

**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**

CIVIL CASE NUMBER 79576

Claim ID: 13-962

Date Rcd: 4/28/25

Receipt No: P002003

Claim Fee: 26,300.00 **By:** mb

RECEIVED

MAY 09 2025

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

IDWR/Preston

- 1. Name of Claimant(s):** PacifiCorp
Phone: 801-220-7803
Mailing Address: 1407 W. North Temple, Suite 110, Salt Lake City, UT 84116
E-mail Address: Buffi.Morris@PacifiCorp.com
- 2. Date of Priority (mm/dd/yyyy):** 3/9/1916
- 3. Source of water: Ground Water () or Other (x) (a)** Bear River
which is tributary to **(b)** Great Salt Lake

4a. Location of Point of Diversion

T	R	S	QQ	Lot	County	Div. Name or Parcel
10S	40E	28	NWNW		Caribou	Cove Dam

5. Description of existing diversion works. The Cove Development consisted of a concrete dam 26.5 feet high and 141 feet long; a concrete and wood flume that is 6,125 feet long; with 550-foot steel penstocks; and a power plant with a single 7.5 megawatt generator/turbine unit. The Cove Dam was decommissioned in 2006.

6. Water is claimed for the following purposes:

Purpose	From (date)	To (date)	cfs	(or) acre feet
Power	1/1	12/31	1500	

7. Total quantity claimed (a) 1500 (cfs) and/or (b) (acre feet)

Regarding flowrate, the Dietrich Decree authorizes 1,500 cfs "to be diverted...for the generation of electric power or energy and returned to the channel of Bear River." *See* Dietrich Decree at 19.

8. Non-irrigation uses; describe fully:

This right authorizes diversion and release of water for power generation. The Cove powerhouse consisted of one generating unit of 7.5 megawatts with a hydraulic head of 70 feet.

9. Description of Place of Use

			NE				NW				SW				SE				Total
Twp	Rge	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Total
10S	40E	33								P									

Parcel no(s):

Total Acres N/A

10. In which counties are lands listed above as the place of use located? Caribou County, Idaho.

11. Do you own the property listed above as place of use? Yes (X) No ()
If “no” explain in Remarks

12. Describe any other water rights used at the same place and for the same purposes as described above.

An accompanying claim, water right 13-963, is for Power Storage of 55 afa at the Cove Reservoir and Power from Storage at the same Place of Use as this claim.

or None ()

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

Remarks to aid in claims review:

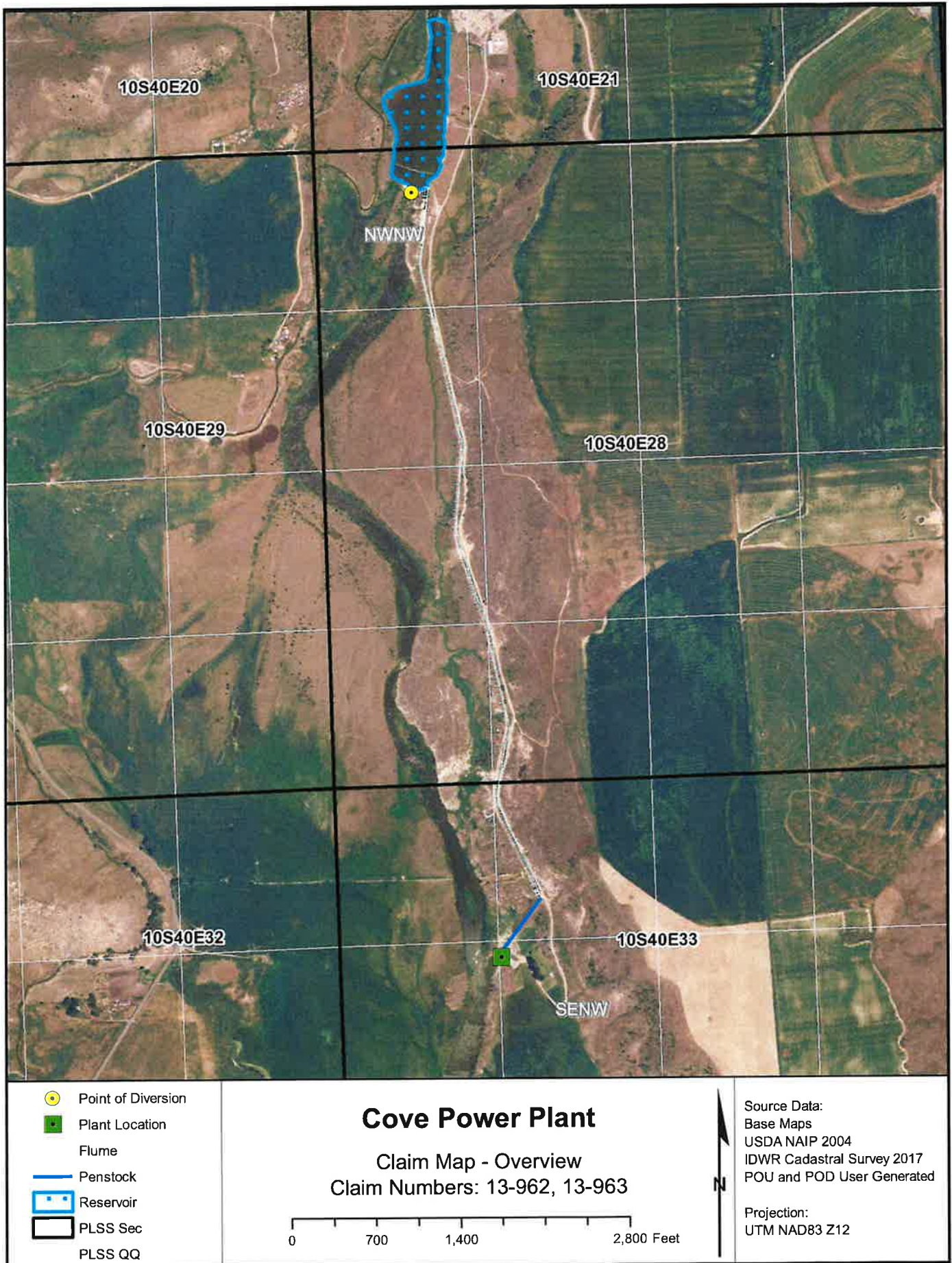
1. Priority date: Consistent with the court decrees in *Utah Power & Light Co. v. Last Chance Canal Co., Ltd.*, (D. Idaho July 14, 1920) (In Equity No. 203) (“Dietrich Decree”), and further recognized in *Utah Power & Light Co. v. Richmond Irrigation Co.* (1st. Jud. Dist. Utah Feb. 21, 1922) (“Kimball Decree”).
2. Diversion works description is per *Order Approving Settlement Agreement and Issuing New License*, 105 FERC ¶ 62,297, December 22, 2003. The Federal Energy Regulatory Commission (“FERC”) license indicates that the plant had a capacity of 1,227 cfs. However, the full diversion rate of 1,500 cfs was diverted at the Cove Dam, and through inefficiencies in the conveyance system, was reduced through the length of the flume to the plant.
3. The dam and diversion works to the powerhouse were decommissioned in 2006. The power plant is still existing. The water right is protected from forfeiture through a Request for Extension of Time to Avoid Forfeiture approved in 2007 (terminating 2013), immediately followed by three consecutive Water Supply Bank lease contracts from 2013-

