

**APPLICATION REVIEW FOR  
LOW IMPACT HYDROPOWER INSTITUTE  
CERTIFICATION  
of the  
CUTLER PROJECT NO. 2420**



**October 13, 2010**

**Application Reviewer: Patricia McIlvaine**

**APPLICATION REVIEW FOR LOW IMPACT HYDROPOWER  
INSTITUTE CERTIFICATION**

**PACIFICORP ENERGY CUTLER PROJECT NO. 2420**

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## **APPLICATION REVIEW FOR LOW IMPACT HYDROPOWER INSTITUTE CERTIFICATION**

### **PACIFICORP ENERGY PROJECT NO. 2420**

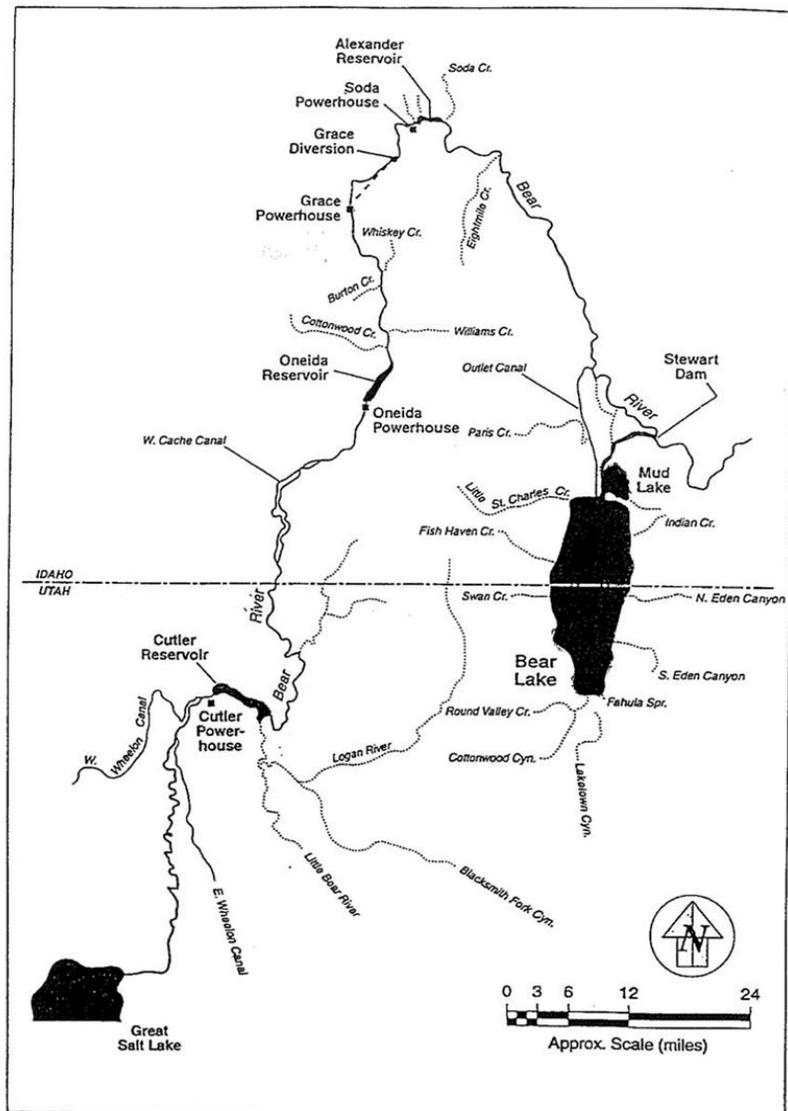
#### **1.0 INTRODUCTION AND OVERVIEW**

This report reviews the application submitted by PacifiCorp Energy (PacifiCorp or Applicant) to the Low Impact Hydropower Institute (LIHI) for Low Impact Hydropower Certification for the Cutler Hydroelectric Project. The Cutler Project (the Project), located on the Bear River, in Cache and Box Elder Counties, Utah, is currently licensed by the Federal Energy Regulatory Commission (FERC) as Project Number 2420. The Bear River Basin is located in northeastern Utah, southeastern Idaho, and southwestern Wyoming. It comprises approximately 7,500 square miles of mountain and valley lands (2,700 in Idaho, 3,300 in Utah, and 1,500 in Wyoming). The Bear River begins in the Uinta Mountains in Utah and extends 500 miles, crossing state boundaries five times before ending in the Great Salt Lake. It is the largest tributary to the Great Salt Lake and the largest stream in the western hemisphere that does not empty into an ocean. The Bear River ranges in elevation from over 13,000 to 4,211 feet and is unique in that it is entirely enclosed by mountains, thus forming a huge basin with no external drainage outlets.

Developed and undeveloped agricultural lands throughout the basin, as well as urban areas, are concentrated in valleys along the main stem of the river and its tributaries. The Bear River watershed also includes vast amounts of federal lands (Bureau of Land Management and Forest Service), private lands, and state lands that serve a range of natural and agricultural functions. The Bear River is a highly regulated system. The major headwater storage facility is Bear Lake, the discharges from which are primarily for irrigation and flood control.

PacifiCorp operates five hydroelectric developments in the Bear River Basin. Three of the upstream developments—Soda, Grace, and Oneida—are operated under the FERC license for the Bear River Hydroelectric project No. 20 in Idaho. The Last Chance development, also located upstream in Idaho, was granted an exemption from FERC licensing in 1981 due to the

project's small size. The Cutler hydroelectric project, the subject of this application, is operated under FERC license No. 2420 in Utah. A sixth facility on the Bear River, the Cove development, was decommissioned in 2006. The Cutler project is located 44 miles downstream of the Oneida development in Utah, near the confluence of several major tributaries. Figure 1 provides a map of these project locations.



**Figure 1 - Map of PacifiCorp's Bear River Hydroelectric Projects**

## 1.1 Project and Site Characteristics

The Cutler project includes a 545-foot-long, 109-foot-high concrete gravity arch dam built in 1927. The dam has a spillway containing four 30-foot-wide by 14-foot-high radial gates. A seven-foot-diameter, low-level sluiceway is located near the base of the dam and controlled by a slidegate. Irrigation canal intake gates are located at each abutment of the dam and are an integral part of the structure. The project is operated seasonally, and at full pool (4407.75 feet msl), the reservoir active storage capacity fluctuates from approximately 5,800 acre feet from March 1 through December 1 to about 7,800 acre feet from December 2 through February 28.

Much of the reservoir has the characteristics of a shallow-water emergent marsh; the southern portion of the reservoir has a mean depth of 1.8 feet, while the deeper section of the reservoir to the north has a mean depth of 3.6 feet. Free flow through the reservoir is affected by bridges, built-up sediments, sandbars in the lower reaches, a narrow canyon just above the dam, and an old dam (Wheelon Dam) which was inundated when the Culter dam was constructed. These restrictions create a lag time which delays or dampens water level fluctuations between the reservoir and the dam.

The flowline intake is a concrete tower, located in the reservoir approximately 60 feet upstream of the dam. It connects to an 18-foot-diameter, steel-lined conduit that passes through the dam. A 1,160 foot-long, 18-foot-diameter, steel penstock carries water to an 81-foot-high, 45-foot-diameter steel surge tank. Two 112-foot-long steel penstocks bifurcate from the surge tank and lead to the powerhouse. The powerhouse is a 60-foot by 123-foot brick building, containing appurtenant facilities, and two vertical Francis generating units with a total installed capacity of 30 MW. The Cutler project has an average annual generation of 93,287 MWh.

The Cutler hydroelectric project operates seasonally in normal and low-water years, generally from fall through early summer, based on the availability of flows after irrigation commitments are met. During high-water years, there may be additional available flow to extend this operating period. During the normal operation period, the facility is operated as a daily peaking project. When inflows to the reservoir are too low to keep an efficient load level on the generating units,

water is stored on a daily basis until it reaches a level appropriate for power generation, then the water is released. Typically, the project suspends normal operation during low summer flows (July through September), but the facility remains available to provide short-duration emergency generation (spinning reserve). During normal operation periods, the project is operated in a semi-automatic mode whereby the generators are started and synchronized to the system manually by the local operator. Once online, the units are controlled remotely by the System Dispatcher to control the load on the generators to meet system requirements, and to stay within the reservoir elevation guidelines. Substations containing step-up transformers and circuit breakers are located adjacent to the Cutler powerhouse. The substation serves as the point of interconnection to the transmission grid system.

## **1.2 Regulatory History**

The Cutler Project was relicensed for a 30 year term by a FERC Order dated April 29, 1994. A copy of the License, along with the 1993 Environmental Assessment (EA) developed for this licensing effort was submitted by PacifiCorp as part of its LIHI application.

The Project received its initial license in 1968, which expired in December, 1993. The Project operated under an annual license until the 1994 license was issued. A joint motion to intervene was filed by American Whitewater Affiliation and American Rivers noting that non-developmental values of the Bear River should be protected. Late motions, both granted by FERC, were filed by the Bear River Canal Company who expressed concern over possible affects on irrigation water availability, and an adjacent landowner who had concern over impacts to his use of his land from required wildlife habitat conservation measures to be employed. No comments were received from federal or state fish and wildlife resource agencies under Section 10 (j) of the Federal Power Act in regard to the license application, thus, there are no mandatory prescriptions for the Project. A number of license conditions were incorporated by FERC into Articles 401 and 402 of the License in response to measures proposed by the PacifiCorp to mitigate Project impacts. FERC included cultural resource protection requirements into Articles 403 and 404. A 401 Water Quality Certification was issued on November 20, 1991 by the Utah Department of Environmental Quality (UDEQ).

A review of the FERC eLibrary database indicated that from 2003 to 2009, several deviations from license conditions, all associated with reservoir elevations, have occurred. All of these deviations were appropriately reported to FERC and the resource agencies. No impacts were identified. In all situations except one, the reservoir either rose slightly above the upper limit due to unusually high snowmelt or rainfall, or below the lower limit when the reservoir was lowered to be able to retain expected high inflows. One event, in November 2008, where the level was below the target elevation, occurred as a result of a maintenance drawdown required to make a repair to the west canal irrigation headgate. This repair was required by a March 2008 FERC safety inspection. The unusual drawdown was approved by FERC in August 2008. None of the deviations were found by FERC to constitute license violations.

An extension of time to achieve compliance with standard Article 5, which required acquisition of all lands necessary for project maintenance and operation within five years of license issuance, was granted by FERC on April 15, 1999. This 32 month extension was needed to secure approximately 50% of the land rights that were still outstanding. Implementation of the Resource Management Plan required under Article 402 of the license necessitated changes in land use practices of certain properties which had been in place for decades. An extension was also granted for finalization of the Operational Plan from April 1997 to October 1999. Two minor extensions of time were also requested and granted regarding the Resource Management Plan. These items are discussed later in *Section 2.4, Criteria D, Watershed Protection*.

Given that no license variances have been requested, limited license extension requests were required, and only a limited number of license deviations have occurred, PacifiCorp appears to have demonstrated conscientious attention to the environmentally-related issues associated with the Cutler Project.

