

# Low Impact Hydropower Institute

34 Providence Street Portland, ME 04103 Tel.  
(207) 773-8190 • Fax (206) 984-3086  
[www.lowimpacthydro.org](http://www.lowimpacthydro.org)

## LOW IMPACT HYDROPOWER QUESTIONNAIRE

Cutler Hydroelectric Project (FERC No. 2420)

### E. LOW IMPACT HYDROPOWER QUESTIONNAIRE

<b>Background Information</b>	
1) Name of the <i>Facility</i> .	Cutler Hydroelectric Project (FERC No. 2420)
2) Applicant's name, contact information and relationship to the Facility. If the Applicant is not the Facility owner/operator, also provide the name and contact information for the Facility owner and operator.	Randy Landolt, Director, Hydro Resources PacifiCorp Energy 825 NE Multnomah, Suite 1500 Portland, OR 97232 Tel: 503.813.6650 FAX: 503.813.6659 Email: randy.landolt@pacificorp.com
3) Location of Facility by river and state.	Bear River, Utah
4) Installed capacity.	30 MW

5) Average annual generation.	Based on the past 30 years (including 2008), the average annual generation of the project is 93.28 GWh.
6) Regulatory status.	The Cutler project was relicensed for a 30 year term by FERC Orders dated April 29, 1994.
7) Reservoir volume and surface area measured at the high water mark in an average water year.	Volume (total storage capacity) = 13,200 acre-feet Surface area = 5,459 acres
8) Area occupied by non-reservoir facilities (e.g., dam, penstocks, powerhouse).	Cutler non-reservoir facilities (dam, powerhouse, penstock, warehouse, substation) occupy approximately 3.22 acres.
9) Number of acres inundated by the Facility.	The Cutler Reservoir inundates approximately 5,459 acres (including the original river channel).
10) Number of acres contained in a 200-foot zone extending around entire impoundment.	Approximately 2,800 acres
11) Please attach a list of contacts in the relevant Resource Agencies and in non-governmental organizations that have been involved in Recommending conditions for your Facility.	Please see Attachment 1.
12) Please attach a description of the Facility, its mode of operation (i.e., peaking/run of river) and a map of the Facility.	Please see Attachment 2.

<b>Questions For “New” Facilities Only:</b> If the Facility you are applying for is “new” i.e., an existing dam that added or increased power generation capacity after August of 1998 please answer the following questions to determine eligibility for the program	Answer not required
13) When was the dam associated with the Facility completed?	Answer not required
14) When did the added or increased generation first generate electricity? If the added or increased	Answer not required

<p>generation is not yet operational, please answer question 18 as well.</p>	
<p>15) Did the added or increased power generation capacity require or include any new dam or other diversion structure?</p>	<p>Answer not required</p>
<p>16) Did the added or increased capacity include or require a change in water flow through the facility that worsened conditions for fish, wildlife, or water quality, (for example, did operations change from run-of-river to peaking)?</p>	<p>Answer not required</p>
<p>17 (a) Was the existing dam recommended for removal or decommissioning by resource agencies, or recommended for removal or decommissioning by a broad representation of interested persons and organizations in the local and/or regional community prior to the added or increased capacity?</p> <p>(b) If you answered “yes” to question 17(a), the Facility is not eligible for certification, unless you can show that the added or increased capacity resulted in specific measures to improve fish, wildlife, or water quality protection at the existing dam. If such measures were a result, please explain.</p>	<p>Answer not required</p>
<p>18 (a) If the increased or added generation is not yet operational, has the increased or added generation received regulatory authorization (e.g., approval by the Federal Energy Regulatory Commission)? If not, the facility is not eligible for</p>	<p>Answer not required</p>

consideration; and  (b) Are there any pending appeals or litigation regarding that authorization? If so, the facility is not eligible for consideration.	
--	--