2026.

4. Quantity is per Dietrich Decree.
5. The Cove Powerhouse, in Caribou County, Idaho, is the Place of Use.
6. In addition to the primary non-irrigation use for Power, there are small non-consumptive uses of water inside the plant for cooling of the generators and other equipment that requires water for non-evaporative cooling. These additional uses are deemed implicit in the decreed hydropower use.
7. There are three attachments to this claim:
 - 1) Affidavit of Connely K. Baldwin, PacifiCorp Hydrologist and Senior Project Manager, describing general system operation and calculation of claimed volumes;
 - 2) Annotated excerpts from the Dietrich Decree;
 - 3) Excerpts from the 2003 FERC *Order Approving Settlement Agreement and Issuing New License*.

Conditions necessary to the definition and administration of the right.

1. The diversion rate under this right is not subject to a combined-use limitation.
2. This right is not subordinated under Idaho law, but its use may be governed by agreements that are not enforced by Idaho Department of Water Resources.
3. Power use includes water from various sources.
4. This water right includes non-consumptive components for power generation and non-evaporative cooling at the Power Plant.
5. The administration of this right is further defined in the Dietrich Decree.
6. PacifiCorp is the decreed appropriator and fee title owner of the water rights. Among other beneficial and operational uses, PacifiCorp distributes water under its rights among several irrigators and irrigation entities in Idaho and Utah. The interests of the irrigators and irrigation entities are defined exclusively by contract.





-  Point of Diversion
-  Reservoir
-  PLSS Sec
-  PLSS QQ

Cove Power Plant

Claim Map - POD and Reservoir Detail
Claim Numbers: 13-962, 13-963

0 230 460 920 Feet



Source Data:
Base Maps
USDA NAIP 2004
IDWR Cadastral Survey 2017
POU and POD User Generated

Projection:
UTM NAD83 Z12



Cove Power Plant

Claim Map - POU Detail
Claim Numbers: 13-962, 13-963

0 175 350 700 Feet

Flume

Penstock

Place of Use

PLSS QQ

Source Data:

Base Maps

USDA NAIP 2004

IDWR Cadastral Survey 2017

POU and POD User Generated

Projection:

UTM NAD83 Z12

14. Basis of Claim (Check one)

Beneficial Use ()
Posted Notice ()
License ()
Permit ()
Decree (X)

Court United States District Court for Idaho, Eastern Division

Plaintiff v. Defendant

Utah Power & Light Co. v. Last Chance Canal Co., Ltd., (D. Idaho July 14, 1920)
(In Equity No. 203) ("Dietrich Decree")

Decree Date July 14, 1920

IDWR WR number if applicable 13-962

15. Signatures

(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 (X) do not () wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 3

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 Sr. Property Agent / Water Rights Administrator of PacifiCorp and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Buffi Morris Date May 8, 2025

Printed Name of Authorized Agent Buffi Morris

16. Notice of Appearance

Notice is hereby given that I, Erika Malmen, 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.