### **1.3 Public Comment**

No comments were received directly by LIHI on this certification application. However, PacifiCorp received a letter from the UDEQ, dated December 8, 2009, supporting the certification and provided a copy of it as part of their application package (See Appendix A).

## **2.0 CRITERIA ASSESSMENT**

The Low Impact Hydropower Institute certifies those hydropower facilities that meet its eight criteria:

### **2.1 Criteria A - River Flows**

***Goal:** The facility (dam and powerhouse) should provide river flows that are healthy for fish, wildlife, and water quality, including seasonal flow fluctuations where appropriate.*

***Standard:** For in-stream flows, a certified facility must comply with resource agency recommendations issued after December 31, 1986, for flows. If there were no qualifying resource agency recommendations, the applicant can meet one of two alternative standards: (1) meet the flow levels required using the Aquatic Base Flow methodology or the “good” habitat flow level under the Montana-Tennant methodology; or (2) present a letter from a resource agency prepared for the application confirming the flows at the facility are adequately protective of fish, wildlife, and water quality.*

No minimum flow requirements have been issued for the Cutler Project by any resource agency or FERC. At the time of licensing, as noted in the EA, the resource agencies acknowledged that irrigation has priority over all other water use at the Cutler Project. Fisheries in the 1960's in the Bear River and lower reaches of tributaries near the Cutler Reservoir were of poor quality from silt loads, pollution and reduction of habitat caused by level fluctuations and dewatering from extensive irrigation withdrawals. It was agreed by the resource agencies, that providing a continuous minimum flow in the bypass was not feasible without drawing down the reservoir because of the dependence of available water in wet and dry weather cycles, and the priority that irrigation use has. The EA also states that there is no evidence that the bypass has any unique or outstanding characteristics for fish habitat compared to other nearby reaches, thus the resource agencies do not give it any special consideration in fisheries management plans for the region. Instead, the fish and wildlife, primarily waterfowl, protection requirements focus on maintenance of stable water levels of the reservoir. Recommendations in the FERC EA, and subsequently in

License Article 401, 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, develop a hydrologic operational model to improve predictions of available water and test modified facility operations. Per Article 401, consultation was required with Utah Division of Wildlife Resources (UDWR), the U.S. Fish and Wildlife Service (USFWS) and area irrigators, including the Bear River Canal Company, who filed a motion in the license proceedings raising concerns about Project operational impacts on water availability. A Project Operational Plan was to be developed based on the study results. The Operational Plan would be designed to best meet the needs of wildlife, recreation, power generation and irrigation needs.

Water rights at this Project are complex, involving two court decrees, state water rights laws, long-standing irrigation contracts, and an interstate compact between Wyoming, Idaho and Utah. PacifiCorp is required to supply water upon demand to irrigators to meet seasonal requirements under these various mandates and contracts before the water can be used to generate power.

PacifiCorp provided the "Three-Year Bear River Basin Study Plan" to the UDWR and USFWS, and area irrigators for their review and comments. This Plan was found by FERC to satisfy Article 401 requirements. 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. As noted in FERC's Order dated April 30, 2002 (copy provided by PacifiCorp in their application), the USFWS provided the sole set of comments on the Plan in a letter dated August 2, 1999. According to FERC in this Order, "the USFWS commended the licensee for their work". The USFWS also 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". FERC approved the Operational Plan in this Order, and adopted the USFWS recommendation of annual reporting on reservoir levels.

As identified earlier in this report, several deviations from the target water elevations in the Operational Plan were reported. None of the events were noted to cause environmental consequences, nor were any deemed to be license violations.

PacifiCorp did not request a letter from either the UDWR or USFWS confirming that the operation of the Cutler Project is adequately protective of fish, wildlife, and water quality. However, PacifiCorp did provide information on a number of awards from 2000 to 2008 recognizing the stewardship of natural resources at this project in their LIHI application. These are discussed further under *Section 2.4 Criteria D - Watershed Protection*. Also, the latest available Five Year Monitoring Report for the RMP, dated March 28, 2008, reported that 2005-06 studies performed by the Utah State University of overall fishery health in the Cutler Reservoir, as part of the State's TMDL Assessment, indicated that relatively greater diversity and fish numbers than expected, based on earlier monitoring and observations. Thus, it appears that reservoir fishery appears to be benefiting from the implementation of the RMP.

Mr. Craig Schaugaard, of UDWR, confirmed that the fisheries focus at the Cutler Project was on maintaining the reservoir levels. He also stated that given this requirement, and the short retention time of this small reservoir, that there is almost always flow released from the Project that is essentially equivalent to the flow into the reservoir. Thus, the Project has very little impact on downstream flows even absent a minimum flow requirement. Finally, in an email dated October 13, 2010, he stated that while data has not been collected regularly to directly document the status of the fish populations, that it is his opinion as a fisheries biologist that he feels the Operating Plan for the Project is being protective of the reservoir fishery.

**A. Flows – There were no minimum flow requirements issued for this project. Instead resource agency recommendations focused on stabilization of the reservoir levels to meet environmental protection goals. The Facility is in Compliance with Resource Agency Recommendations issued after December 31, 1986, as specified in the FERC license regarding conditions for fish and wildlife protection, mitigation and enhancement. FACILITY PASSES.**

## 2.2 Criteria B - Water Quality

**Goal:** *Water quality in the river is protected.*

**Standard:** *The water quality criterion has two parts. First, a facility must demonstrate that it is in compliance with state water quality standards, either through producing a recent (after 1986) Clean Water Act Section 401 certification, or demonstrating compliance with state water quality standards (typically by presenting a letter prepared for the application from the state confirming the facility is meeting water quality standards). Second, a facility must demonstrate that it has not contributed to a state finding that the river has impaired water quality under Clean Water Act Section 303(d) (relating to water quality limited streams).*

The Utah Department of Environmental Quality (UDEQ) issued a 401 Water Quality Certification (WQC) on November 20, 1991. A letter dated December 8, 2009 from UDEQ confirms PacifiCorp's compliance with the conditions in the 401 WQC. The requirements under the WQC to establish a buffer strip adjacent to the Cutler reservoir are met by the Resource Management Plan (RMP) developed and implemented for the Project. See *Section 2.4, Criteria D, Watershed Protection* for further discussion of this Plan. Also, the Cutler Project was recognized by the Utah Non-Point Source Task Force by issuance of the *2007 Non-Point Source Water Quality Award*, given in recognition of PacifiCorp's work to reduce non-point source pollution at Cutler reservoir and on the Bear River

The Cutler Reservoir is on the UDEQ Clean Water Act Section 303(d) list for dissolved oxygen and total phosphorus. 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. 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, several private industries (not hydropower-related) as well as other sources as point sources of pollution, including pipes discharging into the Cutler reservoir and tributaries from unidentified sources. 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, especially in the southern section, may contribute a small proportion of the total phosphorus load to the Bear River. (See further discussion below.)

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 3, 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.

Based on a report dated January 2008, submitted by PacifiCorp as Attachment 8 to their application, data collected between 2000 and 2003 indicate that water quality in southern tributaries, specifically Spring Creek, the Little Bear River, and the Bear River have dramatic impacts on water quality throughout Cutler Reservoir. A similar pattern was identified in the earlier monitoring period (1996–1998). Spring Creek continues to have a significantly higher tributary nutrient concentration value as compared to the other sampling locations within the watershed. Water quality in the Southern and Northern sections of the reservoir remains markedly different with the south being characterized by higher nutrient concentrations, higher turbidity, and lower dissolved oxygen. High nutrient loads to the southern reservoir result in part from point source discharges in Spring Creek (JBS Swift and Company) and Swift Slough (Logan City and Service Area Wastewater Treatment discharge). Due to slow moving water and the shallow nature of the Southern Reservoir (0.55 meters mean depth), reservoir sediments are likely to exert a greater influence on water quality than in the faster flowing and deeper Northern

Reservoir (1.1 meters mean depth). Nutrient values within the southern portion of the reservoir are significantly higher with high total phosphorus levels far exceeding levels within the northern portion of the reservoir. The tributary of Spring Creek, which drains directly to the southern portion of the reservoir, contributes a very high concentration level of nutrients directly to the Southern Reservoir.

The most recent RMP 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. As noted earlier, the success of the Cutler RMP in protecting water quality has been recognized by both the UDEQ and Utah Non-Point Source Task Force. Also, as previously noted, the UDEQ sent a letter supporting LIHI certification of this Project due to these positive influences on water quality. This suggests that the operation of the Project and the implementation of the RMP is helping improve water quality, and is not negatively affecting it.

**B. Water Quality – The Facility is in Compliance with all conditions issued pursuant to a Clean Water Act §401 issued in 1991 for the Facility area and in the downstream reach. These waters are 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, however the Project is not cited as the cause for the degradation. FACILITY PASSES**

### **2.3 Criteria C - Fish Passage and Protection**

**Goal:** *The facility provides effective fish passage for riverine, anadromous and catadromous fish, and also protects fish from entrainment.*

**Standard:** *For riverine, anadromous, and catadromous fish, a facility must be in compliance with recent (after 1986) mandatory prescriptions regarding fish passage (such as a Fish and Wildlife Service prescription for a fish ladder) as well as any recent resource agency*

*recommendations regarding fish protection (e.g., a tailrace barrier). If anadromous or catadromous fish historically passed through the facility area but are no longer present, the applicant must show that the fish are not extirpated or extinct in the area because of the facility and that the facility has made a legally binding commitment to provide any future fish passage recommended by a resource agency.*

*If a Mandatory Fish Passage Prescription for Riverine fish has been issued for the Facility, the Applicant must demonstrate that the Facility is in Compliance with the Prescription. Fish passage for Riverine fish is required only if there is a Mandatory Fish Passage Prescription. If there is no such Prescription, then there is no requirement for Riverine fish passage.*

*Finally, the fish protection, or entrainment provision, applies to Riverine, anadromous and catadromous fish, only if an entrainment recommendation was issued by a Resource Agency.*

No mandatory fish prescriptions for anadromous or catadromous species or fish entrainment barriers were issued by federal or state resource agencies during the licensing of the Project in 1994. There are no historic records of anadromous or catadromous species movement through the Project area. As noted previously, the Bear River is a tributary to the Great Salt Lake and does not empty into an ocean.

Fish protection measures were recommended by Resource Agencies only in the form of structures to enhance habitat within the reservoir by providing cover, as a requirement of Article 402, as part of the Resource Management Plan (RMP). In 1995, PacifiCorp installed 30 structures at three sites, although the plan only required 4 to 6 structures at two sites.