A. Flows	PASS	FAIL	Applicant Answer
1) Is the Facility in <i>Compliance with Resource Agency Recommendations</i> issued after December 31, 1986 regarding flow conditions for fish and wildlife protection, mitigation and enhancement (including in-stream flows, ramping and peaking rate conditions, and seasonal and episodic instream flow variations) for both the reach below the tailrace and all bypassed reaches?	YES = Pass, Go to B N/A = Go to A2	No = Fail	<p><b>Yes-</b> PacifiCorp’s Cutler project is in compliance with resource agency recommendations issued after December 31, 1986 regarding flow conditions for fish and wildlife protection for all reaches. Resource agency recommendations regarding flow conditions are reflected in the project Environmental Assessment (EA) adopted by the FERC license issued April 29, 1994. The project license, which includes the EA as Appendix A, is provided as Attachment 3 to this application.</p> <p>Recommendations regarding flow conditions in the EA focus on developing new operating procedures to stabilize reservoir elevations and benefit fish and wildlife resources. No recommendations have been made by agencies regarding flow levels below the dam. Article 401 of the project license formalized the recommendation that PacifiCorp prepare a plan for conducting a 3-year Bear River basin study. The study was designed to assess reservoir levels to determine reservoir responses to seasonal changes, create a basinwide irrigation call system to help schedule and coordinate water deliveries, and develop a hydrologic operational model to improve predictions of available water and test modified facility operations. Per Article 401 of the project license, the study was also planned to inform the development of an operating plan for the facility.</p> <p>PacifiCorp provided the "Three-Year Bear River Basin Study Plan" to the Utah Division of Wildlife Resources (UDWR), the U.S. Fish and Wildlife Service (USFWS), and area irrigators for their review and comments. In a letter dated October 26, 1994, the USFWS wrote that the plan “is a good start to the creation</p>

		<p>of the Cutler Operating Plan that will balance the competing needs of wildlife, fish, recreation, power generation and irrigation.”</p> <p>As a result of the Three-Year Bear River Basin Study, appropriate reservoir elevation range targets were established. In 1999, PacifiCorp completed the Cutler Operational Plan and provided copies for comment to the USFWS, the UDWR, and local irrigators. The USFWS provided the sole set of comments on the Plan in a letter dated August 2, 1999. According to FERC, USFWS stated that, with monitoring and annual reporting, operating the Cutler facility in accordance with the Plan will benefit fish and wildlife resources, reduce soil and shoreline erosion, and improve recreational opportunities (see Attachment 4). FERC modified and approved the Operational Plan in an Order dated April 30, 2002 and adopted the USFWS recommendation of annual reporting on reservoir levels (Attachment 4). The adopted reservoir operating levels are as follows:</p> <table border="1" data-bbox="848 769 1892 1081"> <thead> <tr> <th data-bbox="848 769 1310 932"><b>Time Period</b></th> <th data-bbox="1310 769 1491 932"><b>Operating Range</b> (Elevation in feet)</th> <th data-bbox="1491 769 1694 932"><b>Tolerance Range</b> (feet)</th> <th data-bbox="1694 769 1892 932"><b>Target Percentage</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="848 932 1310 1008">March 1 through December 1</td> <td data-bbox="1310 932 1491 1008">4407.5 to 4406.5</td> <td data-bbox="1491 932 1694 1008">+.25, -.25</td> <td data-bbox="1694 932 1892 1008">95%</td> </tr> <tr> <td data-bbox="848 1008 1310 1081">December 2 through February 28</td> <td data-bbox="1310 1008 1491 1081">4407.5 to 4406.0</td> <td data-bbox="1491 1008 1694 1081">+.25, -.50</td> <td data-bbox="1694 1008 1892 1081">90%</td> </tr> </tbody> </table> <p>The "Tolerance Range" is an amount above and below the operating range for which PacifiCorp is still considered in compliance with the requirement while continuing to work to bring the reservoir level back within the operating range. The "Target Percentage" represents the percentage of time that PacifiCorp must maintain the reservoir level within the operating range (including the tolerance band). The Target Percentages reflect the fact that factors beyond PacifiCorp's</p>	<b>Time Period</b>	<b>Operating Range</b> (Elevation in feet)	<b>Tolerance Range</b> (feet)	<b>Target Percentage</b>	March 1 through December 1	4407.5 to 4406.5	+.25, -.25	95%	December 2 through February 28	4407.5 to 4406.0	+.25, -.50	90%
<b>Time Period</b>	<b>Operating Range</b> (Elevation in feet)	<b>Tolerance Range</b> (feet)	<b>Target Percentage</b>											
March 1 through December 1	4407.5 to 4406.5	+.25, -.25	95%											
December 2 through February 28	4407.5 to 4406.0	+.25, -.50	90%											