Signed by:
Signature Erika Malmen Date May 8, 2025
E8C5C9BE14464A8...

Address: Perkins Coie LLP, c/o Erika Malmen, 1111 W. Jefferson Street, Suite 500, Boise, ID 83702

Attachment 1

14

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Erika E. Malmén, Bar No. 6185
EMalmén@perkinscoie.com
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Attorneys for PacifiCorp

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

CASE NO: 79576

**AFFIDAVIT OF CONNELLY K.
BALDWIN IN SUPPORT OF
PACIFICORP'S COVE WATER
RIGHTS CLAIMS**

I, Connely K. Baldwin, certify and state as follows:

1. My current job title is Hydrologist & Senior Project Manager at PacifiCorp. I have held this position since 2018. I began the Hydrologist role in 2003. Since 2003, I have been responsible for water management at Bear Lake Reservoir including the Lifton Pumping Station. In addition to general water management, my duties include assuring the quality of streamflow and reservoir elevation data and many other aspects of power production such as development of efficiency curves, evaluation of emergency backup power capabilities and identification of optimal operation parameters. I have been continuously responsible for managing the irrigation deliveries of natural flow and supplemental water from Bear Lake and have provided regular reports on Bear River operations to the Bear River Commission. The Senior Project Manager

promotion in 2018 expanded my duties generally but I have continuously performed the Hydrologist role and responsibilities at Bear Lake Reservoir and Lifton Pumping Station.

2. PacifiCorp is an investor-owned for-profit utility that serves approximately 2.1 million customers through its two unincorporated divisions, Rocky Mountain Power and Pacific Power. Rocky Mountain Power serves customers in Idaho, Utah, and Wyoming with headquarters in Salt Lake City, Utah. Pacific Power serves customers in Oregon, Washington, and California with headquarters in Portland, Oregon. PacifiCorp is regulated by state public utility commissions and the Federal Energy Regulatory Commission amongst other government entities.

3. The Bear River is an interstate water that traverses the states of Idaho, Utah and Wyoming. Agreements between these states (such as the Bear River Compact, as amended and ratified by the United States Congress) and other affected parties inform the operation of PacifiCorp's Bear River System. The Bear River System generally consists of five electric plants downstream of Bear Lake--Soda, Last Chance, Grace, Oneida and Cutler.

4. Since the Cove power plant was not operational in 2003 and ultimately decommissioned in 2006, I do not have personal knowledge of its historic operations. However, based on my review of records available to me, it is my understanding that Cove reservoir was maintained at its normal operational level until decommissioning. After decommissioning, the water rights were placed into the Water Supply Bank.

5. Regarding the Cove Reservoir, total storage is estimated to be 55 acre-feet. The explanation for these calculations is attached as Exhibit A.

6. PacifiCorp's operation at Bear Lake Reservoir is designed to capture and store spring runoff each year and return water to the Bear River later during the irrigation season to

provide supplemental water from storage such that the natural flow of tributaries downstream of Bear Lake is adequate for the full irrigation of lands served by the canal companies which hold irrigation water delivery contracts with PacifiCorp, subject to the availability of Bear Lake storage water. During periods of high inflow into Bear Lake Reservoir in excess of downstream needs, the excess flow can be passed downstream or stored in Bear Lake Reservoir. When Bear Lake Reservoir elevation exceeds operational targets after high runoff periods, water may be released from storage to allow for flood control operations. Any water released from Bear Lake Reservoir was used for power generation at Cove.

Date: 4/29/2025

Connely K. Baldwin
Typed/Printed Name

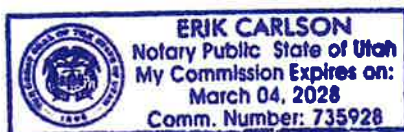

Signature

State of Utah

County of SALT LAKE

On the 29th day of APRIL, 2025, before me, the undersigned Notary Public, personally appeared Connely K. Baldwin, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed the same.

Witness my hand and official seal.





AFFIDAVIT OF CONNELLY K. BALDWIN IN SUPPORT OF PACIFICORP'S COVE
WATER RIGHTS CLAIMS - 3

EXHIBIT A TO AFFIDAVIT OF CONNELLY K. BALDWIN IN SUPPORT OF PACIFICORP'S COVE WATER RIGHTS CLAIMS

Cove Reservoir had no known bathymetry or elevation-contents information. The bulk of the extant information is incomplete or on an unknown elevation datum and ultimately not useful for a defensible estimate of reservoir storage. This document describes the approach to estimate the total reservoir storage. As the reservoir no longer exists, the active capacity is not separated out, only total reservoir storage is computed.

The Cove Dam was removed in 2006 and the sediment in the reservoir area was graded to resemble the 1915 river channel for which a contour map was available. Only the concrete of the dam and spillway were removed from the former reservoir area. Hence, a June 23, 2017, lidar survey is used to calculate reservoir volume. The final estimate of the reservoir capacity is 55 acre-feet.