Based on information provided in the March 28, 2008 RMP Five-Year Monitoring Report, monitoring of the fish habitat structures began shortly after their installation and again in 1996, 1998 and 2000. The electro-fishing monitoring activities recorded a few game fish in 1996. The species found in close proximity to structures included black bullhead, largemouth bass, black crappie, green sunfish, and bluegill. However, in 1998 similar monitoring activities resulted in

few game fish and in 2000, none were recorded. Conclusions from the aquatic biologists involved were that game fish habitat, species diversity, and population numbers will continue to be limited by continued poor water quality and low numbers of forage fish. In 2000, UDWR contracted with Utah State University to assess the overall fishery health in Cutler Reservoir, as part of the TMDL Assessment prepared for Cutler Reservoir. Their study, conducted in 2005 and 2006, showed relatively greater diversity and fish numbers than expected, based on previous monitoring and observations.

Because habitat structures may have been impaired due to sediment build-up, PacifiCorp agreed to inspect the structures during the next major drawdown, which was scheduled for the fall of 2008, as underwater visibility is extremely poor in the reservoir. Based on contact with PacifiCorp (see email dated September 13, 2010 from E. Davies, in Appendix C), the structures were still not visible even with the drawdown, although a variety of other structures that UDWR had installed were located. Consultation with UDWR indicated that structures may have been moved by currents, or simply not be visible due to the water turbidity. UDWR felt that additional effort to examine the structures was not warranted given the relatively small magnitude of effect of the structures in the reservoir as a whole, and the decline of the fishery overall, likely due to water quality challenges believed to be caused by other sources. When contacted, Mr. Craig Schaugaard, of UDWR, confirmed this position that locating and monitoring these structures have been indefinitely postponed at this time..

**C. Fish Passage and Protection – There are no Mandatory Fish Passage Prescriptions for upstream and downstream passage at the Cutler Project of anadromous and catadromous fish, or riverine fisheries issued by Resource Agencies after December 31, 1986. Fish protection measures were recommended only in the form of habitat enhancement structures. Those recommended in the Environmental Assessment have been implemented and monitored per agency consultation, although currently such monitoring has been postponed by the UDWR. FACILITY PASSES.**

#### **2.4 Criteria D - Watershed Protection**

**Goal:** *Sufficient action has been taken to protect, mitigate and enhance environmental conditions in the watershed.*

**Standard:** *A certified facility must be in compliance with resource agency recommendations and FERC license terms regarding watershed protection, mitigation or enhancement. These may cover issues such as shoreline buffer zones, wildlife habitat protection, wetlands protection, erosion control, etc. The Watershed Protection Criterion was substantially revised in 2004. The revised criterion is designed to reward projects with an extra three years of certification that have: a buffer zone extending 200 feet from the high water mark; or, an approved watershed enhancement fund that could achieve within the project's watershed the ecological and recreational equivalent of land protection in D.1. and has the agreement of appropriate stakeholders and state and federal resource agencies. A Facility can pass this criterion, but not receive extra years of certification, if it is 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.*

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 (NPS), leaseholders, neighboring landholders, the Bear River Canal Company, and the Utah Divisions of Wildlife, Water Resources, and Parks and Recreation. All recommendations of the USFWS, NPS and the state resource agencies were incorporated into the RMP, and concerns of the remaining organizations were addressed by PacifiCorp. 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. (This Order was provided as part of PacifiCorp's application.)

The RMP activities completed to date include:

- establishment of protective designations buffering the 188.76-miles of shoreline from erosion and adverse land use practices, 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;
- implementation of a vegetation enhancement program for approximately 1,225 acres that involves protecting and creating wildlife habitats and re-establishing a shoreline buffer of native grasses and forbs. 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;
- development of a modified agricultural lease program, which intensively manages grazing pastures, and includes erection of five-strand barb wire fencing to keep animals from eroding the shoreline. Also, farmers raising crops on leased lands are prohibited from tilling immediately along the reservoir shoreline or in drainage swales and are restricted from using pesticides and herbicides. Lands under PacifiCorp ownership that have not been leased serve as additional conservation buffers. Fencing serves to reinforce the boundary of the majority of the lands subject to the agricultural lease and vegetation enhancement programs.

The protections afforded by the vegetation enhancement and agricultural lease programs provide a 200+ foot buffer around 99.6% of the undeveloped shoreline. The remaining 0.4% portion (0.8 miles) of undeveloped shoreline is 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, although what is owned is designated as a shoreline buffer. Of this 0.8 miles, in 60% of it, PacifiCorp's land ownership is 25 feet wide, and between 50 to 199 feet wide in the remaining 40%.

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. Two time extensions and one Article amendment were requested and granted for the RMP program:

- A one year extension was granted by FERC Order dated July 30, 2001 (See Appendix B) for submission of the first Five-Year Report as several property transfers had not been completed in time to enable these properties to be monitored for one year as required by the RMP;
- An extension until December 31, 2010 for development of the eighth recreation site required by the RMP. This is further discussed in *Section 2.7, Criteria G, Recreation*; and
- Article 402 was amended by FERC Order dated September 7, 2006, by changing the submission date for the Five-Year Reports from December 31 to March 31, starting in 2008, to allow for sufficient time to compile and evaluate the five full years of data.

Review of the last RMP Five-Year Monitoring Report dated March 28, 2008, and FERC's letter dated October 21, 2008 indicated that PacifiCorp is in compliance with these Article requirements, they have identified improvement plans for items requiring enhancement, and that consultation with specified resource agencies had been undertaken, and comments offered by those agencies, were incorporated.

In their December 8, 2009 letter, (see Appendix A) UDEQ indicates that the buffer provided for by RMP aids in reduction of non-point source contributions to water quality impairment. PacifiCorp's implementation of the Cutler RMP has also apparently resulted in various awards recognizing the Project's value in contributing to maintaining biodiversity, reductions in non-point source pollution, and ecological restoration. The National Audubon Society designated the Cutler Project as an "Important Bird Area" in 2008. Important Bird Areas are recognized for their role in providing essential habitat to one or more species of vulnerable birds. According to information provided by PacifiCorp, the Cutler Marsh was distinguished as an Important Bird Area for providing significant habitat for avian species that are a conservation priority. The Cutler Marsh has also been nominated for "Global Status" by the National Audubon Society that is expected to be conferred in 2010 after final confirmation that over 5% of the global population of White-faced Ibis nest at Cutler.

**D. Watershed Protection – A 200 foot designated buffer zone on Project-owned lands is required by Article 402. The Facility has such a buffer zone around 99.6% of the undeveloped shoreline, which is 86.5% of the total shoreline. Within the remaining 0.4% (0.8 miles) of the undeveloped shoreline, PacifiCorp owns a buffer strip ranging from 25 feet to 199 feet wide, all of which is in conservation.- FACILITY PASSES.**

### **2.5 Criteria E - Threatened and Endangered Species Protection**

*Goal: The facility does not negatively impact state or federal threatened or endangered species.*

*Standard: For threatened and endangered species present in the facility area, the facility owner/operator must either demonstrate that the facility does not negatively affect the species, or demonstrate compliance with the species recovery plan and any requirements for authority to “take” (damage) the species under federal or state laws.*

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 (*Haliaeetus leucocephalus*) and peregrine falcon (*Falco peregrines*) were federally listed; however, they have since been delisted. Whooping crane (*Grus americana*) and Ute ladies’-tresses (*Spiranthes diluvialis*) 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, the USFWS concurred with the determination that the project as licensed would have no effect on Ute ladies’-tresses or any other federally listed threatened or endangered species (USFWS, 1993).

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 (*Numenius americanus*) and the Short-eared Owl (*Asio flammeus*) 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, as noted in their RMP Five-Year Monitoring Report dated March 28, 2008.

**E. Threatened and Endangered Species Protection – There are no threatened or endangered species listed under federal Endangered Species Acts potentially present in the Facility area that would be impacted by the Project. Utah does not have a state Endangered Species Act. An "incident take" authority was not required for the Project. FACILITY PASSES**

## **2.6 Criteria F - Cultural Resource Protection**

*Goal: The facility does not inappropriately impact cultural resources.*

*Standard: Cultural resources must be protected either through compliance with FERC license provisions, or, if the project is not FERC regulated, through development of a plan approved by the relevant state, federal, or tribal agency.*

The Cutler dam and powerhouse, constructed between 1924 and 1927, were listed on the National Register of Historic Places in 1989. Article 403 of the project license requires PacifiCorp to consult with the Utah State Historic Preservation Officer (SHPO), and develop and implement a cultural resources management plan, to avoid and mitigate any impacts to the historical integrity of the Cutler Project dam and powerhouse from maintenance and repair work. PacifiCorp completed the Cultural Resource Management Plan for the project on April 28, 1995. As noted in FERC's Order dated May 16, 1995, in a letter dated April 5, 1995, the SHPO stated that PacifiCorp did a good job in identifying character-defining features and the effects that

specific work would have on the resources. FERC's Order approving the Cutler Cultural Resource Management Plan, issued on May 16, 1995, was part of PacifiCorp's LIHI application.

Article 404 of the project license requires PacifiCorp, in the event that archeological or historic sites are discovered during project operation, to consult with the SHPO to develop a cultural resources management plan to protect the discovered artifacts. The plan would require SHPO and FERC approval. According to PacifiCorp, no discoveries have been made to date that would trigger these compliance actions.

<p><b>F. Cultural Resources – The Facility is in Compliance with all requirements regarding Cultural Resource protection, mitigation or enhancement included in the FERC license - FACILITY PASSES.</b></p>
---

### 2.7 Criteria G - Recreation

*Goal: The facility provides free access to the water and accommodates recreational activities on the public's river.*

*Standard: A certified facility must be in compliance with terms of its FERC license or exemption related to recreational access, accommodation and facilities. If not FERC-regulated, a facility must be in compliance with similar requirements as recommended by resource agencies. A certified facility must also provide the public access to water without fee or charge.*

Article 402 of the FERC license requires the development of 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.

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. In 2007, a new Cutler motorized boater access plan and regulations were completed in 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. FERC Order 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. Consultation with Mr. Dave Harris of Utah State Parks and Recreation confirmed that all boating related recreational requirements have been implemented by PacifiCorp.

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.

No recreationally related deficiencies were found during the most recent (2010) FERC Environmental and Public Use Inspection. A repair needed to a small boat dock identified in the August 2007 inspection was addressed by October 2007.

**G. Recreation – The Facility is in Compliance with all requirements regarding Recreation protection, mitigation or enhancement included in the FERC license and allows access to the reservoir and downstream reaches without fees or charges - FACILITY PASSES**

**2.8 Criteria H - Facilities Recommended for Removal**

*Goal: To avoid encouraging the retention of facilities which have been considered for removal due to their environmental impacts.*

*Standard: If a resource agency has recommended removal of a dam associated with the facility, certification is not allowed.*

No resource agency has recommended removal of the Cutler Project dam.

<p><b>H. Facilities Recommended for Removal – There are no Resource Agency Recommendations for removal of the dam associated with the Facility - FACILITY PASSES.</b></p>
---

### **3.0 RECOMMENDATION**

This application review was conducted by Patricia McIlvaine, Project Manager with Wright-Pierce. My review of PacifiCorp Hydro LLC's application for certification as a "low impact hydropower facility" under the criteria established by the LIHI consisted of the following:

- review of information submitted by the applicant both in the initial application package and in response to document requests and questions raised by me;
- review of additional documents obtained from the FERC on-line database and PacifiCorp's website available for public review; and
- consultation with the resource agency and non-governmental personnel listed in Section 4.0 of this report.

