

Electronically filed on March 14, 2023

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Subject: Bear River Hydroelectric Project (FERC No. P-20)  
Application for Amendment of License to Modify Grace Development's Minimum  
Stream Flow**

Dear Ms. Bose:

PacifiCorp and the parties to the relicensing settlement agreement for PacifiCorp's Bear River Hydroelectric Project, FERC Project No. 20 ("Bear River Project") are undertaking a collaborative habitat restoration project on Paris Creek in Bear Lake County, Idaho. This collaborative habitat restoration project involves PacifiCorp decommissioning the Paris Hydroelectric Project, FERC Project No. P-703 ("Paris Project"). After decommissioning, flows currently diverted through the canal and powerhouse will be returned to Paris Creek for the enhancement and restoration of approximately 3.5 miles of high-quality, cold-water habitat for Bonneville cutthroat trout in the currently bypassed reach of Paris Creek.

In pursuit of this restoration project, PacifiCorp has simultaneously filed with the Federal Energy Regulatory Commission ("FERC"): (1) this application to amend the FERC license for the Bear River Project to reduce the required minimum instream flow at the Grace Dam.; and (2) a separate petition to decommission and surrender the FERC license exemption for the Paris Project.

To partially mitigate the loss of hydroelectric generation associated with the Paris Project, and the cost of decommissioning, PacifiCorp and the relicensing settlement parties have agreed that PacifiCorp should apply to amend PacifiCorp's FERC license for the Bear River Project to adjust the minimum instream flow requirement in the Grace Development's bypassed reach. The reduction will allow PacifiCorp to increase hydroelectric generation at the Grace Development to offset costs associated with the Paris Project decommissioning.

With this letter PacifiCorp is filing its application to amend the Bear River Project FERC license along with its attachments.

This letter and its enclosures have been filed electronically. The security classification of each component in this filing is shown in the enclosure table. Please feel free to contact Mark Stenberg, Senior Operations Project Manager, if you need any additional information at 208-339-9552 or at [mark.stenberg@pacificorp.com](mailto:mark.stenberg@pacificorp.com).

Sincerely,



William C. Shallenberger  
Vice President, Renewable Resources

WCS:MS:DS

Kimberly D. Bose, Secretary – FERC-DC  
Bear River Hydroelectric Project (FERC No. P-20)  
Application for Amendment of License to Modify Grace Development’s Minimum Stream Flow  
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Encl:	Letter – Public
	Application for Amendment of License – Public
	Attachment A: October 11, 2021, Paris Creek Restoration Agreement – Public
	Attachment B: Environmental Assessment for Paris Project Decommissioning – Public
	Attachment C: ECC Meeting Minutes Documenting the Final Review of the Applications and Environmental Assessment, and Emails of Support, January 18, 2023 – Public
	Attachment D: Letters and Emails of Support from ECC Organizations – Public

<b>eFile:</b>	Kimberly D. Bose, Secretary Via eFile at <a href="http://www.ferc.gov">www.ferc.gov</a>
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**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

PacifiCorp

Application for Amendment of License

Project No. 20\_\_\_\_\_

Bear River Hydroelectric Project

**APPLICATION FOR AMENDMENT OF LICENSE**

Pursuant to Subpart L of Part 4 of the Federal Energy Regulatory Commission's ("Commission") regulations,<sup>1</sup> PacifiCorp, licensee for the Bear River Hydroelectric Project No. 20 ("Bear River Project" or "Project") hereby applies to amend the Bear River Project license to adjust the minimum instream flow requirement in the Grace Development's bypassed reach. The proposed amendment is part of a larger proposal to enhance or restore cold-water habitat for Bonneville Cutthroat Trout, as more specifically described below. The proposed amendment to the Bear River Project license reflects a careful balancing of environmental and economic interests and is supported by the parties to the August 28, 2002, Settlement Agreement Concerning the Relicensing of the Bear River Hydroelectric Project.

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<sup>1</sup> See 18 C.F.R. §§ 4.200-4.202.