Available Information

The information used to calculate the former Cove Reservoir capacity was:

- June 23, 2017 lidar survey (funded by PacificCorp)
- 3-foot DEM derived from lidar survey
- Google Earth images from September 2004 and February 2021
- Image of classified lidar point cloud (ground and water) with grid lines for identifying UTM coordinates of key features (see Figure A.1 in Appendix A)

Images of some inputs are shown below in Appendix A. The data files, scripts and calculations are available upon request.

Methodology

The R-project statistical software was used (R Core Team, 2018) along with the “lidR” (Roussel et al., 2020 and 2022) and “raster” (Hijmans, 2023) packages. The previously-classified lidar point cloud was imported, trimmed and converted to a 3-foot grid digital elevation model (DEM) using the k-nearest neighbor inverse distance weight algorithm. Only the water and ground classified lidar points were used to derive the DEM. The DEM was exported as an ASCII file for further calculations in MS Excel.

In order to accurately locate the dam and the water surface elevation within the same coordinate system and datum as the lidar data, an image of the classified point cloud with UTM grid lines was imported into Google Earth and rubber-sheeted to match the February 2021 aerial image (Figure A.2). While the river level was lower in 2021 than in the 2017 lidar image, the fixed key features of the Gentile Canal and Grace electric plants were also used in rubber-sheeting. The background image in Google Earth was then changed to the September 2004 image to identify the location of the dam and upper end of reservoir (Figure A.3).

The UTM coordinates of the upper end of the reservoir were used to identify the average water surface elevation present in 2004. Reservoir elevations were typically maintained within a narrow range, so the water surface elevation on this date is assumed to be the

normal maximum elevation. The water surface elevation was calculated to be 5,029.6 feet. This elevation was used to determine the depth of water and associated volume at each grid point in the area upstream of the former dam. The grid-point volumes were summed to get the total capacity of 55 acre-feet. The calculations are available upon request. An image of the reservoir depths used is shown in Figure A.4.

Results

A total capacity of 55 acre-feet was computed from the available lidar information.

References

R Core Team (2018). R: A language and environment for statistical computing. R Foundation for Statistical Computing, Vienna, Austria. URL <https://www.R-project.org/>.

Roussel, J.R., Auty, D., Coops, N. C., Tompalski, P., Goodbody, T. R. H., Sánchez Meador, A., Bourdon, J.F., De Boissieu, F., Achim, A. (2020). lidR : An R package for analysis of Airborne Laser Scanning (ALS) data. *Remote Sensing of Environment*, 251 (August), 112061. <doi:10.1016/j.rse.2020.112061>.

Jean-Romain Roussel and David Auty (2022). Airborne LiDAR Data Manipulation and Visualization for Forestry Applications. R package version 4.0.2. <https://cran.r-project.org/package=lidR>.

Robert J. Hijmans (2023). raster: Geographic Data Analysis and Modeling. R package version 3.6-20. <https://CRAN.R-project.org/package=raster>.

Appendix A. Figures and Additional Information

Files available upon request:

- survey (file “BR_047.laz” and associated tiff file)
 - Documentation files:
 - “Elevation and Imagery Data Info, GeoTerra, 2017.docx”
 - “170002_Bear_River_Metadata.pdf”
- 3-foot DEM derived from lidar survey (“covgrid.asc”, “Cove Reservoir DEM.xlsb”)
- Google Earth images from September 2004 and February 2021 (“Google Earth 2004 Image.jpg”, “Google Earth 2021 Image.jpg”, “Google Earth 2021 Image_withGridLines.jpg” the last file is included below as Figure A.2)



Figure A.1 Classified lidar point cloud (only ground and water classified points used) with grid lines used to identify the upper end of the reservoir and the dam (shown in thin red lines) when overlaid on the September 2004 Google Earth image. Solid grid lines are shown every 100 feet with dashed grid lines every 10 feet.

