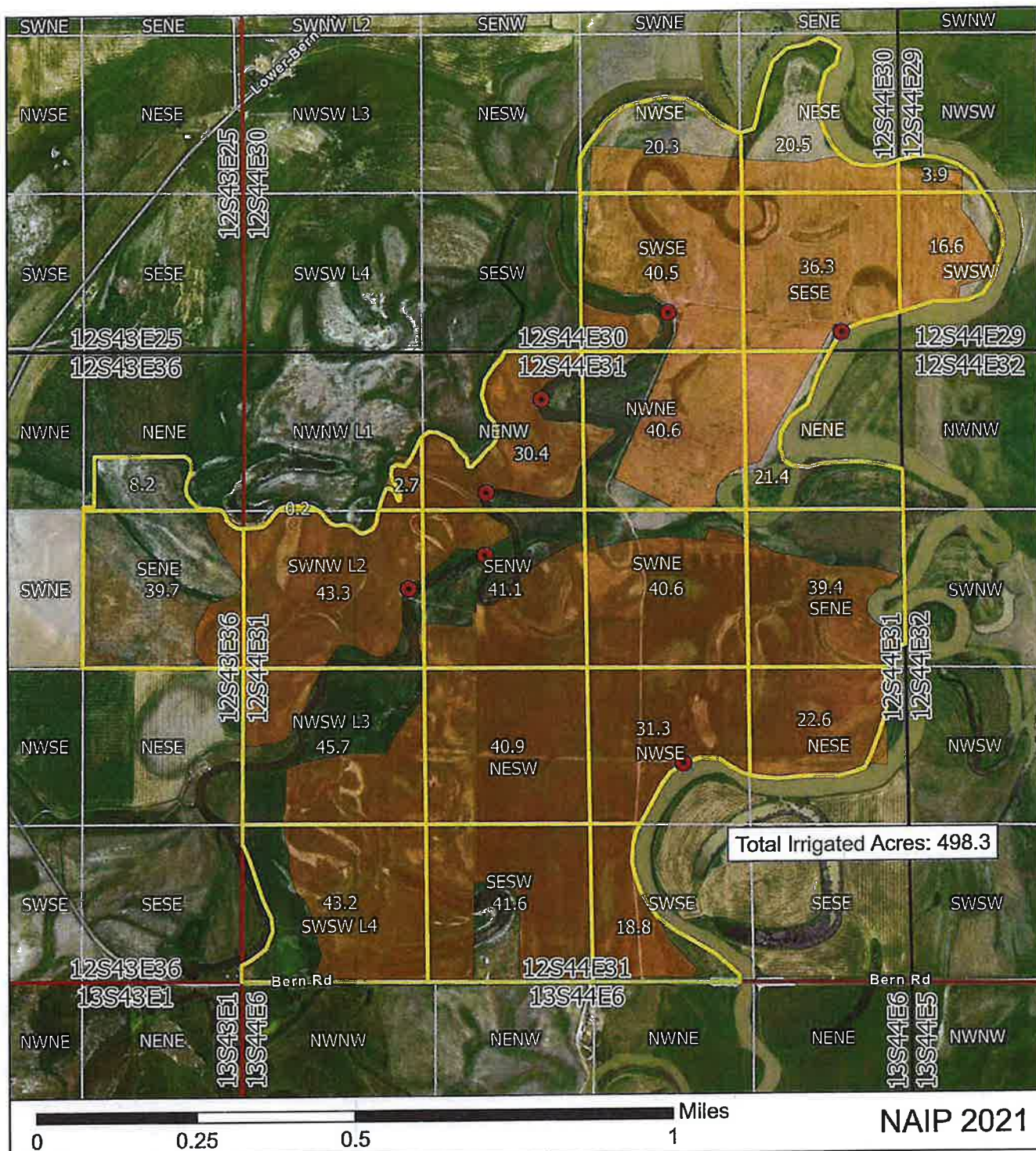
Legend

- PODs
- PPU
- Irrigated Acres
- Township & Range
- Sections
- QQs



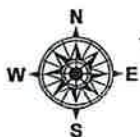
**Water Right Claims 11-1096,  
11-1114, 11-1115, and 11-1116**

Bear Lake County, ID



### Legend

- PODs
- PPU
- Irrigated Acres
- ▭ Township & Range
- ▭ Sections
- ▭ QQs



## Water Right Claims 11-1096, 11-1114, 11-1115, and 11-1116

Permissible Place of Use Map

Bear Lake County, ID

*Bre Woodstock*

## Ident. No. \_\_\_\_\_

Attachment to: ☐ Application for Permit to Appropriate Water ☐ Application for Transfer\*\* ☒ Adjudication Claim  
☐ Application for Amendment of Permit ☐ Beneficial Use Field Report ☐ Statutory Claim

[illegible]

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below.

[illegible]

**Pacificorp**

### Ovid Creek Irrigation Claims

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DWR/Preston

**Remember that only the first four de minimis stockwater claims require the \$25 fee.  
Remember to round up to the whole dollar.**

| Claim ID  | \$ for Claim | Notes                              |
|-----------|--------------|------------------------------------|
| 11-1114   | \$548.00     | Ovid North - 498 acre POU shared   |
| 11-1096   | \$50.00      | Ovid North - same acres as 11-1114 |
| 11-1115   | \$50.00      | Ovid North - same acres as 11-1114 |
| 11-1116   | \$50.00      | Ovid North - same acres as 11-1114 |
| 11-1104   | \$699.00     | Ovid South - 649 acre POU shared   |
| 11-1117   | \$50.00      | Ovid South - same acres as 11-1104 |
| 11-2128   | \$50.00      | Ovid South - same acres as 11-1104 |
| New Claim | \$50.00      | Ovid South - same acres as 11-1104 |
|           |              |                                    |
|           |              |                                    |
|           |              |                                    |
|           |              |                                    |
|           |              |                                    |
|           |              |                                    |
|           |              |                                    |
|           |              |                                    |
|           |              |                                    |
|           |              |                                    |
|           |              |                                    |
|           |              |                                    |
|           |              |                                    |
| Total     | \$1,547.00   |                                    |