## INITIAL STATEMENT

As required by 18 C.F.R. § 4.201(a), PacifiCorp provides the following Initial Statement:

- (1) PacifiCorp applies to the Federal Energy Regulatory Commission for an amendment of license for the Bear River Hydroelectric Project.
- (2) The exact name, business address, and telephone number of the applicant are: PacifiCorp, 825 NE Multnomah Street, Suite 1800, Portland, OR 97232, (503) 813-7268.
- (3) The applicant is an Oregon corporation and licensee for the water power project designated as Project No. 20 in the records of the Federal Energy Regulatory Commission, issued on the 22nd day of December 2003.
- (4) The amendment of license proposed and the reason why the proposed change is necessary, are:
  - (i) PacifiCorp proposes that the Commission amend Article 408(b) of the Project license to reduce the year-round minimum instream flow requirement for the Grace bypassed reach from 63 cubic feet per second (“cfs”) to 48 cfs.
  - (ii) The proposed amendment is part of a larger proposal to enhance or restore cold-water habitat for Bonneville Cutthroat Trout by decommissioning PacifiCorp’s Paris Hydroelectric Project as described in the Paris Creek Restoration Agreement (copy filed with this application as Attachment A). The purpose of the proposed amendment is to allow for increased generation at the Grace powerhouse to partially offset the loss of generation associated with the decommissioning of the Paris Hydroelectric Project and the cost of the decommissioning.
- (5) State statutory and regulatory requirements:
  - (i) The statutory and regulatory requirements of the state in which the project is located (Idaho) that affect the project as proposed with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes are:

None.
  - (ii) The steps which the applicant has taken or plans to take to comply with each of the laws cited above are:

Not applicable.

## **COMMUNICATIONS**

Communications regarding this application should be addressed to the following individuals, whose names should be placed on the Commission's official service list for this proceeding:

Mark Stenberg, Project Manager  
PacifiCorp  
822 Grace Power Plant Road  
Grace, ID 83241  
Mark.Stenberg@PacifiCorp.com  
Telephone: (208) 339-9552

John Hutchings, Esq.  
PacifiCorp  
1407 W North Temple  
Salt Lake City, UT 84116  
John.Hutchings@PacifiCorp.com  
Telephone: (801) 220-4545

Jeffrey Lovinger, Esq.  
Markowitz Herbold PC  
1455 SW Broadway , Suite 1900  
Portland, OR 97201  
JeffreyLovinger@MarkowitzHerbold.com  
Telephone: (503) 295-3085

## **PURPOSE OF APPLICATION**

The purpose of this application is to seek Commission approval of an amendment to Article 408(b) of the Project license to adjust minimum instream flows in the Grace Development bypass reach as part of a larger effort to enhance or restore cold-water habitat for Bonneville Cutthroat Trout ("BCT") by decommissioning PacifiCorp's Paris Hydroelectric Project. The proposed amendment to the Bear River Project license will partially offset the loss of generation associated with the decommissioning of the Paris Project and the cost of decommissioning.

## **BACKGROUND**

The Bear River Project is located on the Bear River in Caribou and Franklin Counties, Idaho, and was licensed by the Commission in 2003. Prior to license issuance, on August 28, 2002, PacifiCorp executed the Settlement Agreement Concerning the Relicensing of the Bear

River Hydroelectric Project (“Relicensing Settlement Agreement”)<sup>2</sup> with sixteen state and federal resource agencies, Indian Tribes, and non-governmental organizations (collectively, the “Parties”)<sup>3</sup> to resolve all issues regarding relicensing of the Project and for the purpose of obtaining a new Project license from the Commission. On September 26, 2002, PacifiCorp filed the Relicensing Settlement Agreement with the Commission, along with an Explanatory Statement and proposed license articles. On December 22, 2003, the Commission issued a new license for the Project, adopting in large part the Relicensing Settlement Agreement and incorporating its terms into license articles.<sup>4</sup>