		<p>control, such as Bear River irrigation returns and inflows from smaller tributaries, occasionally prevent the facility from maintaining the operating range. Achieving the appropriate reservoir elevation is further complicated by the distance between the dam and the main body of the reservoir, the shallow slope of the reservoir, and flow constriction points and the buildup of sediment in the middle of the reservoir that allows water to pool behind it even when water releases at the dam are maximized.</p> <p>PacifiCorp files a report with FERC on any occasion in which the reservoir operating range is exceeded. PacifiCorp also submits annual reports on the operation of the Cutler Reservoir to FERC and to resource agencies upon request. Attachment 5 includes a letter from FERC confirming compliance with the reservoir operating range targets for the October 2007-September 2008 water year. Since then, there has been one deviation related to abnormally high rainfall; FERC determined that the project operators took the necessary precautions to restore flows in this situation, and as such, it was an acceptable excursion (see Attachment 5). The project is achieving the Target Percentages for meeting the operating range.</p> <p>PacifiCorp’s maintenance of steady reservoir levels contributed to Cutler’s designation in 2008 as an “Important Bird Area” by the National Audubon Society. Important Bird Areas are recognized for their role in providing essential habitat to one or more species of vulnerable birds. In their description of the Cutler site, the National Audubon Society states: “Essentially this area is a good microcosm of the Great Salt Lake and provides habitat for many of the same birds as the Great Salt Lake. In high water years, habitat lost around the Great Salt Lake may push birds elsewhere, and at least one rookery of White-faced Ibis was established in Cutler Marsh during the 1980s perhaps as a result. <i>The marshes and mudflats therefore quite probably offer a buffer for habitat stressed nearby because water levels are kept very constant by PacifiCorp</i>” (emphasis added).</p>
--	--	---

2) If there is no flow condition recommended by any Resource Agency for the Facility, or if the recommendation was issued prior to January 1, 1987, is the Facility in Compliance with a flow release schedule, both below the tailrace and in all bypassed reaches, that at a minimum meets Aquatic Base Flow standards or “good” habitat flow standards calculated using the Montana-Tennant method?	YES = Pass, Go to B NO = Go to A3		Answer not required
3) If the Facility is unable to meet the flow standards in A.2., has the Applicant demonstrated, and obtained a letter from the relevant Resource Agency confirming that demonstration, that the flow conditions at the Facility are appropriately protective of fish, wildlife, and water quality?	YES = Pass, go to B	NO = Fail	Answer not required

<b>B. Water Quality</b>	<b>PASS</b>	<b>FAIL</b>	<b>Applicant Answer</b>
<p>1) Is the Facility either:                      a) In Compliance with all conditions issued pursuant to a Clean Water Act Section 401 water quality certification issued for the Facility after December 31, 1986? Or                      b) In Compliance with the quantitative water quality standards established by the state that support designated uses pursuant to the federal Clean Water Act in the Facility area and in the downstream reach?</p>	<p>YES =                      Go to                      B2</p>	<p>No =                      Fail</p>	<p><b>Yes-</b> The Cutler project is in compliance with conditions in the Section 401 Water Quality Certification (WQC) issued by the Utah Department of Environmental Quality (UDEQ) on November 20, 1991. The 401 WQC is included as Attachment 6a to this application. A letter dated December 8, 2009 from UDEQ confirms PacifiCorp’s compliance with the conditions in the 401 WQC (Attachment 6b).</p> <p>The 401 WQC for the Cutler project calls for the implementation of best management practices in order to minimize erosion and sediment contributions to affected waters during project activities. It also recommends creation of a buffer strip adjacent to Cutler reservoir to reduce “shoreline erosion and removal of sediments and nutrients resulting from spring snowmelt and surrounding land management activities.”</p> <p>PacifiCorp’s Cutler Resource Management Plan (RMP), approved by FERC Orders issued on November 6, 1995, outlines the best management practices that are being implemented at the project. By modifying lease practices, planting shrubs, stabilizing banks, installing erosion control catch basins and fencing, and establishing new access restrictions, PacifiCorp is buffering the shoreline from erosion and improving water quality in the reservoir in accordance with the terms of the 401 WQC. The success of the Cutler RMP has been recognized by the Utah Non-Point Source Task Force and multiple environmental organizations (see Attachment 7). Additional information about RMP management areas and the practices that buffer the reservoir is included under Section D of this questionnaire.</p>