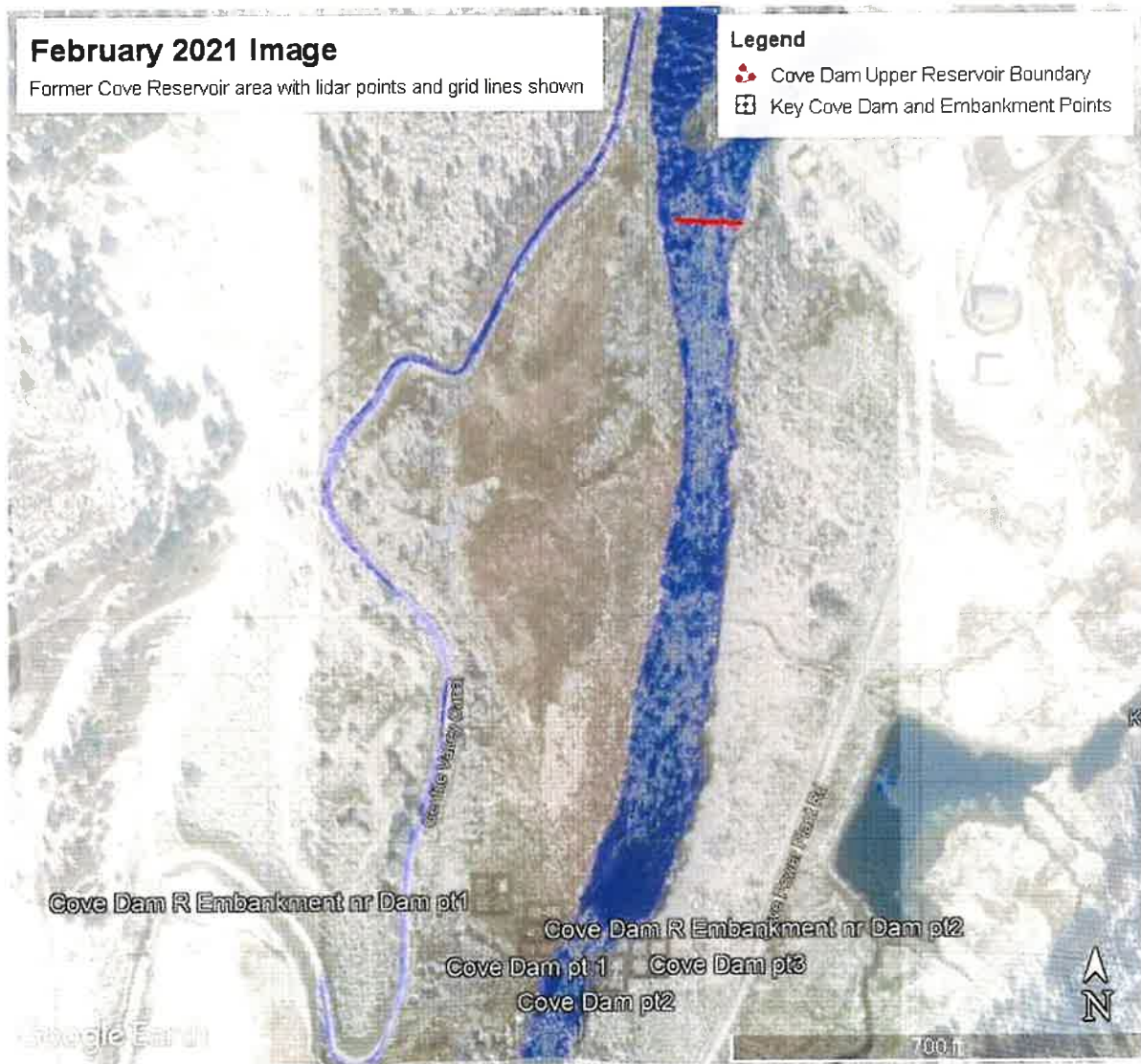


Figure A.2. Rubber-sheeted lidar point image with grid lines overlaid on the February 2021 aerial image. The red line shows the upper reservoir boundary area. The points at the dam are also shown (both were identified by looking at the September 2004 image shown in next figure, A.3).



Figure A.3. September 2004 Google Earth image used to identify the upper end of the reservoir and the dam and embankment. The lidar image is very faintly shown with only the river points slightly visible, the lidar image is more visible in Figure A.2.



Figure A.4. Image of Cove Reservoir depths with darker shades of blue for deeper depths.

Attachment 2

This is a duplicate copy
made of the original because
of the poor quality of orig. from wear & tear.
11-2
~~numbered copy~~

~~Original can be found in this same file.~~

In the District Court of the United States for the
District of Idaho, Eastern Division.

UTAH POWER & LIGHT COMPANY,

Plaintiff

vs.

THE LAST CHANCE CANAL COMPANY,
Limited, et. al.

Defendants.

In Equity

No. 203.

FINAL DECREE

Before HON. F. S. DIETRICH,
District Judge

Filed July 14, 1920.

W. D. McREYNOLDS,

Clerk.

By PEARL ZANGER,

Deputy.

MAY 14 1996

3. In addition to the storage rights of plaintiff, herein decreed, the waters of Bear River and its tributaries between the points hereinbefore described, as drawn within the jurisdiction of this court for distribution under this decree, are hereby allotted and decreed for the various beneficial uses herein specified, without waste, to the plaintiff and defendants, respectively, and their successors in title and interest, in the amounts, for the purposes, and with the priorities, established and prescribed by the "Schedule of Rights" hereinafter defined.

The rights herein decreed and recognized are designated and classified as "Power Rights," "Irrigation Rights" and "Domestic Rights," respectively, and shall have the following characteristics:

"Power Rights" include the right to divert and use water for the generation of electric power, and such rights of diversion and use are continuous throughout the year without limitation to time or season.

"Irrigation Rights" include the right to divert and use water for irrigation, culinary, domestic, and agricultural purposes connected therewith, throughout the irrigation season of each year, which is defined as that portion of each calendar year which commences on the 20th day of April and closes on the 30th day of September; subject to the qualification, however, that between the 20th and 30th days of April of each year, and the 15th and 30th days of September of each year, inclusive of each of said days, no irrigation appropriator shall divert or use more than 40 per cent of his or its allotment under the "Schedule of Rights" hereinafter prescribed, except as is hereinafter specifically provided in the "Schedule of Rights." The water allotted and decreed to the parties hereto for irrigation purposes is, and shall be, appurtenant to the land upon which the same has been applied and used, as described in the schedule; subject, however, to the rights of appropriators or shareholders in any appropriating canal company to change the place of diversion or use as provided by law when no damage or injury results to others, or to make any beneficial use of such waters, or any part thereof, which does not injure other appropriators.