Article 403(f) of the new license required PacifiCorp to prepare a study plan evaluating the feasibility of improving fish passage at the Cove development, along with the alternative of decommissioning the development. As a result of that study, on July 20, 2005, the Parties to the Relicensing Settlement Agreement executed the Settlement Agreement Concerning Decommissioning of the Cove Development (“2005 Settlement Agreement”). The 2005 Settlement Agreement provided for the decommissioning of the Cove development and the amendment of license Article 408(b) to reduce the minimum instream flow of the Grace development bypassed reach from the lesser of 80 cfs or inflow to the lesser of 63 cfs or inflow. The purpose of the proposed reduction in minimum instream flow was to allow for increased generation to partially offset the cost of decommissioning the Cove development and the loss of generation associated with the decommissioning. On May 23, 2006, the Commission issued an

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<sup>2</sup> For a copy of the Relicensing Settlement Agreement, *see* PacifiCorp Offer of Settlement filed on September 26, 2002, in Commission Docket No. P-20-024, Accession No. 20020927-0066.

<sup>3</sup> The Parties to the Relicensing Settlement Agreement and to the Paris Creek Restoration Agreement include PacifiCorp; the U.S. Fish and Wildlife Service; U.S. Bureau of Land Management; U.S. National Park Service; U.S. Forest Service; Shoshone-Bannock Tribes; Idaho Department of Environmental Quality; Idaho Department of Fish and Game; Idaho Department of Parks and Recreation; Idaho Council of Trout Unlimited; Idaho Rivers United; Greater Yellowstone Coalition; and American Whitewater.

<sup>4</sup> *PacifiCorp*, 105 FERC ¶ 62,207 (2003) (Order Approving Settlement Agreement and Issuing New License).

order amending the license to permit PacifiCorp to remove the Cove development and reducing the minimum instream flow in the Grace bypass to the lesser of 63 cfs or inflow.<sup>5</sup>

PacifiCorp and the other Parties to the Relicensing Settlement Agreement entered into the Paris Creek Restoration Agreement, effective December 16, 2022 (copy filed with this application as Attachment A). Under the Paris Creek Restoration Agreement, the Parties have agreed to pursue a significant opportunity to enhance or restore cold-water habitat for Bonneville Cutthroat Trout outside of the Project Action Area.<sup>6</sup> Specifically, the Parties support an effort to decommission PacifiCorp’s 715-kilowatt Paris Hydroelectric Project No. 703 (“Paris Project”) located on an irrigation canal that diverts water from Paris Creek in Bear Lake County, Idaho. PacifiCorp operates the Paris Project under a license exemption issued by the Commission in 1983.<sup>7</sup> Operation of the Paris Project substantially dewateres Paris Creek below the diversion structure for much of the year. By decommissioning the Paris Project, PacifiCorp and the Environmental Coordination Committee (“ECC”), established by the Relicensing Settlement Agreement, can restore approximately 3.5 miles of cold-water habitat for all life stages of Bonneville Cutthroat Trout.

Under the Paris Creek Restoration Agreement, the Parties have agreed to an approach to the decommissioning of PacifiCorp’s Paris Project and to specific roles and responsibilities for PacifiCorp and the ECC. The Parties have agreed to amend the Relicensing Settlement Agreement, such that the Parties agree the minimum instream flow in the Grace development

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<sup>5</sup> *PacifiCorp*, 115 FERC ¶ 62,205 (2006) (Order Amending License and Revising Annual Charges).

<sup>6</sup> Under the Relicensing Settlement Agreement, the term “Action Area” refers to the Bear River and land drained by the Bear River and its tributaries below the point of confluence of the Bear Lake Outlet Canal with the mainstem Bear River and above the Idaho-Utah border. Pursuant to Section 3.1.4 of the Relicensing Settlement Agreement, the ECC can use aquatic resource restoration funds to pursue projects outside the Action Area if PacifiCorp provides its written approval of the out of Action Area habitat enhancement or restoration action.