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IDWR/Preston

Claimant:  
Claim ID:

|            |
|------------|
| Pacificorp |
| 11-1115    |

Instructions for Form No. 42 1409-1

Revised January 30, 2023

FILING FEES

Each claim submitted must include the filing fee. The filing fee for domestic and/or stockwater use claims diverting less than 13,000 gallons of water per day is \$25.00. However, if you are filing more than four (4) claims in which the only purpose of use listed is stockwater, only the first four (4) claims require the \$25.00 filing fee. All additional stockwater claims are fee exempt once the \$100.00 in filing fees has been paid for the first four (4) stockwater only claims filed after July 1, 2017.

The flat fee for filing all other claims filed is \$50.00 per claim. An additional variable filing fee based upon acreage, power generating nameplate capacity, cubic feet per second (cfs) amount, or an equivalent volume of storage water is required for claims for water uses other than domestic and/or stockwater uses diverting less than 13,000 gallons of water per day. Use Table 3 to calculate the variable fee. Add the calculated variable fee to the \$50.00 flat fee to determine the total fee for the claim. The exceptions are fire protection or ground water recharge which have a \$50.00 flat fee, and no variable fee.

Examples for a single claim to a water right with single source and same priority date

Single family domestic and stockwater use, less than 13,000 gallons per day in total ..... \$25.00

100 acres irrigation, domestic and stockwater as above ..... \$150.00

Fish propagation, 4.2 cfs ..... \$92.00

Multiple family domestic, 1.6 cfs, irrigation of yards and gardens, 14 acres ..... \$224.00

|                                                               | Rate/Unit | Unit           | # Units | \$ Amount      |
|---------------------------------------------------------------|-----------|----------------|---------|----------------|
| De Minimis                                                    | \$25      | Claim          |         |                |
| Non-De Minimis                                                | \$50      | Claim          | 1       | \$50.00        |
| Irrigation                                                    | \$1       | Acre           |         |                |
| Power Generation                                              | \$3.50    | KW of Capacity |         |                |
| Aquaculture                                                   | \$10      | cfs            |         |                |
| Municipal, industrial, commercial, mining, heating, cooling   | \$100     | cfs            |         |                |
| Public instream flow, public lake level maintenance, wildlife | \$100     | cfs            |         |                |
| Fire protection                                               | \$0       | cfs            |         |                |
| Groundwater recharge                                          | \$0       | cfs or afa     |         |                |
| Total                                                         |           |                |         | <u>\$50.00</u> |

**Duplicate this worksheet once for each claim.**

Note:  
Ovid North - same acres as 11-1114

TABLE 3, VARIABLE FEE SCHEDULE

|                                                               | \$1.00 per acre                                                          | Each acre is charged only once.                                    |
|---------------------------------------------------------------|--------------------------------------------------------------------------|--------------------------------------------------------------------|
| Irrigation                                                    |                                                                          |                                                                    |
| Power generation                                              | \$3.50 per kilowatt of capacity                                          | Manufacturer's nameplate rating or \$250,000.00, whichever is less |
| Aquaculture                                                   | \$10.00 per cfs                                                          |                                                                    |
| Domestic, stockwater use in excess of 13,000 gallons per day  | \$100.00 per cfs                                                         |                                                                    |
| Municipal, industrial, commercial mining, heating, cooling    | \$100.00 per cfs                                                         |                                                                    |
| Public instream flow, public lake level maintenance, wildlife | \$100.00 per cfs                                                         |                                                                    |
| Exceptions                                                    | No variable fee is charged for fire protection or ground water recharge. |                                                                    |

PERKINScoie

1111 West Jefferson Street  
Suite 500  
Boise, ID 83702-5391

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+1.208.343.3232  
PerkinsCoie.com

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DEPARTMENT OF  
WATER RESOURCES

Erika E. Malmén  
EMalmen@perkinscoie.com

December 6, 2023

**VIA HAND DELIVERY**

Idaho Department of Water Resources  
322 E. Front Street  
Boise, ID 83702

**Re: PacifiCorp  
Notices of Claims to Water Rights  
Bear River Basin Adjudication**

To whom it may concern:

Enclosed please find a check in the amount of \$4,485.50 for the filing fees for the group of Notices of Claims to Water Rights filed by PacifiCorp on or about October 25, 2023, together with the filing fee pages for each submission. The following is a summary of the filing fees:

|                                                  |                   |
|--------------------------------------------------|-------------------|
| 1. Ovid and Soda Stockwater Claims (9 claims)    | \$ 100.00         |
| 2. Ovid Creek Irrigation Claims (7 claims + New) | \$1,547.00        |
| 3. Lifton Claim (11-4004)                        | \$ 83.00          |
| 4. Soda Domestic & Irrigation (11-2084 + New)    | \$ 203.00         |
| 5. <u>Paris Claim (11-0086)</u>                  | <u>\$2,552.50</u> |

**Total: \$4,485.50**

At your earliest convenience, please email the claim numbers assigned to each claim to: [emalmen@perkinscoie.com](mailto:emalmen@perkinscoie.com). Thank you for your assistance. Please contact us if you have any questions.

December 6, 2023

Page 2

Sincerely,

A handwritten signature in black ink, appearing to read "Erika E. Malmen", followed by a horizontal line.

Erika E. Malmen

Enclosures