"Domestic Rights" include the right to divert and use water during the non-irrigating season, that is to say, from the first day of October of each year to the 19th day of April following, both dates inclusive, under agricultural appropriations and through irrigation ditches, for general domestic uses, including watering stock and culinary purposes. Each irrigation right herein decreed shall include and imply as a part thereof a domestic right to the use, during the non-irrigating season, of such of the waters allotted for irrigation purposes as are necessary for such domestic purposes and such shall be the measure of said domestic rights, and the extent of use of water through irrigation canals in the non-irrigation season.

DATE OF
PRIORITY

AMOUNT IN
SECOND FEET

POINT OF DIVERSION AND
PLACE OF USE

quarter Southeast quarter, and the Northeast quarter Southwest quarter of Section 2, and the Southwest quarter Southeast quarter of Section 12, and the Northwest quarter, the North half Southwest quarter and the West half Northeast quarter of Section 13; of Township 12 South, Range 40 East, of the Boise Meridian.

Said water to be diverted from the natural flow of Bear River, and used through the Gentile Valley Irrigation Company's canal, as above described, for the irrigation of 560 acres of land, situated under what is known as the Pond Canal in the South half of the Northwest quarter and the Southwest quarter of Section 25, the Northwest quarter of the Northeast quarter, the Southeast quarter, the North half of the Southwest quarter, and the Southeast quarter of the Southwest quarter of Section 26, the East half and the Northeast quarter of the Northwest quarter of Section 35, the West half of the Northwest quarter, and the Northeast quarter of the Southwest quarter of Section 36, of Township 11 South, Range 40 East; and the Northwest quarter of the Northwest quarter of Section 1, and the North half of the Northeast quarter of Section 2, of Township 12 South, Range 40 East, of the Boise Meridian.

Said water to be diverted by means of a dam in the channel of Bear River at a point South 65°19' East 977 feet from the Southwest corner of Section 21, Township 10 South, Range 40 East, B.B.M., in Bannock County, Idaho, through a flume commonly known as the Cove Flume, to the Cove generating station in the Northwest quarter of Section 33, Township 10 South, Range 40 East, B.B.M., and there used for the generation of electric power or energy and returned to the channel of Bear River.

Said water to be diverted from the channel of Bear River into the Cove Reservoir at a point North 46°30' East, 1456 feet from the Southwest corner of Section 21, Town-

- ~~11-0960~~ 13-0961
11. Pond Brothers and Bartlome, a partnership composed of L. A. Pond, J. T. Pond and David Bartlome:
1904—April 18 12 c.f.s.

- ~~11-0960~~ 13-0962
12. Utah Power & Light Company:
Cove Power Plant:
(a) 1916—March 9 1500 c.f.s.

- ~~11-0960~~ 13-0963
(b) 1916—March 28 4000 ac. ft.

MAY 14 1996

DATE OF
PRIORITY

AMOUNT IN
SECOND FEET

POINT OF DIVERSION AND
PLACE OF USE

ship 10 South, Range 40 East, B.B.M., to be stored therein, and withdrawn therefrom for use in connection with said Cove Plant, as authorized and provided for in Permit No. R-18, issued by the State Engineer of the State of Idaho.

~~1-0276~~ 13. *Ethel H. Ellsmore:*
1898—August 31

1.0 c.f.s.

To be diverted from the natural flow of Bear River through a ditch known as the "Harris" Ditch, diverting on the West side thereof, at a point about 80 rods South of the Cove dam in the Southwest quarter of Section 21, Township 10 South, Range 40 East, B.M. for the irrigation of 47 acres of land in the Northwest quarter of the Southwest quarter of Section 33, and the Northeast quarter of the Northeast quarter of Section 32, Township 10 South, Range 40 East, B.M.

13-0964

~~1-0271~~ 14. *Frank W. Harris:*
1898—August 31

0.9 c.f.s.

To be diverted from the natural flow of Bear River, through the Harris ditch, last above described, for the irrigation of 43 acres of land in the Southeast quarter of the Southeast quarter of Section 29, the Northeast quarter of the Northeast quarter and the Northeast quarter of the Southeast quarter of Section 32; the Northwest quarter of the Northwest quarter and the Northwest quarter of the Southwest quarter of Section 32, Township 10 South, Range 40 East.

13-0965

~~1-0272~~ 15. *A. W. Harris.*
1879—May 1

2.2 c.f.s.

To be diverted from the natural flow of Bear River, through the Harris ditch, last above described, for the irrigation of 110 acres of land in the East half of the Northeast quarter of Section 32, the West half of the Northwest quarter of Section 33, Township 10 South, Range 40 East, B.M.

13-0966

~~1-0273~~ 16. *Utah Power & Light Company:*
Oneida Power Plant:
1910—June 17

1000 c.f.s.