<sup>7</sup> *Utah Power & Light Co.*, 22 FERC ¶ 62,220 (1983) (Order Granting Exemption from Licensing for Conduit Hydroelectric Project – Paris Project No. 703).

bypass reach should be the lesser of 48 cfs or inflow. And the Parties have further agreed that PacifiCorp should apply to the Commission for approval of an amendment of Article 408(b) of the Project license to reduce the minimum instream flows for the Grace bypass from the lesser of 63 cfs or inflow (plus dam leakage of 2 cfs) to the lesser of 48 cfs or inflow (plus dam leakage of 2 cfs). The intent of this amendment to the minimum instream flow requirement for the Grace bypassed reach is to provide for increased generation at the Bear River Project to partially offset the loss of generation associated with the decommissioning of the Paris Project and to partially offset the cost of the Paris Project decommissioning. The Parties to the Relicensing Settlement Agreement and the Paris Creek Restoration Agreement, including PacifiCorp and the members of the ECC, agree that the expected environmental benefit of decommissioning the Paris Project will offset any modest environmental impact associated with reduction of minimum instream flows at the Grace bypassed reach. The Parties to the Relicensing Settlement Agreement and the Paris Creek Restoration Agreement support the requested amendment of the Project license.

At the same time PacifiCorp filed this application to amend the Bear River Project license, PacifiCorp also filed an application to decommission the Paris Project and to surrender the Paris Project license exemption. PacifiCorp requests that both of these applications be approved by the Commission without material modification. As detailed in Section 9 of the Paris River Restoration Agreement, in the event the Commission denies this application or the application to decommission the Paris Project and surrender the Paris Project license exemption, or in the event the Commission grants both applications but makes material modifications to the terms proposed by PacifiCorp, then PacifiCorp has reserved the right not to move forward with the Paris Creek restoration project and to accept or reject any Commission order that has granted the applications with material modifications.



## **DESCRIPTION OF PROPOSAL**

Under the proposed license amendment, the Commission would approve a modification of Article 408(b) to allow reduction of minimum instream flow in the Grace development's bypassed reach from the existing requirement—which is the lesser of 63 cfs or inflow, plus 2 cfs of leakage from Grace Dam—to a new requirement, which would be the lesser of 48 cfs or inflow, plus 2 cfs of leakage from Grace Dam. The Grace bypassed reach passes through land administered by the U.S. Bureau of Land Management, but implementation of the license amendment will not involve in-water work or any disturbance of federal lands.

PacifiCorp seeks approval of this license amendment in conjunction with approval of a separate application to decommission the Paris Project and surrender PacifiCorp's license exemption for the Paris Project. Both the approval of this license application and the approval of PacifiCorp's application to decommission the Paris Project will allow PacifiCorp and the Parties to enhance or restore approximately 3.5 miles of cold-water habitat for Bonneville Cutthroat Trout on Paris Creek in Bear Lake County, Idaho.

Reducing minimum flow requirements in the Grace bypassed reach (about 6.6 miles of the Bear River channel) from 63 cfs to 48 cfs, plus leakage from the dam of about 2 cfs, would provide PacifiCorp with 15 cfs of additional flow for power generation at the Grace powerhouse, which would partially offset the loss of generation associated with the decommissioning of the Paris Project and the cost of the decommissioning.

## **REQUESTED AMENDMENT**

Article 408(b) of the license for the Bear River Project No. 20 issued on December 22, 2003, and previously amended on October 23, 2006, currently states:

... (b) Grace bypassed reach: a year round minimum flow of 63 cfs or inflow, whichever is less, in addition to 2 cfs leakage below Grace dam; provided, however, that during the period of Cove dam removal and upon consultation with the Bear River Project's environmental coordination committee (ECC), this required continuous flow may be reduced or suspended for short periods of time as necessary to implement the project removal plan attached as Appendix B to the Cove settlement agreement filed August 16, 2005.

PacifiCorp respectfully requests that the Commission amend Article 408(b) by making the following specific edits to the language of the article:

... (b) Grace bypassed reach: a year round minimum flow of 48 cfs or inflow, whichever is less, in addition to 2 cfs leakage below Grace dam.

The first edit reduces the minimum instream flow requirement from 63 cfs to 48 cfs. The second edit removes a limited exception to the minimum instream flow requirement, which was included to facilitate removal of Cove dam. The removal of Cove dam is completed, and the exception no longer serves any purpose. If the Commission grants PacifiCorp's request, then Article 408(b) will state:

... (b) Grace bypassed reach: a year round minimum flow of 48 cfs or inflow, whichever is less, in addition to 2 cfs leakage below Grace dam.