<p>2) Is the Facility area or the downstream reach currently identified by the state as not meeting water quality standards (including narrative and numeric criteria and designated uses) pursuant to Section 303(d) of the Clean Water Act?</p>	<p>YES = Go to B3 NO = Pass</p>		<p><b>Yes-</b> Cutler Reservoir is on the UDEQ 303(d) list for dissolved oxygen and total phosphorus (see Attachment 6b). The mainstem of the Bear River is also listed for total phosphorus from the Utah-Idaho border (28 miles upstream of the Cutler Reservoir) to its outlet at the Great Salt Lake.</p>
<p>3) If the answer to question B.2 is yes, has there been a determination that the Facility is not a cause of that violation?</p>	<p>YES = Pass</p>	<p>NO = Fail</p>	<p>The UDEQ's 2006 Integrated Report 305(b) Assessment found that agriculture was the leading cause of water quality impairment in the Bear River watershed. TMDLs have been established for the lower Bear River downstream of the Cutler dam. The UDEQ is currently developing a TMDL analysis for the Middle Bear River that includes the Cutler Reservoir. The draft version of the Middle Bear River/Cutler Reservoir TMDL analysis lists numerous municipal waste water treatment plants and several private industries (not hydropower-related) as point sources of pollution; it also cites the following nonpoint sources of pollution:</p> <ul style="list-style-type: none"> <li>• Canal discharge and return flow from lands irrigated with municipal waste water treatment plant effluent</li> <li>• Stormwater runoff</li> <li>• On-site wastewater treatment systems (septic systems)</li> <li>• Animal feeding operations and confined animal feeding operations</li> <li>• Runoff from agricultural and pasture lands</li> <li>• Cattle in streams, riparian areas, and reservoir shoreline</li> <li>• Runoff from forested lands</li> <li>• Runoff from rangelands</li> <li>• Seasonal internal reservoir sources</li> <li>• Pipes discharging into Cutler Reservoir and tributaries (from unidentified and potentially illicit sources)</li> </ul>

			<ul style="list-style-type: none"> <li>• Stream erosion and reservoir shoreline erosion</li> <li>• Natural background sources.</li> </ul> <p>UDEQ attributes approximately 90% of the total phosphorus load in the Cutler Reservoir to external sources, and the remainder (10% winter to 12% summer) to internal/unknown sources. Thus, while the Cutler project is not a direct source of nutrients, sediments in the reservoir may contribute a small proportion of the total phosphorus load to the Bear River. Both the final lower Bear River TMDL analysis and the draft Middle Bear River/Cutler Reservoir TMDL analysis are available on the UDEQ website (<a href="http://www.waterquality.utah.gov/TMDL/">http://www.waterquality.utah.gov/TMDL/</a>).</p> <p>PacifiCorp is monitoring the effects of operational and resource management changes at Cutler that are designed to ensure that water quality in Cutler Reservoir is not degraded by project activities. In accordance with the FERC Orders issued on November 6, 1995 approving the Cutler RMP and a modification issued by FERC on September 7, 2006, PacifiCorp regularly reports on water quality monitoring and land management activities in RMP Five Year Monitoring Reports. The reports are prepared in consultation with the USFWS, the U.S. Forest Service, the UDWR, the Utah Division of Water Resources, the Utah Division of Parks and Recreation, and the National Park Service.</p> <p>The most recent water quality reports cover two monitoring periods: 1996 to 1998 and 2000 to 2003. The monitoring period between 1996 and 1998 was characterized by wet conditions and high flows, while 2000–2003 was characterized by dry conditions with low flows. Dissolved oxygen levels in both the reservoir and in Bear River below the Cutler dam remained above the 6 mg/L criterion established to support aquatic life throughout these periods. The data also indicate that Spring Creek and Swift Slough (where Logan City effluent is released), which drain directly to the southern portion of the reservoir, contribute proportionately high concentrations of nutrients to the southern</p>
--	--	--	---

		<p>reservoir. Coupled with the dry conditions and low flows that characterized the 2000-2003 period, these non-project-related inputs likely played a significant role in the elevation of phosphorus levels observed in the reservoir. Monitoring results also suggested that the tributary nutrient contributions masked beneficial effects of water quality improvements, such as PacifiCorp’s implementation of erosion control features and improvements in land use practices. These findings are discussed in detail in the Water Quality Analysis and Summary for the Cutler Reservoir submitted as part of the 2003-2007 RMP Five Year Monitoring Report (see Attachment 8).</p> <p>Basinwide efforts to address land uses that may degrade water quality will likely need to be implemented in order to result in water quality improvements to Cutler Reservoir. As noted above, 90% of the phosphorus found in the reservoir comes from external sources; hence TMDLs under development for the Bear River upstream to the state line, and for the segment including Cutler Reservoir proper, should yield measurable benefits to water quality through the collaborative efforts of stakeholders.</p> <p>PacifiCorp’s 2003-2007 Cutler RMP Five Year Monitoring Report was approved by FERC in a letter dated October 21, 2008. This report documents PacifiCorp’s implementation of measures that are designed to provide reasonable assurance that the hydropower facility is not contributing to water quality impairment. The success of the Cutler RMP has been recognized by the Utah Non-Point Source Task Force and multiple environmental organizations (see Attachment 7). The UDEQ also has recognized PacifiCorp’s water quality improvement actions and has provided a letter in support of PacifiCorp’s effort to obtain Low Impact Hydropower certification (Attachment 6b).</p>
--	--	--