I believe that the Cutler Project is currently in compliance with all of the criteria required for certification. Their commitment to ensuring compliance with all environmental, recreational and cultural resource obligations specified in their FERC license is apparent from review of the numerous documents and reports prepared by PacifiCorp and other documents available from FERC's eLibrary. The numerous awards issued to the Project, as noted in Attachment 7 to PacifiCorp's LIHI application, further support this conclusion.

I also recommend that project be granted an extra three years of certification as it has an established a buffer zone extending 200 feet from the high water mark for 99.6% of the undeveloped lands around the reservoir. The remaining 0.4 % (0.8 miles) is characterized by steep terrain along the canyon at the north end of the reservoir. In this 0.8 mile area, PacifiCorp maintains at least a 25 foot wide shoreline buffer zone, and up to 199 feet in some portions. PacifiCorp also reports that there are no known plans for development of these very steep lands in this area not owned by PacifiCorp.

#### 4.0 RECORD OF COMMUNICATIONS

This section documents the contacts made with resource agencies and the applicant during the review of this application. A summary of the comments are included. Where the communications were by email, a copy of the email is contained in Appendix C. The table below lists those entities that were contacted several times by telephone and email, but could not be reached and no return calls or emails were received.

Entity / Individual	Contact Information	Dates of Contact Attempts
Randy Wood Wildlife Manager Utah Division of Wildlife Resources	801-476-2740 randywood@utah.gov	Call 9/16/10 and 10/1/10 Email 10/1/10

If the individual listed above responds following submission of this Report to LIHI, that information will be immediate provided to the LIHI Board of Directors.

#### Communications Made

Dates of Communication	Various emails
Application Reviewer	Patricia McIlvaine
Persons Contacted	PacifiCorp Hydro LLC Mr. Mike Ichisaka, Hydro Resources Staff Eve Davies, Principal Scientist
Telephone and/or email address	<a href="mailto:Mike.Ichisaka@pacificorp.com">Mike.Ichisaka@pacificorp.com</a> Eve.Davies@pacificorp.com
Appendix C contains a copy of emails sent to and received from M. Ichisaka and E. Davies. Inquiries were made of PacifiCorp on a variety of topics, seeking information on information not originally provided and not available from FERC's eLibrary. See individual emails for the specific issues.	

Date of Communication	Telephone discussion 9/16/10. Email response on 9/15/10
Application Reviewer	Patricia McIlvaine
Person Contacted	Mr. Craig Schaugaard Regional Aquatic Program Manager Utah Division of Wildlife Resources
Telephone and email address	801-476-2770 craigschaugaard@utah.gov
<p>Mr. Schaugaard confirmed that monitoring of the fish cover structures was determined to not be worth the effort at this time and has been indefinitely postponed. When asked about the lack of a minimum flow requirement, he stated that given the requirement to maintain the reservoir level within essentially one foot, and the short retention time of this small reservoir, that there is almost always flow released from the Project that is essentially equivalent to the flow into the reservoir. Thus, the Project has very little impact on downstream flows even absent a minimum flow requirement. He suggested talking with Randy Wood regarding compliance with wildlife issues. He also stated that he believes that the Operating Plan that is implemented by PacifiCorp is protective of the fishery populations at the Project. Emails received from C. Schaugaard are included in Appendix C.</p>	

Date of Communication	Telephone call on 9/14/10
Application Reviewer	Patricia McIlvaine
Person Contacted	Paul Chase, Biologist US Forest Service
Telephone and email	435-755-3621
<p>A call placed to Jennifer Park, District Ranger for this area, was returned by Paul Chase. Mr. Chase stated that the Forest Service lands are about 10 miles upstream of the Cutler Project, and therefore the USFS is a "minor player" in the Cutler Project oversight. Protection of water quality is a key concern for the USFS, thus care is taken to ensure activities federal lands do not compromise these water in this watershed. The Bear River flows through developed areas before entering Cutler Reservoir. Mr. Chase stated that he believes PacifiCorp is doing "a good job" in managing the activities at the Project, especially those items incorporated into the RMP.</p>	

Date of Communication	Telephone message 9/14/10 Emails 9/14/10 Contact 10/5/10
Application Reviewer	Patricia McIlvaine
Person Contacted	Dave Harris Utah State Parks and Recreation
Telephone and email address	801-538-7341 daveharris@utah.gov
Mr. Harris stated that he has no concerns regarding PacifiCorp's attention to their recreational boating support commitments. He stated they have been good to work with and have successfully implemented several projects at the Cutler Project.	

## **APPENDIX A**

### **CERTIFICATION COMMENT LETTERS**



State of Utah

GARY R. HERBERT  
*Governor*

GREG BELL  
*Lieutenant Governor*

Department of  
Environmental Quality

Amanda Smith  
*Executive Director*

DIVISION OF WATER QUALITY  
Walter L. Baker, P.E.  
*Director*

December 8, 2009

Eve Davies  
PacifiCorp Energy  
1407 W. North Temple  
Salt Lake City, Utah 84116

Subject: Low Impact Hydropower Certification

Dear Ms. Davies:

This letter is submitted in support of PacifiCorp Energy's application to obtain low impact hydro certification for the Cutler Hydroelectric Project (FERC No. 2420) from the Low Impact Hydropower Institute (LIHI). PacifiCorp Energy has shown leadership as an environmental steward and has been a strong supporter of the Utah Division of Water Quality's (DWQ) TMDL for the Bear River and Cutler Reservoir. My letter addresses conditions related to questions B1, B2, B3, and D1 on the Cutler LIHI Questionnaire.

The Utah DWQ issued a 401 water quality certification for the Cutler Hydroelectric Project on November 20, 1991. This is the most recent water quality certification issued for the facility from DWQ. The Cutler Hydroelectric Project is in compliance with the conditions of that 401 certification.

Pursuant to section 303(d) of the Clean Water Act, the DWQ has identified Cutler Reservoir as impaired due to not meeting water quality standards for dissolved oxygen and excessive total phosphorus (TP) loads. The Bear River also has a TMDL for total phosphorus from the Idaho border to the outlet at the Great Salt Lake. Flow augmentation from the Cutler Hydroelectric Project may contribute to stream bank erosion but as of this letter it has not been identified as the major cause of the low dissolved oxygen or high phosphorus impairments. Eroded soils contain TP that can become available to algae over time but not to the degree as other sources such as animal manure and wastewater effluent. Agricultural runoff, effluent from municipal waste water treatment plants, industrial discharges, and other pollutant sources have been identified as the primary sources into the Bear River system.

PacifiCorp Energy is actively managing the Cutler Reservoir through their Cutler Resource Management Plan and is taking key steps to improve water quality in the Bear River and the Cutler Reservoir via modifications to their agricultural lease program and shoreline buffers. By managing grazing leases, erecting fencing to restrict cattle access to the shoreline, and restoring

Page 2

vegetation along the shoreline per the Cutler Resource Management Plan, PacifiCorp has created a buffer around the reservoir that aids in the reduction of nonpoint source contributions to water quality impairment (e.g., cattle, shoreline erosion).

Utah DWQ supports PacifiCorp Energy in their effort to obtain LIHI certification. Please feel free to contact me if you have any questions about the facility's status with the Utah Division of Water Quality.

Sincerely,

Carl Adams  
Division of Water Quality/TMDL Manager  
Utah Department of Environmental Quality

## **APPENDIX B**

### **FERC ORDERS AND RESOURCE AGENCY DOCUMENTS REFERENCED IN THIS REVIEW REPORT**

73 FERC ¶ 62,083

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp

Project No. 2420-011  
Utah

ORDER MODIFYING AND APPROVING RESOURCE MANAGEMENT PLAN

(Issued November 6, 1995)

On August 1, 1995, PacifiCorp (licensee) filed a resource management plan (RMP), pursuant to article 402 of the license for the Cutler Project, issued April 29, 1994. The RMP was supplemented September 15, 1995. Article 402 requires the licensee to file an RMP for project lands that includes maps, final design drawings, and an implementation schedule that provides for the plan's periodic review and revision. The RMP should include: a plan to establish a permanent buffer strip; modify existing leases for about 300 acres of currently tilled ground to provide food and cover for migratory waterfowl; a final recreation plan; a final wetland mitigation design to replace wetlands impacted by the recreation plan; and final plans for installing fish enhancement structures. The RMP shall be prepared in consultation with the U.S. Fish and Wildlife Service (FWS), the Utah Divisions of Wildlife Resources (UDWR), Water Resources, and Parks and Recreation, the National Park Service (NPS), current leaseholders and neighboring landholders, and the Bear River Canal Company (BRCC).

The Resource Management Plan

The RMP was designed to include all PacifiCorp property within and adjacent to the FERC project boundary around the reservoir and does not apply to other private property or public lands in the area. The RMP concentrates on 5 resource management areas. These include the Cutler Canyon, Main Reservoir, Bear River, North Marsh, and South Marsh.

**Buffer strip**

The licensee will establish a permanent vegetative buffer strip around the reservoir. Currently, the lands surrounding the reservoir are farmed and grazed by cattle to the shoreline. New fencing would be constructed to prevent cattle from grazing in the vegetated areas. This buffer strip would be planted with dryland perennial and annual grasses and forbs, and interplantings of a variety of shrubs and trees to provide food and cover for wildlife.

To reduce shoreline erosion, the licensee will plant vegetation along sloughing embankments and slopes will be recontoured or erosion control structures will be installed. Hydrophilic plants such as willow, cottonwood, dogwood, hawthorn,

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rushes, and sedges will be planted above the high water line. Old automobiles that were historically used to prevent erosion in the reservoir will be removed and more conventional erosion control measures will be applied.

#### **Lease Modification for Wildlife Habitat**

New agricultural leases were developed and reconfigured. In some areas, the reservoir shoreline and tributaries will be removed from the leasable areas and protected with fencing. In the remaining areas, setbacks from the reservoir and drainages will be established for farming and grazing. Rotation pastures will be set up to utilize a percentage of the plant growth for spring and summer forage for geese, as well as for fall livestock grazing after the waterfowl have left the area. A sharecropping agreement will be used to offset crop losses to wildlife.

#### **Recreation Plan**

Currently there is only one recreation facility at the Cutler Reservoir, the Benson Marina. The licensee proposed to improve public access and develop recreation facilities at 8 sites around the reservoir, including improving the facilities at Benson Marina. Three of the sites would be for day use and include parking lots, concrete boat ramps, floating docks, picnic tables, barbecue grills, picnic shelters, vault toilets, dumpsters, and interpretive signs. The other 5 sites would be less developed and will provide boating and sportsmen access. The facilities will be handicapped accessible. Trails will be constructed to provide hiking, fishing, bird watching, and environmental education.