**APPROVAL OF THE APPLICATION IS IN THE PUBLIC INTEREST**

Approval of this application to amend the Bear River Project license to reduce the minimum instream flow for the Grace development bypassed reach, together with approval of PacifiCorp's companion application to decommission the Paris Project, will allow the Parties to move forward with their plans to enhance or restore approximately 3.5 miles of cold-water habitat for Bonneville Cutthroat Trout on Paris Creek.

PacifiCorp and the resource agencies have consulted over the potential environmental impacts associated with minimum flow reductions in the Grace bypassed reach. The Parties agree that a reduction of minimum flows from 63 cfs to 48 cfs in this reach will not significantly impact aquatic resources. (*See Attachment B filed with this application, Environmental Assessment for the Decommissioning of the Paris Hydroelectric Project.*)

PacifiCorp and the resource agencies have also consulted over the potential environmental benefits associated with the decommissioning of PacifiCorp's Paris Project and the resulting enhancement or restoration of approximately 3.5 miles of cold-water habitat on Paris Creek in Bear Lake County, Idaho. The Parties agree that the benefits expected from decommissioning the Paris Project and enhancing or restoring cold-water habitat at Paris Creek substantially exceed any insignificant impact that the proposed reduction of minimum flows at the Grace bypassed reach may have on aquatic resources.

Based on the consultations between the Parties, including between PacifiCorp and the state and federal resource agencies with an interest in the Bear River Project license, PacifiCorp believes that the environmental benefits associated with Paris Project removal offset any potential environmental affects associated with minimum flow reductions in the Grace bypassed reach.

### **CONSULTATION**

Pursuant to 18 C.F.R. § 4.38(a)(7), PacifiCorp has consulted with the following agencies regarding this application for license amendment: Idaho Department of Fish and Game, Idaho Department of Environmental Quality, Idaho Department of Parks and Recreation, U.S. Fish and Wildlife Service, USDA-Forest Service, National Park Service, U.S. Bureau of Land Management, and the Shoshone-Bannock Tribes. The Paris Creek Restoration Agreement (copy

filed with this application as Attachment A) signed by all these parties was developed in consultation with these parties, and the agreement incorporates applicable comments and requirements from these parties. Further, PacifiCorp provided each of these parties with a draft of this application and allowed them at least 60 days to comment on the proposed amendment. A confirmation of the conclusion of this consultation period was provided through an affirmation vote recorded in meeting notes from the Bear River Environmental Coordination Committee (“ECC”) at their regular meeting January 18, 2023. Final meeting notes are included as Attachment C. PacifiCorp has consulted with the Idaho Department of Environmental Quality (“IDEQ”) through their role participating in the ECC. IDEQ is a signatory to the October 11, 2021, Paris Creek Restoration Agreement, Attachment A. In addition, IDEQ provided a separate letter of support included in Attachment D, along with other letters of support.

### **COMPLIANCE WITH STATE LAW**

PacifiCorp has confirmed with IDEQ that the proposed amendment does not require certification under Section 401 of the Clean Water Act and does not require the modification of IDEQ’s existing 401 Water Quality Certification for the Bear River Project license.

If the proposed amendment to the Project license is granted, the amendment will be implemented without the need for any in-water work or construction activities. As a result, there is no need for PacifiCorp to obtain any authorization from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. Further, because there will be no in-water work or modification of the stream channel, PacifiCorp will not need to obtain a stream channel authorization permit from the Idaho Department of Water Resources.

PacifiCorp has conferred with the Idaho Department of Fish and Game (“IDFG”), and the department supports the proposed license amendment and has not identified any additional state

law or regulation that PacifiCorp must comply with before the proposed amendment may be approved by the Commission. (See Attachment D, which includes an IDFG email confirming they had no comments on the Paris decommissioning documents.)