<b>C. Fish Passage and Protection</b>	PASS	FAIL	Applicant Answer
1) Is the Facility in Compliance with <i>Mandatory Fish Passage Prescriptions</i> for upstream and downstream passage of anadromous and catadromous fish issued by Resource Agencies after December 31, 1986?	YES = Go to C5 N/A = Go to C2	NO = Fail	<b>N/A-</b> There are no mandatory fish passage prescriptions associated with this project.
2) Are there historic records of anadromous and/or catadromous fish movement through the Facility area, but anadromous and/or catadromous fish do not presently move through the Facility area ( <i>e.g.</i> , because passage is blocked at a downstream dam or the fish run is extinct)?	YES = Go to C2a NO = Go to C3		<b>No-</b> There are no historic records of anadromous and/or catadromous fish movement through the facility area.
a) If the fish are extinct or extirpated from the Facility area or downstream reach, has the Applicant demonstrated that the extinction or extirpation was not due in whole or part to the Facility?	YES = Go to C2b N/A = Go to C2b	NO = Fail	Answer not required

<p>b) If a Resource Agency Recommended adoption of upstream and/or downstream fish passage measures at a specific future date, or when a triggering event occurs (such as completion of passage through a downstream obstruction or the completion of a specified process), has the Facility owner/operator made a legally enforceable commitment to provide such passage?</p>	<p>YES = Go to C5 N/A = Go to C3</p>	<p>NO = Fail</p>	<p>Answer not required</p>
<p>3) If, since December 31, 1986:                  a) Resource Agencies have had the opportunity to issue, and considered issuing, a Mandatory Fish Passage Prescription for upstream and/or downstream passage of anadromous or catadromous fish (including delayed installation as described in C2a above), and                   b) The Resource Agencies declined to issue a Mandatory Fish Passage</p>	<p>NO = Go to C5 N/A = Go to C4</p>	<p>YES = Fail</p>	<p><b>No</b> – The reason that agencies declined to issue a mandatory fish passage prescription for anadromous and/or catadromous fish was because anadromous or catadromous fish were not present in the project area. The Bear River is a tributary to the Great Salt Lake; the basin is encircled by mountains and has no external drainage outlets.</p>

<p>Prescription,</p> <p>c) Was a reason for the Resource Agencies' declining to issue a Mandatory Fish Passage Prescription one of the following: (1) the technological infeasibility of passage, (2) the absence of habitat upstream of the Facility due at least in part to inundation by the Facility impoundment, or (3) the anadromous or catadromous fish are no longer present in the Facility area and/or downstream reach due in whole or part to the presence of the Facility?</p>			
<p>4) If C3 was not applicable:                  a) Are upstream and downstream fish passage survival rates for anadromous and catadromous fish at the dam each documented at greater than 95% over 80% of the run using a generally accepted monitoring methodology?</p>	<p>YES = Go to C5</p>	<p>NO = Fail</p>	<p>Answer not required</p>

<p>Or</p> <p>b) If the Facility is unable to meet the fish passage standards in 4.a., has the Applicant demonstrated, and obtained a letter from the US Fish and Wildlife Service or National Marine Fisheries Service confirming that demonstration, that the upstream and downstream fish passage measures (if any) at the Facility are appropriately protective of the fishery resource?</p>			
<p>5) Is the Facility in Compliance with Mandatory Fish Passage Prescriptions for upstream and/or downstream passage of <i>Riverine</i> fish?</p>	<p>YES = Go to C6 N/A = Go to C6</p>	<p>NO = Fail</p>	<p><b>N/A-</b> There are no mandatory fish passage prescriptions for riverine fish associated with this project.</p>
<p>6) Is the Facility in Compliance with Resource Agency Recommendations for Riverine, anadromous and catadromous fish entrainment protection, such as tailrace barriers?</p>	<p>YES = Pass, go to D N/A = Pass, go to D</p>	<p>No = Fail</p>	<p><b>N/A-</b> There are no resource agency recommendations regarding fish entrainment protection at the Cutler facility.</p>