Said water to be diverted by means of a dam in the channel of Bear River at a point North 74°08' West 7913 feet from the Northwest corner of Section 30, Township 13 South, Range 41 East, B.B.M., in Franklin County, Idaho, through a pipe line to the Oneida Power Plant, situate South 74°01' East 3173 feet from the Northwest corner of Section 26, Township

13-0967

DATE OF
PRIORITY

AMOUNT IN
SECOND FEET

POINT OF DIVERSION AND
PLACE OF USE

~~11 0274~~ 13-0968

17. Utah Power & Light Company:
Oneida Power Plant:

1911-Jan. 18 1500 c.f.s.

~~11 0275~~ 13-0969

18. A. C. Bosen, Hyrum J. Smith,
Robert L. Smith and
Melvin Green:

1882-May 1 5.5 c.f.s.

13 South, Range 40 East, B.B.M., and there used for the generation of electric power or energy, and returned to the channel of Bear River.

Said water to be diverted by the dam, through the pipes, and used at the said Oneida Plant, as last above described.

Said water to be diverted from Bear River through what is known as the Smith-Vanoy Ditch with point of diversion from Bear River in the Southeast quarter of Section 16, Township 14 South, Range 40 East, B.B.M., said water to be measured at point where Siphon No. 1 of Twin Lakes Canal Company crosses Bear River, and used for irrigating 300 acres of land to be divided as follows:

.3 of this amount to Hyrum J. Smith for the irrigation of lands in the North half of the Southwest quarter of Section 2, the Southwest quarter of the Southeast quarter of Section 20, and 23 acres in the Northwest quarter of the Southeast quarter of Section 29, Township 14 South, Range 40 East, B.B.M.

.5 to A. C. Bosen, for the irrigation of 107 acres in the Northeast quarter of the Northeast quarter and the Southeast quarter of the Northeast quarter and North half of the Southeast quarter, Section 21, and a few acres in the Southwest quarter of the Northeast quarter and the Northwest quarter of the Southwest quarter of Section 22, Township 14 South, Range 40 East, B.B.M.

.2 thereof to Robert L. Smith and Melvin Green jointly, to irrigate 31 acres of land in the Southeast quarter of Section 20, Township 14 South, Range 40 East, B.B.M.

19. Nelson Ditch Company:

~~11 0276~~ 1880-May 1

6.5 c.f.s.

13-0970

Said water to be diverted from Bear River at a point about 25 rods South of the Northeast corner of Section 20, Township 14 South, Range 40 East, B.B.M., for the irrigation of approximately 400 acres of

All the foregoing reservations of jurisdiction shall extend after the term at which this decree is entered, and during any subsequent term prior to January 1, 1924, at which time, or at such earlier time as the court may determine these matters, this decree shall be closed. In all other respects this decree shall be final.

The court further retains jurisdiction, however, at all times, and from time to time, to make all reasonable rules touching the manner of diverting, measuring and distributing the waters, and the devices to be installed and used for such purposes where it may be impracticable to fully comply with the terms of this decree, and to direct that the parties keep accurate and detailed records of the amounts of water diverted, and to require reports to be filed from time to time of the amount so diverted, and generally to make such orders as may be found reasonably necessary to give effect to the decree, and to appoint commissioners or water masters to make distribution in accordance with its terms, and to punish the parties hereto, their officers, agents and employes, and their grantees and successors in interest, for any violation of the provisions thereof.

Done in open court this 14th day of July, 1920.

FRANK S. DIETRICH,
Judge.

MICROFILMED

MAY 14 1996

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Attachment 3

105 FERC ¶ 62,207
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp

Project No. 20-019
Project No. 2401-007
Project No. 472-017

ORDER APPROVING SETTLEMENT AGREEMENT AND
ISSUING NEW LICENSE

Issued December 22, 2003

1. PacifiCorp has filed applications for new licenses, pursuant to Sections 4(e) and 15 of the Federal Power Act (FPA),¹ for the continued operation and maintenance of the Soda Project No. 20, Grace/Cove Project No. 2401, and Oneida Project No. 472. The projects are located on the Bear River in Caribou and Franklin Counties, Idaho. The three projects have installed capacities of 14,000 kilowatts (kW), 40,500 kW and 30,000 kW, respectively. Although the projects have been operated under separate licenses, PacifiCorp is seeking a single new license that would encompass all three projects (four developments) and has renamed them the Bear River Hydroelectric Project.² The project currently occupies 510.5 acres of federal lands managed by the U.S. Department of the Interior's Bureau of Land Management.

2. On September 26, 2002, PacifiCorp filed a comprehensive Settlement Agreement (Agreement) signed by sixteen participants to the relicensing process. For the reasons discussed below, this order approves those portions of the Agreement, with modifications, that the signatories requested be made part of a new license and issues a new license for the Bear River Hydroelectric Project.

¹16 U.S.C. §§ 797(e) and 808, respectively.

²The four developments are hydrologically and electrically connected. In the Explanatory Statement filed with the Offer of Settlement on September 26, 2002, the licensee and the other signatory parties formally requested that the projects be consolidated into one project designated as the Bear River Hydroelectric Project No. 20. The existing projects will hereinafter be referred to as separate developments of the Bear River Project No. 20 -- the Soda Development, the Grace Development, the Cove Development, and the Oneida Development.