**REVISION OF EXHIBITS**

None of the exhibits to the Project license will need to be revised or updated if the proposed amendment is approved by the Commission.

**ATTACHMENTS**

The following attachments are submitted with this application and are a part of this application:

- Attachment A:           October 11, 2021, Paris Creek Restoration Agreement, effective December 16, 2022.
- Attachment B:           Environmental Assessment for Paris Project Decommissioning
- Attachment C:           ECC meeting minutes documenting the final review of the applications and Environmental Assessment, January 18, 2023.
- Attachment D:           Letters and emails of support from ECC member organizations.

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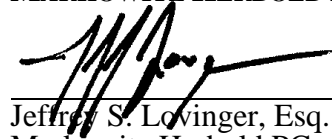
**CONCLUSION**

For the foregoing reasons, PacifiCorp respectfully requests that the Commission approve the Application for License Amendment consistent with the terms of the enclosed Paris Creek Restoration Agreement.

DATED this 6th day of March, 2023.

Respectfully submitted,

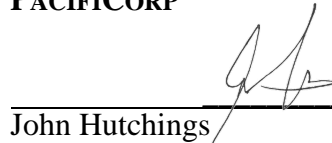
**MARKOWITZ HERBOLD PC**



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Jeffrey S. Lovinger, Esq.  
Markowitz Herbold PC  
1455 SW Broadway, Suite 1900  
Portland, OR 97201  
(503) 295-3085 (office)  
(503) 323-9105 (fax)  
JeffreyLovinger@MarkowitzHerbold.com

**PACIFICORP**



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John Hutchings  
PacifiCorp  
Assistant General Counsel  
1407 W North Temple  
Salt Lake City, UT 84116  
(801) 220-4545  
John.Hutchings@PacifiCorp.com

Attorneys for PacifiCorp

**Attachment A:  
October 11, 2021, Paris Creek  
Restoration Agreement**



PARIS CREEK RESTORATION AGREEMENT

This Paris Creek Restoration Agreement (“Agreement”) is made by and among PacifiCorp, an Oregon corporation; United States Fish and Wildlife Service (“USFWS”); United States Bureau of Land Management (“BLM”); United States National Park Service (“NPS”); USDA Forest Service (“USFS”); Shoshone-Bannock Tribes (“Tribes”); Idaho Department of Environmental Quality (“IDEQ”); Idaho Department of Fish and Game (“IDFG”); Idaho Department of Parks and Recreation (“IDPR”); Idaho Council of Trout Unlimited (“ITU”); Idaho Rivers United (“IRU”); Greater Yellowstone Coalition (“GYC”); American Whitewater (“AW”); and other interveners who executed the Settlement Agreement Concerning the Relicensing of the Bear River Hydroelectric Project dated August 28, 2002 (the “Settlement Agreement”), each referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

A. PacifiCorp is Federal Energy Regulatory Commission (“FERC”) licensee of the Bear River Hydroelectric Project (FERC No. 20) located on the Bear River in Caribou and Franklin Counties, Idaho (the “Bear River Project”).

B. The Parties to this Agreement are all of the signatories to the Settlement Agreement. The Settlement Agreement provides for protection, mitigation, and enhancement measures (“PM&E Measures”) associated with the Bear River Project, including minimum instream flows and aquatic resource restoration measures such as habitat enhancement and restoration actions. The Settlement Agreement provides funding for aquatic resource restoration measures. The Settlement Agreement also establishes an Environmental Coordination Committee (“ECC”) to coordinate implementation of PM&E Measures, including minimum instream flows and habitat enhancement and restoration actions. The ECC is composed of representatives of PacifiCorp and the other signatories to the Settlement Agreement.

C. Under the Settlement Agreement, habitat enhancement and restoration actions are intended to occur primarily within the Action Area, an area defined as the Bear River and land drained by the Bear River and its tributaries below the point of confluence of the Bear Lake Outlet Canal with the mainstem Bear River and above the Idaho-Utah border. However, the ECC is authorized to pursue and fund habitat enhancement and restoration actions outside the Action Area if PacifiCorp approves.