D. Watershed Protection	PASS	FAIL	Applicant Answer
<p>1 ) Is there a buffer zone dedicated for conservation purposes (to protect fish and wildlife habitat, water quality, aesthetics and/or low-impact recreation) extending 200 feet from the high water mark in an average water year around 50 - 100% of the impoundment, and for all of the undeveloped shoreline</p>	<p>YES = Pass, go to E and receive 3 extra years of certification</p>	<p>NO = go to D2</p>	<p><b>Yes-</b> In accordance with Article 402 of the project license, PacifiCorp developed the RMP for the Cutler project in consultation with USFWS, the National Park Service, leaseholders, neighboring landholders, the Bear River Canal Company, and the Utah Divisions of Wildlife, Water Resources, and Parks and Recreation. The goals of the RMP, approved by FERC Orders dated November 6, 1995, are to 1) improve water quality, 2) improve wildlife habitat, 3) improve scenic resources, 4) retain and improve traditional agricultural uses, and 5) improve recreational access to the project area.</p> <p>The RMP outlines context sensitive programs designed to buffer the 188.76-mile shoreline from erosion and adverse land use practices. To date, PacifiCorp has established protective designations that extend 200 feet or more from the reservoir high water mark in an average year for 86.5% of the total shoreline and 99.6% of the undeveloped shoreline.</p> <p>A vegetation enhancement program that involves protecting and creating wildlife habitats and re-establishing a shoreline buffer of native grasses and forbs is a key part of the RMP. Approximately 1,225 acres of primarily native hydrophilic and upland plants have been established around the shoreline. PacifiCorp has also designated multiple sections of the reservoir shoreline for sensitive wildlife habitat and established twelve woody vegetation areas that extend from the shoreline in “pockets” ranging from 0.5-3 acres.</p> <p>A modified agricultural lease program is another cornerstone of the RMP. PacifiCorp is intensively managing grazing pastures and five-strand barb wire fencing has been erected to keep animals from eroding the shoreline. Likewise, farmers raising crops on leased lands are prohibited from tilling immediately along the reservoir shoreline or in drainage swales and they must restrict their use of pesticides and herbicides. Lands under PacifiCorp ownership that have</p>

			<p>not been leased serve as additional conservation buffers. Fencing serves to reinforce the boundary of the vast majority of the lands subject to the agricultural lease and vegetation enhancement programs.</p> <p>As noted above, the protections afforded by the vegetation enhancement and agricultural lease programs provide a 200<sup>+</sup> foot buffer around 99.6% of the undeveloped shoreline. The remaining portion of undeveloped shoreline consists of 0.8 mile of steep terrain along the canyon at the north end of the reservoir. PacifiCorp does not own sufficient land in this area to provide a buffer that extends 200 feet from the shoreline. However, the area owned by PacifiCorp is designated as a shoreline buffer and there are no known plans to develop the steep and inaccessible adjacent upland that is not owned by PacifiCorp.</p> <p>To ensure the effectiveness of the programs buffering the shoreline, PacifiCorp monitors the vegetation enhancement areas and its tenants' compliance with lease terms annually, and provides Plan implementation reports to FERC and the resource agencies listed above every five years. The UDEQ indicates that the buffer provided by RMP practices aids in reduction of non-point source contributions to water quality impairment (Attachment 6b). PacifiCorp's implementation of the Cutler RMP has also garnered praise and awards from environmental groups for contributing to biodiversity conservation, non-point source pollution reductions, and ecological restoration. A complete listing of this formal recognition is provided in Attachment 7.</p>
<p>2 ) Has the facility owner/operator established an approved watershed enhancement fund that: 1) could achieve within the project's watershed the</p>	<p>YES = Pass, go to E and receive 3 extra</p>	<p>NO = go to D3</p>	<p>Answer not required</p>

ecological and recreational equivalent of land protection in D.1.,and 2) has the agreement of appropriate stakeholders and state and federal resource agencies?	years of certification		
3 ) Has the facility owner/operator established through a settlement agreement with appropriate stakeholders and that has state and federal resource agencies agreement an appropriate shoreland buffer or equivalent watershed land protection plan for conservation purposes (to protect fish and wildlife habitat, water quality, aesthetics and/or low impact recreation)	YES = Pass, go to E	NO = go to D4	Answer not required
4 ) Is the facility in compliance with both state and federal resource agencies recommendations in a license approved shoreland management plan regarding protection, mitigation or enhancement of shorelands surrounding the project.	YES = Pass, go to E	NO = Fail	Answer not required