Recreation management will include seasonal removal of trash and snow, the seasonable placement and removal of portable toilets and floating docks, and periodic repair and maintenance facilities. Power boats (other than small boats with low horsepower outboard motors), jet skis, and other motorized watercraft will be discouraged in the Bear River, North Marsh, and South Marsh Resource Management Areas through signage and education materials.

Visitor use surveys will be conducted after all of the recreation facilities have been constructed to establish baseline use levels, patterns, and future needs.

#### **Wetland Mitigation**

The development of the recreation sites may impact up to 2 acres of wetlands. The UDWR and the FWS stated in letters dated June 2 and May 28, 1993, respectively, that the impacts to wildlife would be minimal, the recreation sites would provide

substantial recreational benefits, and that mitigation could be achieved by the enhancement of lands within the project boundary.

A 6.02-acre improved wetland will be constructed in consultation with the UDWR and the FWS. The site will include 2 islands with a total surface area of 1.57 acres and 4.45 acres of open water. Water depth can be controlled up to a 2-foot maximum through several water control head gates. The design drawings were included with the filing.

#### **Fishery Habitat Enhancement**

In order to improve fisheries at the reservoir, the licensee will develop additional open water fish cover and improve fishing opportunities by placing fish habitat enhancement structures within the main reservoir. The improvements are designed to encourage black crappie, pumpkinseed, and channel catfish.

#### **Additional Proposals**

##### **Reservoir Elevation**

In addition to actions required by article 402, the licensee has determined that minimizing water level fluctuations in the reservoir south of Benson Marina would benefit fish and wildlife resources, reduce soil and shoreline erosion, and improve recreation opportunities. The licensee has proposed an operating range of 4407.5 to 4407.0 feet from March 1 through June 15 and from October 1 through December 1; 4407.5 to 4406.5, June 15 through September 30; and 4407.5 to 4406.0, December 2 through February 28. The licensee is currently conducting a study to determine whether they can operate within their proposed ranges. The study should be completed by April 29, 1997.

The difficulty with minimizing water fluctuations is that they have contractual agreements in Idaho and Utah requiring that they supply irrigation water on demand from April 20 through October 31. Except during periods of high runoff, virtually all natural flow in the Bear River is diverted into Bear Lake for irrigation purposes.

##### **Monitoring Plan**

The licensee will implement the RMP within the first 5 years of Commission approval of the RMP. In the 5th year, the licensee will conduct vegetation and wildlife habitat monitoring, as well as a recreation-user survey. The monitoring will be conducted every 5 years.

Monitoring of the enhanced wetland site would be conducted annually for the first 5 years after completion. The monitoring will include photo points, wetland vegetation species diversity,

and whether noxious plants appear in the area. Adjustments will be made based on results of the monitoring and requests by the UDWR. If the wetland mitigation site is not successful after the 5-year monitoring period, the licensee will recommend alternative mitigation.

The licensee concluded that monitoring water quality would illustrate the effectiveness of the RMP. The licensee stated they would conduct water quality monitoring quarterly for the first 3 years following approval of the RMP and quarterly every 5 years thereafter.

### Comments

The RMP was prepared in consultation with the FWS, the UDWR, Water Resources, and Parks and Recreation, the NPS, current leaseholders and neighboring landholders, and the BRCC. A news release was published in the Logan Herald Journal on July 5, 1995 to inform the public of the availability of the draft RMP.

Written comments were received from the Utah State Historic Preservation Office and the Utah Division of Water Resources dated July 6 and 7, 1995, respectively. All of the agencies' comments were incorporated into the plan. In a letter dated July 21, 1995, the U.S. Department of the Interior stated they had no comments at this time.

The BRCC, in a letter dated July 21, 1995, expressed concern that management of the reservoir water level could adversely affect downstream irrigation deliveries. The licensee stated only minimal effects could be expected and the licensee would maintain their responsibilities to deliver the water rights to the downstream irrigators. The BRCC also questioned the cost benefit of water level control structures. The licensee stated that, although the economics of constructing reservoir control structures is poor, it needs to be considered for an objective evaluation of the alternatives. The BRCC was concerned that motor boat traffic in the canyon area could cause erosion. The licensee stated that erosion should not be a problem in the canyon area due to the rock walls of the valley.

Several comments were received from the public. Some landowners were concerned that their land was included within the project boundary. The licensee stated that all figures were approximate and that the RMP did not apply to any lands not owned by PacifiCorp. Several people were concerned that the proposed recreation site in the marsh would promote motor boat traffic and environmental damage. The licensee stated motor boat traffic would be discouraged and the site would be developed to encourage environmental education, bird watching, and hunting.

Conclusions and Recommendations

Creating the buffer zone and minimizing reservoir fluctuations should greatly improve water quality in the Cutler Reservoir. The buffer zone would minimize the introduction of livestock wastes, fertilizer and pesticides, and sediment into the reservoir. The recreation portion of the plan should provide adequate access to the reservoir for nature observations and hunting as well as providing day-use activities such as picnicking. Wetland areas disturbed by the creation of the recreation facilities should be adequately mitigated by the proposed plan and create additional waterfowl habitat. The modified leases should also improve wildlife habitat and forage within the area. The licensee appears to have adequately addressed the general concerns of the agencies and the public. The RMP filed August 1, 1995, and supplemented September 15, 1995, as required by article 402, should provide adequate protection for the resources on Cutler Reservoir. This plan should be approved as modified below.

The licensee stated that the results of the monitoring studies would be filed with the Commission in five-year intervals after Commission approval of the RMP. The first report should be filed with the Commission within 6 years of the date of this order. The licensee shall include in its filing documentation of consultation with the agencies.

The RMP did not include plans for filing the results of the reservoir elevation study. We recommend that these results are filed with the Commission by August 31, 1997. The monitoring report should include any recommendations for additional study or changes to proposed reservoir elevations. The licensee shall include in its filing documentation of consultation with the agencies.

The RMP did not indicate whether the results of the wetland mitigation monitoring would be filed with the Commission. We recommend that the results of the 5-year monitoring study be filed with the first report from the other monitoring studies. The monitoring report should include recommendations for additional monitoring if necessary and, if the wetland mitigation site is unsuccessful, any recommendations for alternative mitigation. The licensee shall include in its filing documentation of consultation with the agencies.

All lands that are needed for project operation, including mitigation, must be included in the project boundary. The licensee's proposal for the RMP includes lands not within the project boundary; therefore, they should be required to amend their Exhibit G to include the mitigation lands.

The Director orders:

(A) The Resources Management Plan filed on August 1, 1995, and supplemented September 15, 1995, required by article 402, as modified by paragraphs (B), (C), and (D), is approved.

(B) The licensee shall file the results of each 5-year monitoring report with the Commission. The first report shall be filed within 6 years of the date of this order. The filing should include any recommendations for additional monitoring or changes to the Resources Management Plan. The monitoring report should also include any alternative wetland mitigation sites if necessary. Any changes to the Resource Management Plan should be filed for Commission approval. The monitoring reports should include documentation of consultation with the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Utah Divisions of Wildlife, Water Resources, and Parks and Recreation, the National Park Service, and the Bear River Canal Company. The licensee shall allow a minimum of 30 days for the agencies to comment prior to filing with the Commission. If the licensee does not agree with a recommendation, the plan shall include the licensee's reasons, based on project-specific information.

(C) The licensee shall file with the Commission, by August 31, 1997, the results of the reservoir elevation study. The filing should include any recommendations for additional study or changes to proposed reservoir elevations. Any changes in proposed reservoir elevations, should be filed for Commission approval. The filing should include documentation of consultation with the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Utah Divisions of Wildlife, Water Resources, and Parks and Recreation, the National Park Service, and the Bear River Canal Company. The licensee shall allow a minimum of 30 days for the agencies to comment prior to filing with the Commission. If the licensee does not agree with a recommendation, the plan shall include the licensee's reasons, based on project-specific information.

(D) Within 1 year after the date of this order the licensee shall file for Commission approval, a revised Exhibit G showing all lands included in the Resource Management Plan.

(E) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 CFR § 385.713.

A handwritten signature in black ink, appearing to read "J. Mark Robinson", with a long horizontal line extending to the right.

**J. Mark Robinson**  
**Director, Division of Project**  
**Compliance and Administration**

UNITED STATES OF AMERICA 116 FERC ¶62,001  
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp

Project No. 2420-035

ORDER AMENDING RESOURCE MANAGEMENT PLAN

(Issued July 03, 2006)

In a letter dated June 9, 2006, PacifiCorp, licensee for the Cutler Hydroelectric Project (FERC No. 2420), requested the due date for filing the five-year monitoring report pursuant to the Commission's Order Modifying and Approving Resource Management Plan (RMP Order)<sup>1</sup> be changed. The project is located on the Bear River in Cache and Box Elder Counties near Logan, Utah.

Ordering paragraph (B) of the RMP Order requires the licensee to file the results of each 5-year monitoring report with the Commission. The monitoring reports are to include documentation of consultation with the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Utah Divisions of Wildlife, Water Resources, and Parks and Recreation, the National Park Service, and the Bear River Canal Company. The licensee is to allow a minimum of 30 days for the agencies to comment prior to filing with the Commission. The licensee explains that the data collection process is completed on December 31 of each year, and requests the due date be changed to March 31, beginning in 2008, to allow sufficient time for data analysis and agency consultation.

The request to change the due date for filing the five-year monitoring report was distributed to the appropriate agencies, and their comments indicated that there were no objections.

The reason advanced by the licensee in support of the requested change of the filing due date of the five-year monitoring report is reasonable and justifies the change.

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<sup>1</sup> See 73 FERC ¶ 62,083 (Issued November 6, 1995).

Project No. 2420-035

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The Director orders:

(A) The deadline to file the five-year monitoring report pursuant to the Commission's 1995 Order Modifying and Approving Resource Management Plan for the Cutler Hydroelectric Project (FERC No. 2420) shall be March 31, beginning in 2008 and at five-year intervals after that date.

(B) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

John E. Estep  
Chief, Land Resources Branch  
Division of Hydropower  
Administration & Compliance

UNITED STATES OF AMERICA 116 FERC ¶62,192  
FEDERAL ENERGY REGULATORY COMMISSION

Pacificorp

Project No. 2420-036

ORDER AMENDING RESOURCE MANAGEMENT PLAN  
UNDER ARTICLE 402

(Issued September 07, 2006)

On June 9, 2006, Pacificorp (licensee) requested to amend the due date for filing its five year monitoring reports required by ordering paragraph (B) of the Order Modifying and Approving Resource Management Plan<sup>1</sup> for the Cutler Hydroelectric Project (FERC No. 2420). The Cutler Project is located on the Bear River in Cache and Box Elder Counties, Utah.

Ordering paragraph (B) of the Order Modifying and Approving Resource Management Plan states, in part, that the licensee must file the results of each 5-year monitoring report with the Commission. The first report was due November 6, 2001. Prior to filing the first report the licensee requested, and was granted, an extension of time to file the report. Subsequently, the first report became due on December 31, 2002, and on December 26, 2002 the licensee filed the report.