- (3) The project works generally described above are more specifically described in Exhibit A of the Project No. 2401 application.
- (4) The following Exhibit F drawings for Project No. 2401, filed on September 27, 1999:

<u>FERC's new Exhibit Label</u>	<u>Licensee's original Exhibit Label</u>	<u>FERC Drawing No. 20-</u>	<u>Showing</u>
F-3	F-1	1006	General Plan of Project Works
F-4	F-3	1008	Grace Development Flowline Profile
F-5	F-4	1009	Grace Development Intakes, General Plan & Sections
F-6	F-5	1010	Grace Development Intake Houses No.2 & No. 3, Elevations and Sections
F-7	F-6	1011	Grace Development Diversion Dam, Plan & Elevation
F-8	F-7	1012	Grace Development Powerhouse Plans
F-9	F-8	1013	Grace Development Powerhouse Plans
F-10	F-9	1014	Grace Development Surge Tank Plan, Section & Details

3. Cove Development

- (1) All lands, to the extent of the licensee's interests in those lands, enclosed by the project boundary shown by the following Exhibit G

drawings included in the application for new license for Project No. 2401, filed on September 27, 1999.

<u>FERC's new Exhibit Label</u>	<u>Licensee's original Exhibit Label</u>	<u>FERC Drawing No. 20-</u>	<u>Showing</u>
G-3	G-2	1005	Project Boundary

- (2) Project works consisting of: (1) a 26.5-foot-high by 141-foot-long concrete dam creating a small forebay with a 60-acre-foot capacity at elevation 5,032 feet (USGS datum); (2) an 88-foot-wide intake structure containing five 12-foot-wide openings, fitted with vertical bar screens, a transition section to a rectangular flume, and an isolation Taintor gate just upstream of the flume, measuring 20 feet by 14.5 feet; (3) a 6,125-foot-long conveyance flume consisting of a 425-foot-long concrete flume section and a 5,700-foot-long wooden flume section, both measuring 20 feet wide and 12 to 14 feet deep; (4) a concrete pressure box at the end of the flume with a transition to a 550-foot-long, 12.5-foot-diameter steel penstock; (5) a 28.5-foot by 46-foot powerhouse containing a single 7.5-MW vertical Francis unit with a hydraulic capacity of 1,227 cfs; (6) an unlined open-channel tailrace; (7) a substation containing step-up transformers, located immediately adjacent to the powerhouse; and (8) a 46-kV transmission line to the Grace substation and to the Cove West substation.
- (3) The project works generally described above are more specifically described in Exhibit A of the Project No. 2401 application.
- (4) The following Exhibit F drawings for Project No. 2401, filed on September 27, 1999:

<u>FERC's new Exhibit Label</u>	<u>Licensee's original Exhibit Label</u>	<u>FERC Drawing No. 20-</u>	<u>Showing</u>
F-11	F-2	1007	General Plan of Project Works
F-12	F-10	1015	Cove Development Intake Plan, Sections & Details

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BRBA Claim Fee Summary for Power Claims

Claimant: Pacificorp

Claim #	Claim ID	\$ for Claim	Notes
1	11-248	\$178,050.00	Bear Lake Storage - Fee calculated by acreage
2	11-249	\$50.00	Bear Lake Storage
3	11-250	\$50.00	Bear Lake Storage
4	11-251	\$50.00	Bear Lake Storage
5	11-2081	\$49,050.00	14MW of capacity
6	11-4357	\$50.00	Power Generation paid under 11-2081
7	11-4359	\$50.00	Power Generation paid under 11-2081
8	13-957	\$115,550.00	33MW capacity
9	13-958	\$50.00	Power Generation paid under 13-957
10	13-NewClaim	\$50.00	Power Generation paid under 13-957
11	13-962	\$26,300.00	7.5 MW capacity
12	13-963	\$50.00	Power Generation paid under 13-962
13	13-976	\$105,050.00	33MW capacity
14	13-977	\$50.00	Power Generation paid under 13-976
15	13-978	\$50.00	Power Generation paid under 13-976
16	13-979	\$50.00	Power Generation paid under 13-976
17	New Claim 420 cfs	\$50.00	Power Generation paid under 13-976
18	New Claim 2500 cfs	\$50.00	Power Generation paid under 13-976
	Total	\$474,650.00	

Claimant:
Claim ID:

PacifiCorp	Cove
13-962	

	Rate/Unit	Unit	# Units	\$ Amount
<i>De Minimis</i>	\$25 Claim			
<i>De Minimis</i> Stock (> 4th claim)	\$0 Claim			
<i>Non-De Minimis</i>	\$50 Claim		1	\$50.00
Irrigation	\$1 Acre			
Power Generation	\$3.50 KW of Capacity		7500	\$26,250.00
Aquaculture	\$10 cfs			
Dom. & Stock (>13k gpd), Municipal, industrial, commercial, mining, heating, cooling	\$100 cfs			
Public instream flow, public lake level maintenance, wildlife				
Fire protection	\$0 cfs			
Groundwater recharge	\$0 cfs or afa			
Total				\$26,300.00

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

Note:

7.5 MW capacity

Instructions for Form No. 42-1498-1

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

TABLE 3. VARIABLE FEE SCHEDULE

Irrigation	\$1.00 per acre	Each acre is charged only once.
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.		

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