<b>E. Threatened and Endangered Species Protection</b>	PASS	FAIL	Applicant Answer
1) Are threatened or endangered species listed under state or federal Endangered Species Acts present in the Facility area and/or downstream reach?	YES = Go to E2 NO = Pass, go to F		<p><b>No</b> – Species listed as threatened or endangered under the Endangered Species Act are not known to be present in the facility area or downstream reach. In the past, bald eagle (<i>Haliaeetus leucocephalus</i>) and peregrine falcon (<i>Falco peregrines</i>) were federally listed; however, they have since been delisted. Whooping crane (<i>Grus americana</i>) and Ute ladies’-tresses (<i>Spiranthes diluvialis</i>) are federally listed and may occur in the Cutler project area. However, no use of the project area by whooping crane was documented in the 1993 Cutler project EA, nor was Ute ladies’-tresses found during riparian field surveys. The whooping crane has been extirpated from Utah; hence, it is not present at the Cutler Project. As noted in the 1993 EA (see Attachment 3), the USFWS concurred with the determination that the project as licensed would have no effect on Ute ladies’-tresses and all other federally listed threatened or endangered species (USFWS, 1993).</p> <p>Utah does not have a state Endangered Species Act. However, the state does maintain a Sensitive Species List that includes wildlife species that are candidates for federal listing or for which a conservation agreement is in place. The Utah Sensitive Species List also includes “wildlife species of concern,” which are defined as “those species for which there is credible scientific evidence to substantiate a threat to continued population viability.” The Long-billed Curlew (<i>Numenius americanus</i>) and the Short-eared Owl (<i>Asio flammeus</i>) are listed wildlife species of concern that are present in the facility area. The Long-billed Curlew, in particular, has seen a marked and sustained increase in number at the Cutler project since PacifiCorp implemented the vegetation enhancement program (PacifiCorp, 2008).</p>
2) If a recovery plan has been adopted for the threatened or endangered species pursuant	YES = Go to E3	NO = Fail	Answer not required

to Section 4(f) of the Endangered Species Act or similar state provision, is the Facility in Compliance with all recommendations in the plan relevant to the Facility?	N/A = Go to E3		
3) If the Facility has received authority to incidentally <i>Take</i> a listed species through: (i) Having a relevant agency complete consultation pursuant to ESA Section 7 resulting in a biological opinion, a habitat recovery plan, and/or (if needed) an incidental Take statement; (ii) Obtaining an incidental Take permit pursuant to ESA Section 10; or (iii) For species listed by a state and not by the federal government, obtaining authority pursuant to similar state procedures; is the Facility in Compliance with conditions pursuant to that authority?	YES = Go to E4 N/A = Go to E5	NO = Fail	Answer not required

<p>4) If a biological opinion applicable to the Facility for the threatened or endangered species has been issued, can the Applicant demonstrate that:</p> <p>a) The biological opinion was accompanied by a FERC license or exemption or a habitat conservation plan? Or</p> <p>b) The biological opinion was issued pursuant to or consistent with a recovery plan for the endangered or threatened species? Or</p> <p>c) There is no recovery plan for the threatened or endangered species under active development by the relevant Resource Agency? Or</p> <p>d) The recovery plan under active development will have no material effect on the Facility's operations?</p>	<p>YES =                  Pass,                  go to F</p>	<p>NO =                  Fail</p>	<p>Answer not required</p>
<p>5) If E.2. and E.3. are not applicable, has the Applicant demonstrated that the Facility</p>	<p>YES =                  Pass,                  go to F</p>	<p>NO =                  Fail</p>	<p>Answer not required. However, it should be noted that the threatened Ute ladies'-tresses is the only listed threatened or endangered species that may occur in the project area. The USFWS concurred with the determination in the EA that</p>

and Facility operations do not negatively affect listed species?			the project as licensed would have no effect on Ute ladies'-tresses (USFWS, 1993).
--	--	--	--