LICENSEE'S REQUEST

The licensee stated that its data collection procedures, associated with implementing the Resource Management Plan, operates on the calendar year. The licensee indicated that it completes its data collection functions on December 31. In order to allow sufficient time to analyze the data, compile and present a draft report to the stakeholders and allow time for their review, the licensee proposed a new due date for the report that is to be filed with the Commission. The licensee proposes that each 5-year report be due by March 31, beginning in 2008.

RESOURCE AGENCY COMMENTS

Before filing its request with the Commission, the licensee consulted with the following agencies: U.S. Fish and Wildlife Service; U.S. Forest Service; Utah Division of Wildlife Resources; Utah Department of State Parks and Recreation; and Utah

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<sup>1</sup> 73 FERC ¶ 62,083 (Issued November 6, 1995).

Project No. 2430-036

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Department of Environmental Quality (UDEQ). Via email correspondence attached to the licensee's June 9<sup>th</sup> filing with the Commission, the first four agencies indicated their support of the request. The licensee also indicated that the UDEQ verbally provided their concurrence with its request.

## DISCUSSION

Ordering paragraph (B) requires the licensee to file the results of each 5-year monitoring report with the Commission. The current due date does not allow the licensee sufficient time to collect data through the end of the fifth year. Nor does it allow adequate time for the licensee to analyze the data and provide it to the stakeholders for their review and comment.

Each report should contain five full calendar years of data. Additionally, prior to filing the report with the Commission, the licensee should provide the report to the resource agencies and interested stakeholders and allow them 30 days to review it and make any comments or recommendations. The licensee should file a final period report with the Commission, including the comments from the stakeholders. If the licensee does not agree with a comment or recommendation, the report should include the reasons based on project-specific information.

In order to incorporate this revised reporting schedule, the following sentence should be inserted after the second sentence of ordering paragraph (B) of the November 6, 1995 order: the second 5-year monitoring report should be filed by March 31, 2008, and at five year intervals thereafter. The remaining sentences in ordering paragraph (B) should remain unchanged. Accordingly, the licensee's request to change the due date for the 5-year monitoring report should be approved.

### The Director Orders:

(A) Pacificorp's (licensee) request, filed June 9, 2006, to amend the due date for the 5-year resource management monitoring report, to be filed with the Commission, as required by ordering paragraph (B) of the Order Modifying and Approving Resource Management Plan, for the Cutler Hydroelectric Project, is approved.

Ordering paragraph (B) of the Order Modifying and Approving Resource Management Plan, issued November 6, 1995 shall read:

(B) The licensee shall file the results of each 5-year monitoring report with the Commission. The first report shall be filed within 6 years of

Project No. 2430-036

3

the date of this order.<sup>2</sup> The second, 5-year monitoring report shall be filed by March 31, 2008, and at five year intervals thereafter. The filings shall include any recommendations for additional monitoring or changes to the Resources Management Plan. The monitoring reports shall also include any alternative wetland mitigation sites if necessary. Any changes to the Resource Management Plan shall be filed for Commission approval. The monitoring reports shall include documentation of consultation with the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Utah Divisions of Wildlife, Water Resources, and Parks and Recreation, the National Park Service, and the Bear River Canal Company. The licensee shall allow a minimum of 30 days for the agencies to comment prior to filing with the Commission. If the licensee does not agree with a recommendation, the reports shall include the licensee's reasons, based on project-specific information.

(C) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

George H. Taylor  
Chief, Biological Resources Branch  
Division of Hydropower Administration  
and Compliance

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<sup>2</sup> In an unpublished Order Granting Extension of Time to File Monitoring Report (Issued July 30, 2001), the Commission extended the due date of the first report to December 31, 2002.

UNITED STATES OF AMERICA 116 FERC ¶62,192  
FEDERAL ENERGY REGULATORY COMMISSION

Pacificorp

Project No. 2420-036

ORDER AMENDING RESOURCE MANAGEMENT PLAN  
UNDER ARTICLE 402

(Issued September 07, 2006)

On June 9, 2006, Pacificorp (licensee) requested to amend the due date for filing its five year monitoring reports required by ordering paragraph (B) of the Order Modifying and Approving Resource Management Plan<sup>1</sup> for the Cutler Hydroelectric Project (FERC No. 2420). The Cutler Project is located on the Bear River in Cache and Box Elder Counties, Utah.

Ordering paragraph (B) of the Order Modifying and Approving Resource Management Plan states, in part, that the licensee must file the results of each 5-year monitoring report with the Commission. The first report was due November 6, 2001. Prior to filing the first report the licensee requested, and was granted, an extension of time to file the report. Subsequently, the first report became due on December 31, 2002, and on December 26, 2002 the licensee filed the report.

#### LICENSEE'S REQUEST

The licensee stated that its data collection procedures, associated with implementing the Resource Management Plan, operates on the calendar year. The licensee indicated that it completes its data collection functions on December 31. In order to allow sufficient time to analyze the data, compile and present a draft report to the stakeholders and allow time for their review, the licensee proposed a new due date for the report that is to be filed with the Commission. The licensee proposes that each 5-year report be due by March 31, beginning in 2008.

#### RESOURCE AGENCY COMMENTS

Before filing its request with the Commission, the licensee consulted with the following agencies: U.S. Fish and Wildlife Service; U.S. Forest Service; Utah Division of Wildlife Resources; Utah Department of State Parks and Recreation; and Utah

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<sup>1</sup> 73 FERC ¶ 62,083 (Issued November 6, 1995).

Project No. 2430-036

2

Department of Environmental Quality (UDEQ). Via email correspondence attached to the licensee's June 9<sup>th</sup> filing with the Commission, the first four agencies indicated their support of the request. The licensee also indicated that the UDEQ verbally provided their concurrence with its request.

## DISCUSSION

Ordering paragraph (B) requires the licensee to file the results of each 5-year monitoring report with the Commission. The current due date does not allow the licensee sufficient time to collect data through the end of the fifth year. Nor does it allow adequate time for the licensee to analyze the data and provide it to the stakeholders for their review and comment.

Each report should contain five full calendar years of data. Additionally, prior to filing the report with the Commission, the licensee should provide the report to the resource agencies and interested stakeholders and allow them 30 days to review it and make any comments or recommendations. The licensee should file a final period report with the Commission, including the comments from the stakeholders. If the licensee does not agree with a comment or recommendation, the report should include the reasons based on project-specific information.

In order to incorporate this revised reporting schedule, the following sentence should be inserted after the second sentence of ordering paragraph (B) of the November 6, 1995 order: the second 5-year monitoring report should be filed by March 31, 2008, and at five year intervals thereafter. The remaining sentences in ordering paragraph (B) should remain unchanged. Accordingly, the licensee's request to change the due date for the 5-year monitoring report should be approved.

### The Director Orders:

(A) Pacificorp's (licensee) request, filed June 9, 2006, to amend the due date for the 5-year resource management monitoring report, to be filed with the Commission, as required by ordering paragraph (B) of the Order Modifying and Approving Resource Management Plan, for the Cutler Hydroelectric Project, is approved.

Ordering paragraph (B) of the Order Modifying and Approving Resource Management Plan, issued November 6, 1995 shall read:

(B) The licensee shall file the results of each 5-year monitoring report with the Commission. The first report shall be filed within 6 years of

Project No. 2430-036

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the date of this order.<sup>2</sup> The second, 5-year monitoring report shall be filed by March 31, 2008, and at five year intervals thereafter. The filings shall include any recommendations for additional monitoring or changes to the Resources Management Plan. The monitoring reports shall also include any alternative wetland mitigation sites if necessary. Any changes to the Resource Management Plan shall be filed for Commission approval. The monitoring reports shall include documentation of consultation with the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Utah Divisions of Wildlife, Water Resources, and Parks and Recreation, the National Park Service, and the Bear River Canal Company. The licensee shall allow a minimum of 30 days for the agencies to comment prior to filing with the Commission. If the licensee does not agree with a recommendation, the reports shall include the licensee's reasons, based on project-specific information.

(C) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

George H. Taylor  
Chief, Biological Resources Branch  
Division of Hydropower Administration  
and Compliance

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<sup>2</sup> In an unpublished Order Granting Extension of Time to File Monitoring Report (Issued July 30, 2001), the Commission extended the due date of the first report to December 31, 2002.

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. 2420-040--Utah  
Cutler Hydroelectric Project  
PacifiCorp

R. L. Landolt  
PacifiCorp  
825 N.E. Multnomah, Suite 1500  
Portland, OR 97232

OCT 21 2008

Subject: Second, 5-year resource management report per article 402

Dear Mr. Landolt:

This letter acknowledges receipt of your second, 5-year resource management report filed with the Commission on April 14, 2008, for the Cutler Hydroelectric Project. The 5-year report was filed pursuant to the Order Modifying and Approving Resource Management Plan.<sup>1</sup>

Your 5-year Monitoring Report covers the period between 2003 and 2007, inclusive. Your Report stated that during that time, implementation of the Resource Management Plan was largely complete, and the project had entered the operations, maintenance and monitoring phase as stipulated by project license article 402. You stated that the operation, maintenance and monitoring phase will continue for the remainder of the 30-year license period, until 2024.

Your Report was organized into three main report sections: Section 1) Resource Management Plan (RMP) Project Summary which presents a summary of the original RMP requirements and completed project implementation activities, as well as a summary of the previous five-year report monitoring results; Section 2) Monitoring Results, which summarizes the current reporting period monitoring results; and Section 3) Plan and Schedule, which outlines future project monitoring, including proposed plan changes.

The RMP described five goals: 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.

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<sup>1</sup> 73 FERC ¶ 62,083 (Issued November 6, 1995).

- 2 -

Your report stated that the following programs were developed to meet the goals of the RMP and each one was addressed individually in your report. They include:

- **Vegetation Enhancement Program, with the following program subcomponents:**
  - **Shoreline buffer establishment**
  - **Shrub planting (woody vegetation pockets and buffer shrub plots)**
  - **Bank stabilization**
  - **Fencing (buffer/boundary fencing)**
  - **Erosion control sediment basins**
  - **Sensitive/unique wildlife habitats**
- **Agricultural Lease Program, with the following program sub-components:**
  - **Grazing leases**
  - **Farming leases**
  - **Wildlife food/cover leases**
  - **Cattle management fences**
  - **Property coordination**
- **Recreation Site Development Program**
- **Wetland Mitigation Program**
- **Fish Habitat Enhancement Program**
- **Water Quality Monitoring**
- **Water Level Monitoring**

Your Report stated that at the time of the 2002 Cutler Five-Year Monitoring Report, the implementation phase for the programs listed above were largely complete, although several property negotiations undertaken to resolve boundary issues with adjacent landowners were still incomplete due to pending legal actions. You stated that those issues were resolved during the 2003-2007 report period, and related implementation activities undertaken during this time included marking the new property boundary and integrating the resulting new buffer segments into on-going monitoring activities. Your report also stated that the completion of the new project boundary line allowed for the drafting of a new Cutler Project Exhibit G which was submitted concurrently with this report.

Your Report described outstanding implementation activities that include development of one primitive recreation site, delayed until 2010 by FERC order, and installation of two new woody vegetation pocket sites to compensate for two failed sites. You stated that those activities are scheduled for completion during the upcoming five-year monitoring period.

As part of the approved resource management plan, there was a monitoring component that was developed to gauge the success and stability of the seven programs. Your Report included a table that summarized the findings and recommendations. Your

- 3 -

Report also stated that monitoring during 2008-2012 will follow protocols established in the 2002 Cutler Five-Year Report. The Report recommended only minor changes to the monitoring protocols, including adjusting the frequency of wildlife food and cover plot monitoring from semi-annual to annual and, per agreement with Utah Division of Wildlife Resources, monitoring fish habitat structures only during major reservoir drawdowns. The Report stated that water quality monitoring will continue to be conducted quarterly every fifth year and monitoring of the wetland mitigation has been discontinued because the program is now complete.

You stated that the draft Report was provided to the U.S. Fish and Wildlife Service, U.S Forest Service, Utah Division of Wildlife Resources, Utah Division of Water Resources, Utah Division of Parks and Recreation, National Park Service, and the Bear River Canal Company. Five parties provided comments on the Report and all recommended revisions were incorporated into the final Report filed with the Commission.

In conclusion, your April 14, 2008 filing of your second, 5-year resource management monitoring report, adequately fulfills the reporting requirements approved in the Commission's 1995 Order. As a reminder, your next 5-year monitoring report is due by March 31, 2013 per Order Amending Resource Management Plan, issued September 7, 2006.

Thank you for a well organized and comprehensive report. Should you have any questions concerning this letter, please contact me at (202) 502-8900.

Sincerely,



Thomas J. DeVullo  
Senior Fisheries Biologist  
Division of Hydropower Administration  
and Compliance

c: Paul Abate  
U.S. Fish and Wildlife Service  
2369 West Orton Circle, Suite 50  
West Valley City, UT 84119

District Ranger  
U.S. Forest Service  
Logan Ranger District  
1500 East Highway 89  
Logan, UT 884321

Ron Hodson, Regional Supervisor  
Utah Division of Wildlife Resources  
515 East 5300 South  
Ogden, UT 84405

Dennis Strong, Director  
Utah Division of Water Resources  
1594 West North Temple  
P.O. Box 146201  
Salt Lake City, UT 84114

Mary Tullius, Director  
Utah State Parks and Recreation  
1594 West North Temple, Suite 116  
P.O. Box 146001  
Salt Lake City, UT 84114

Regional Director  
National Park Service  
Rocky Mountain Regional Office  
12795 West Alameda Parkway  
Denver, CO 80228

Dave Styer  
Bear River Canal Company  
275 North 1600 East  
Tremonton, UT 84337

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp

Project No. 2420-032

ORDER GRANTING EXTENSION OF TIME UNDER ARTICLE 402

(Issued September 19, 2005)

In a letter dated August 26, 2005, PacifiCorp, licensee for the Cutler Hydroelectric Project, requested an extension of time to construct the Logan River Access Recreation Site pursuant to article 402 of the project license,<sup>1</sup> and the Commission's Order Modifying and Approving Resource Management Plan (RMP Order).<sup>2</sup> The project is located on the Bear River in Cache and Box Elder Counties near Logan, Utah.

The RMP provides for the development of public recreation facilities at eight sites located around Cutler Reservoir. Under the RMP Order, PacifiCorp was required to complete the construction of these facilities within the first five years following the Commission's approval of the plan. The Logan River Access Site is the last of the eight developments to be completed. On November 8, 2000, the Commission extended the deadline to complete the development of this recreation site to December 31, 2005.

PacifiCorp states in its August 26 letter that the Utah Department of Transportation (UDOT) has requested continued postponement in developing the Logan River access due to current road conditions, and the lack of space for acceleration and deceleration lanes at the entrance to this site. PacifiCorp also states that if the development of this recreation site can be further delayed, UDOT could include the site's entrance within the scope of its highway improvement plans.<sup>3</sup> Further, PacifiCorp has consulted with the U.S. Fish and Wildlife Service, the Utah Division of Wildlife Resources, and the Utah Division of Parks and Recreation about the Logan River Access Site. Each of these agencies expressed their concern about disturbing the sensitive marsh and riparian wildlife habitats in the vicinity of this site multiple times, and their support for delaying the site's development until improvements are being made to the highway.

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<sup>1</sup> 67 FERC ¶ 62,082 (1994)

<sup>2</sup> 73 FERC ¶ 62,083 (1995)

<sup>3</sup> UDOT intends to widen State Route 30 from single to double lanes in both directions, and prefers that PacifiCorp not construct the acceleration or deceleration lanes at the entrance to the access site.

Project No. 2420-032

2

In consideration of public safety, economy, and efficiency and in deference to UDOT's preference and the agency's habitat concerns, PacifiCorp requests that the deadline to complete the development of the Logan River Access Site be extended to December 31, 2010. The reasons advanced by PacifiCorp in support of extending the development deadline for this site are reasonable and justify the extension.

The Director orders:

(A) The deadline to complete the development of the Logan River Access Recreation Site pursuant to article 402 is extended to December 31, 2010.

(B) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R.

John E. Estep  
Division of Hydropower Administration  
and Compliance

## **APPENDIX C**

### **KEY EMAIL COMMUNICATIONS**

**Patricia B. McIlvaine**

---

**From:** Craig Schaugaard [craigschaugaard@utah.gov]  
**Sent:** Wednesday, October 13, 2010 8:44 AM  
**To:** Patricia B. McIlvaine  
**Subject:** Re: Question on Cutler Project

Because we don't regularly sample the fish population in the reservoir it is hard to say from a scientific standpoint whether their plan is being protective of the fishery. However as a professional fisheries biologist I feel that their operating plan is being protective of the fishery. I am please how they operate the reservoir. Unlike our other reservoirs it is not flushed on yearly basis. Occasionally the reservoir is lowered to for maintenance purposes but prior notice is always given and a plan for completion. The reservoir operates more like a lake than a reservoir especially compared to the other reservoirs in the state. I feel strongly that their operation of the dam is not hurting the fishery.

I wish we had more data to make a more scientific stand but my feeling is that there is so much going on upstream that it would be hard to determine what is affecting the population more. I tend to believe what is impacting the fishery is what is occurring in the watershed and not the way the dam is operated. I hope this helps.

Craig

Take a kid fishing and take advantage of the 365 day fishing licence.

Craig J Schaugaard  
Hatchery Coordinator  
Utah Division of Wildlife Resources,  
Office: (801) 538-4807  
Cell: (801) 791-3675  
Fax: (801) 538-4745  
email: craigschaugaard@utah.gov

>>> "Patricia B. McIlvaine" <pbm@wright-pierce.com> 10/12/2010 9:57 PM >>>  
Mr. Schaugarrd

Could you offer any comment on whether or not you believe that the Operating Plan developed for and being implemented at the Cutler Project is being protective of the fisheries of the reservoir? I understand that such protection was a goal of the Plan, but I was hoping you could comment on whether you believe that goal is being achieved. I have read that studies by the Utah State University in 2005-06 did find greater diversity and numbers of fish in the reservoir than found in the past, which may suggest some improvements.

Thanks for your help...once again.

Pat McIlvaine

---

**Pat McIlvaine | Project Manager**

**Wright-Pierce | Water, Wastewater & Infrastructure Engineers**  
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10/13/2010

**Patricia B. McIlvaine**

---

**From:** Patricia B. McIlvaine [pbm@wright-pierce.com]  
**Sent:** Friday, October 01, 2010 12:56 PM  
**To:** 'randywood@utah.gov'  
**Subject:** PacifiCorp's Cutler Project

Mr. Wood

I am serving as the independent reviewer for the Low Impact Hydropower Institute (LIHI) on PacifiCorp's application for certification of the Cutler Hydropower Project as a "low impact facility". Part of my review is to consult with individuals who are knowledgeable of the project, its environmental license requirements and recommendations that may have been made regarding environmental concerns by agencies such as the Utah Division of Wildlife Resources. The purpose of my email is to request your input. Mr. Craig Schaugaard suggested that I contact you. I would like to discuss with you, some of the key information presented in their application, and to determine if there are any issues associated with the Project regarding compliance with the FERC license or other recommendations made at the time of license renewal or more recently. I would like to get your perspective on their stewardship policies, timeliness of their actions, etc. related to those issues/resources for which your organization is most interested in seeing protected. Specifically, I would like to obtain your viewpoint on their compliance with the requirements in their Resource Management Plan program.

The following link will connect you to the application made by PacifiCorp to the Low Impact Hydropower Institute for this project.

<http://www.lowimpacthydro.org/lihi-pending-application-ferc-no.-2420-cutler-hydroelectric-project-bear-river-utah.html>

Please feel free to respond by email or by calling me at either 207-798-3785 (my office) or 207-688-4236 (my home). Both have answering machines if I miss your call...so please leave me a message and I will call you back.

Thank you for your time.

Pat

---

**Pat McIlvaine | Project Manager**

**Wright-Pierce | Water, Wastewater & Infrastructure Engineers**  
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**Patricia B. McIlvaine**

---

**From:** Davies, Eve [Eve.Davies@PacifiCorp.com]  
**Sent:** Tuesday, September 21, 2010 7:46 PM  
**To:** Ichisaka, Michael; pbm@wright-pierce.com  
**Subject:** RE: Cutler Buffer Zone

Hi Pat-  
Mike is correct about the undeveloped shoreline in question (0.8 miles and 0.4% of the total shoreline).  
Eve

Eve Davies

---

**From:** Ichisaka, Michael  
**Sent:** Thursday, September 16, 2010 5:20 PM  
**To:** pbm@wright-pierce.com  
**Cc:** Davies, Eve  
**Subject:** RE: Cutler Buffer Zone

Hi Pat,

I believe that we are talking about the 0.8 miles of undeveloped shoreline along the Cutler canyon at the north end of the reservoir that we described in the questionnaire page 17, section D-1:

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.

The average width of ownership/buffer zone in that undeveloped shoreline is about 42 feet. The band of PacifiCorp ownership ranges from 25 feet wide (on 60% of the area) to 50-200 feet wide (on 40% of the area). The ownership/buffer is widest (100 to 200 ft) at two locations where ravines enter the reservoir forming alluvial features with riparian vegetation. Most of this ownership lies at the base of the steep slopes that extend down to the reservoir. It seems unlikely that these steep slopes can be developed so they essentially form a natural buffer.