<b>F. Cultural Resource Protection</b>	PASS	FAIL	Applicant Answer
1) If FERC-regulated, is the Facility in Compliance with all requirements regarding Cultural Resource protection, mitigation or enhancement included in the FERC license or exemption?	YES = Pass, go to G N/A go to F2	NO = Fail	<p><b>Yes-</b> The Cutler project is in compliance with all requirements regarding cultural resources in the FERC license. The Cutler dam and powerhouse were listed on the National Register of Historic Places in 1989 and Article 403 of the project license requires PacifiCorp to develop a Cultural Resource Management Plan in consultation with the Utah State Historic Preservation Office (SHPO). PacifiCorp completed the Cultural Resource Management Plan for the project on April 28, 1995. In a letter dated April 5, 1995, the SHPO states that PacifiCorp did a good job in identifying character-defining features and the effects that specific work would have on the resources. FERC Orders approving the Cutler Cultural Resource Management Plan were issued May 16, 1995 (Attachment 9).</p> <p>Article 404 of the project license provides direction to PacifiCorp in the event that archeological or historic sites are discovered during project operation. However, no discoveries have been made that would trigger compliance actions on the part of PacifiCorp.</p>
2) If not FERC-regulated, does the Facility owner/operator have in place (and is in Compliance with) a plan for the protection, mitigation or enhancement of impacts to Cultural Resources approved by the relevant state or federal agency or <i>Native</i>	YES = Pass, go to G	NO = Fail	Answer not required

<p><i>American Tribe</i>, or a letter from a senior officer of the relevant agency or Tribe that no plan is needed because Cultural Resources are not negatively affected by the Facility</p>			
---	--	--	--

<b>G. Recreation</b>	<b>PASS</b>	<b>FAIL</b>	
<p>1) If FERC-regulated, is the Facility in Compliance with the recreational access, accommodation (including recreational flow releases) and facilities conditions in its FERC license or exemption?</p>	<p>YES = Go to G3</p>	<p>No = Fail</p>	<p><b>Yes-</b> The Cutler facility is in compliance with the recreational provisions of the project license. Article 402 of the license requires PacifiCorp to develop a RMP that specifies recreational enhancements to be made at the facility, as well as measures to ensure that the public uses only designated access areas. PacifiCorp submitted a RMP to FERC that was modified and approved by FERC Orders dated November 6, 1995.</p> <p>PacifiCorp has completed all but one of the recreational enhancements identified in the RMP. These include establishing seven day-use sites (four developed, three primitive), two boat-in picnic sites, one pedestrian loop trail and bridge, and three canoe trails. FERC Orders dated September 19, 2005 granted PacifiCorp an extension until December 31, 2010 to complete the final enhancement measure, an eighth day-use site, specified in the RMP. The extension was granted to accommodate the Utah Department of Transportation’s plans to widen a highway in the vicinity of the proposed recreation site.</p> <p>In addition, PacifiCorp has developed new interpretive signage and information for the project area, completed a visitor use survey, and instituted a recreation use policy. Fencing around the shoreline buffer area and sensitive wildlife habitats, such as nesting sites, is helping to ensure appropriate use of the area by recreationists. In 2007, a final component of the RMP’s recreation program—a new Cutler motorized boater access plan and regulations—was completed in</p>

			<p>conjunction with Utah State Parks and UDWR. The new regulations were adopted by the State Boating Council and State Parks Board and became state law in early 2008.</p> <p>In accordance with the terms of the initial FERC approval Order, and a modification issued by FERC on September 7, 2006, PacifiCorp submitted RMP Five Year Monitoring Reports detailing implementation of these recreational measures in 2002 and 2008.</p>
2) If not FERC-regulated, does the Facility provide recreational access, accommodation (including recreational flow releases) and facilities, as Recommended by Resource Agencies or other agencies responsible for recreation?	Yes = Go to G3	No = Fail	Answer not required
3) Does the Facility allow access to the reservoir and downstream reaches without fees or charges?	YES = Pass, go to H	No = Fail	<b>Yes-</b> PacifiCorp allows access to the reservoir in all designated recreation areas, as well as all other project lands not specifically excluded for operational security, without fees or charges. Over 9,000 acres of project lands are open to public recreation.

<b>H. Facilities Recommended for Removal</b>	PASS	FAIL	Applicant Answer
1) Is there a Resource Agency Recommendation for removal of the dam associated with the Facility?	NO = Pass, Facility is Low Impact	YES = Fail	<b>No-</b> No resource agencies have recommended removal of the Cutler dam.