Hope this helps,  
Mike I

---

**From:** Patricia B. McIlvaine [mailto:pbm@wright-pierce.com]  
**Sent:** Thursday, September 16, 2010 11:50 AM  
**To:** Davies, Eve  
**Cc:** Ichisaka, Michael  
**Subject:** Cutler Buffer Zone

Hi Eve and Mike

I have just one question regarding the buffer zone in the small section (0.8%) around the reservoir that does not have the full 200 ft buffer zone. Your data states that PC does not own enough land to have a 200 ft wide area. However, without spending considerable research time, can you give me an estimate of the average width or minimum width of land in this area that you do own? I am hoping to be able to make a statement something like:

"PacifiCorp has established a buffer zone of \_\_\_\_\_ feet in this remaining 0.8% of area not having a 200 foot

9/30/2010

wide buffer zone."

Thanks

Pat

---

**Pat McIlvaine | Project Manager**

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**Patricia B. McIlvaine**

---

**From:** Craig Schaugaard [craigschaugaard@utah.gov]  
**Sent:** Thursday, September 16, 2010 8:43 AM  
**To:** Patricia B. McIlvaine  
**Cc:** Paul Thompson; Randy Wood  
**Subject:** Re: PacifiCorp's Cutler Hydropower Project

1. We did suspend sampling at those sites we felt our sampling was ineffective. They have not been sampled by the UDWR since 1998.

2. I am unaware of this project. I have forwarded this on to Paul Thompson and Randy Wood. It sounds more like a terrestrial project I hope Randy will be able to answer your question regarding #2.

Take a kid fishing and take advantage of the 365 day fishing licence.

Craig J Schaugaard  
Hatchery Coordinator  
Utah Division of Wildlife Resources,  
Office: (801) 538-4807  
Cell: (801) 791-3675  
Fax: (801) 538-4745  
email: craigschaugaard@utah.gov

>>> "Patricia B. McIlvaine" <pbm@wright-pierce.com> 09/13/2010 1:19 PM >>>

Mr. Schaugaard

I am serving as the independent reviewer for the Low Impact Hydropower Institute (LIHI) on PacifiCorp's application for certification of the Cutler Hydropower Project as a "low impact facility". Part of my review is to consult with individuals who are knowledgeable of the project, its environmental license requirements and recommendations that may have been made regarding environmental concerns by agencies such as the Utah Division of Fish and Wildlife Resources (UDFWR). The purpose of my email is to request your input. I would like to discuss with you, some of the key information presented in their application, and to determine if there are any issues associated with the Project regarding compliance with the FERC license or other recommendations made at the time of license renewal or more recently. I would like to get your perspective on their stewardship policies, timeliness of their actions, etc. related to those issues/resources for which your organization is most interested in seeing protected. Specifically, I would like to obtain your viewpoint on their compliance with the requirements in their Resource Management Plan program and the following related questions:

1) I understand that monitoring of the fish habitat enhancement structures installed in 1995 was suspended after 1998 until 2008. Could you please confirm that your organization was in agreement with this decision? Have there been any new requirements associated with these structures?

2) Do you believe that the efforts being undertaken for the Woody Vegetation Pockets and Sensitive / Unique Wildlife Habitat Areas are receiving the appropriate attention? Are there any aspects of the program that are not being handled appropriately from your perspective?

I look forward to hearing from you by email response or by phone. I can be reached at 207-688-4236 from 9am to 7pm East Coast time tomorrow, Wed and Friday of this week and at 207-798-3785 on Thursday from 8am to 4pm. The number is my home number, but feel free to leave a message should I miss your call and I'll call you right back.

The following link will connect you to the application made by PacifiCorp to the Low Impact Hydropower Institute for this project.

9/30/2010

<http://www.lowimpacthydro.org/lihi-pending-application-ferc-no.-2420-cutler-hydroelectric-project-bear-river-utah.html>

Thank you for your time.

Pat

---

**Pat McIlvaine | Project Manager**

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**Patricia B. McIlvaine**

---

**From:** Patricia B. McIlvaine [pbm@wright-pierce.com]  
**Sent:** Monday, September 13, 2010 3:19 PM  
**To:** 'craigschaugaard@utah.gov'  
**Subject:** PacifiCorp's Cutler Hydropower Project

Mr. Schaugaard

I am serving as the independent reviewer for the Low Impact Hydropower Institute (LIHI) on PacifiCorp's application for certification of the Cutler Hydropower Project as a "low impact facility". Part of my review is to consult with individuals who are knowledgeable of the project, its environmental license requirements and recommendations that may have been made regarding environmental concerns by agencies such as the Utah Division of Fish and Wildlife Resources (UDFWR). The purpose of my email is to request your input. I would like to discuss with you, some of the key information presented in their application, and to determine if there are any issues associated with the Project regarding compliance with the FERC license or other recommendations made at the time of license renewal or more recently. I would like to get your perspective on their stewardship policies, timeliness of their actions, etc. related to those issues/resources for which your organization is most interested in seeing protected. Specifically, I would like to obtain your viewpoint on their compliance with the requirements in their Resource Management Plan program and the following related questions:

- 1) I understand that monitoring of the fish habitat enhancement structures installed in 1995 was suspended after 1998 until 2008. Could you please confirm that your organization was in agreement with this decision? Have there been any new requirements associated with these structures?
- 2) Do you believe that the efforts being undertaken for the Woody Vegetation Pockets and Sensitive / Unique Wildlife Habitat Areas are receiving the appropriate attention? Are there any aspects of the program that are not being handled appropriately from your perspective?

I look forward to hearing from you by email response or by phone. I can be reached at 207-688-4236 from 9am to 7pm East Coast time tomorrow, Wed and Friday of this week and at 207-798-3785 on Thursday from 8am to 4pm. The number is my home number, but feel free to leave a message should I miss your call and I'll call you right back.

The following link will connect you to the application made by PacifiCorp to the Low Impact Hydropower Institute for this project.

<http://www.lowimpacthydro.org/lihi-pending-application-ferc-no.-2420-cutler-hydroelectric-project-bear-river-utah.html>

Thank you for your time.

Pat

---

**Pat McIlvaine | Project Manager**

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9/13/2010

**Patricia B. McIlvaine**

---

**From:** Patricia B. McIlvaine [pbm@wright-pierce.com]  
**Sent:** Monday, September 13, 2010 1:39 PM  
**To:** 'Ichisaka, Michael'  
**Subject:** A few questions

Hi Mike

We are still thinking about Ashton and how we could possibly certify it at this time. Would it be possible for me to get a copy of the actual monitoring plan you are doing under the Consent Order you have in place for the remediation project? When developing this monitoring plan, did the ODEQ specify the parameters? Did they initially suggest other parameters also, and what was agreed to, negotiated between PacifiCorp and ODEQ? Were any other resource agencies involved in establishing this monitoring Plan?

On Cutler

From reading your March 2008 RMP monitoring report, it appears that the fish habitat enhancement structures were installed in 1995. Is this correct? This report also stated that inspection of these structures was to be re-started in 2008. Could you send me any information as to what those findings were? Has there been any contact with UDWR on this 2008 work? I realize that this next RMP Report is not due until 2013, but it would be useful to be able to comment as to the status of these efforts as they are an important fisheries protection aspect of your overall RNP program.

Is the "PacifiCorp 2008" citation on page 19 of your questionnaire (to question E.1) the RMP Report of March 2008?

Thanks

Pat

---

**Pat McIlvaine | Project Manager**

**Wright-Pierce | Water, Wastewater & Infrastructure Engineers**  
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**Patricia B. Mcllvaine**

---

**From:** Davies, Eve [Eve.Davies@PacifiCorp.com]  
**Sent:** Tuesday, August 03, 2010 4:55 PM  
**To:** Patricia B. Mcllvaine  
**Cc:** Ichisaka, Michael; Davies, Eve  
**Subject:** FW: 2010 FERC Inspections for Cutler, Weber, Pioneer  
**Attachments:** 2010 7-26 FERC Rvw 2010 EI Cutler-Weber-Pioneer[1].pdf

Most recent (one month ago) FERC Environmental inspection. No follow-up items noted.

**Patricia B. McIlvaine**

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**From:** Davies, Eve [Eve.Davies@PacifiCorp.com]  
**Sent:** Tuesday, August 03, 2010 5:02 PM  
**To:** Patricia B. McIlvaine  
**Cc:** Davies, Eve; Ichisaka, Michael  
**Subject:** FW: FERC 2007 Env Inspection Findings: Cutler

**Attachments:** 2007 10-21 Cutler Response to FERC's Environmental Inspection Review 9-6-07;  
Cutler.FERC 2007 Env Inspection Findings.2007-09-06pdf.pdf



2007 10-21 Cutler.FERC  
Cutler Response to 07 Env Inspecti

Results of the 2007 Cutler FERC Environmental inspection. Three follow-up tasks noted; all tasks were completed per the plan and schedule as described.

Please let me know if you have additional comments or questions regarding these inspections.

Eve

Eve Davies, Principal Scientist  
Hydro Resources, PacifiCorp Energy  
1407 West North Temple, Ste. 110  
Salt Lake City, Utah 84116  
801-220-2245  
801-232-1704 (cell)

Patricia B. McIlvaine

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**From:** Ichisaka, Michael [Michael.Ichisaka@PacifiCorp.com]  
**Sent:** Friday, August 06, 2010 9:00 PM  
**To:** pbm@wright-pierce.com  
**Subject:** LIHI application Information Response - Cutler  
**Attachments:** Info request response part2.zip

Hi Pat,

Here's more information that you requested in your email dated August 3, 2010. The attached file **LIHI Info request\_response part2.zip** contains the material related to Cutler that we've found so far. The documents listed below in blue pertain to the question numbering from your information request.

1. Copies of the latest two FERC Environmental and Public Use Inspection Reports and PacifiCorp Responses to any deficiencies identified. (My interest is in LIHI related issues but it will likely be easiest to send the entire documents....)

Cutler:

Previously sent by email:

- 10/21/2007 FERC Env Inspection Rept – denotes problem with buffer encroachment and requires filing a description of measures to be taken. - emailed to Pat by Eve 8/3/10
- 7/26/2010 FERC Env Inspection Rept – indicates that there are no issues. – emailed to Pat by Eve 8/3/10

2. Summary listing of FERC License deviations associated with issues addressed by LIHI certification criteria. Please provide a summary of any events and resolution to the events (including whether the deviations were considered license non-compliance or not).

Cutler:

There were no license violations

Annual Reservoir elevation reports to FERC for the past 10 years indicating compliance:

- WY02CutlerResElev.pdf
- WY03CutlerResElev.pdf
- WY04CutlerResElev.pdf
- WY05CutlerResElev.pdf
- WY06CutlerResElev.pdf
- WY07CutlerResElev.pdf
- WY08CutlerResElev.pdf
- WY09CutlerResElev.pdf
- WY99to01CutlerResElev.pdf

Letters from FERC to PC on particular deviations that were determined not to be violations:

- 2004 FERC letter re operating levels deviation.pdf
- 2005 6-22 FERC Rsp to Cutler\_Elevatn\_Var\_May05.PDF
- 2009 8-3 FERC Rsp No Viol Cutler ReservoirEleVar 6-16-09.pdf
- 2009 FERC letter re operating levels deviation.tif

Let me know if you have questions on these.

Mike Ichisaka

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8/11/2010