D. PacifiCorp and the ECC intend to pursue a significant opportunity to enhance or restore cold-water habitat for Bonneville Cutthroat Trout located outside of the Action Area. Specifically, the ECC intends to contribute aquatic resource restoration funds available under the Settlement Agreement and to provide other support to facilitate the decommissioning of PacifiCorp’s 715-kilowatt Paris Hydroelectric Project (“Paris Project”) located on an irrigation canal that diverts water from Paris Creek.

October 11, 2021

E. The Paris Project is located on approximately 30 acres, more or less, of land owned by PacifiCorp in Bear Lake County, Idaho. PacifiCorp operates the Paris Project under a license exemption issued by FERC in 1983. Operation of the Paris Project can dewater Paris Creek below the diversion structure. By decommissioning the Paris Project, PacifiCorp and the ECC can restore approximately three miles of cold-water habitat for all life stages of Bonneville Cutthroat Trout.

F. The ECC intends to contribute toward the decommissioning of the Paris Project and the resulting restoration of Paris Creek habitat by: (1) funding the design and construction of new intakes for irrigators to be located in the former bypassed reach of Paris Creek; (2) amending the Settlement Agreement to reduce the minimum instream flow in the Grace bypass of the Bear River Project to the lower of 50 cfs (48 cfs plus 2 cfs of leakage) or inflow; (3) supporting a PacifiCorp application to FERC to amend Article 408(b) of the Bear River Project license to reduce the minimum instream flow in the Grace bypass reach to the lower of 50 cfs or inflow; and (4) supporting a PacifiCorp application to FERC to decommission the Paris Project and surrender the Paris Project license exemption.

H. PacifiCorp intends to contribute toward the decommissioning of the Paris Project and the resulting restoration of Paris Creek habitat by: (1) preparing and filing with FERC an application to amend Article 408(b) of the Bear River Project license to reduce the minimum instream flow in the Grace bypass reach to the lower of 50 cfs or inflow; (2) preparing and filing with FERC an application to decommission the Paris Project and to surrender the Paris Project license exemption; (3) approving the out-of-Action Area funding request of the ECC for the design and construction of new intakes for irrigators; and (4) completing the Paris Project decommissioning activities listed in this Agreement. PacifiCorp's willingness to approve the out-of-Action Area funding requests and to decommission the Paris Project are contingent on FERC approving, without material modification, PacifiCorp's application to amend the Bear River Project license and PacifiCorp's application to decommission the Paris Project and surrender the Paris Project license exemption.

NOW, THEREFORE, in consideration of their mutual covenants in this Agreement, the Parties agree as follows:

1. Effective Date. This Agreement is effective on the date it is first signed by all Parties (the "Effective date").
2. Definitions. Terms with initial capitalization shall have the meanings assigned when the terms are first introduced in this Agreement.
3. Amendment of Settlement Agreement. The Parties hereby amend Section 3.2.1.a of the Settlement Agreement by replacing the existing language of Section 3.2.1.a with the following new language: "Grace bypass: the lower of 48 cfs or inflow, in addition to current leakage from Grace dam;". This amendment to Section 3.2.1.a of the Settlement Agreement is effective as of the Effective Date of this Agreement.

4. Application to Amend Bear River Project License. Within 90 days of the Effective Date, PacifiCorp will file with FERC an application to amend Article 408(b) of the Bear River Project license (the “License Amendment Application”). The License Amendment Application will request that FERC reduce the minimum instream flow in the Grace bypass reach from “the lower of 63 cfs or inflow, in addition to current leakage from Grace Dam” to “the lower of 48 cfs or inflow, in addition to current leakage from Grace Dam.” PacifiCorp will request that FERC approve the License Amendment Application without material modification. PacifiCorp will request that FERC approve the License Amendment Application only if FERC also approves PacifiCorp’s application to decommission the Paris Project and to surrender the Paris Project license exemption (which PacifiCorp will submit in compliance with Section 5 of this Agreement).

5. Application to Decommission Paris Project and to Surrender Paris Project License Exemption. Within 90 days of the Effective Date, PacifiCorp will file with FERC an application for approval to decommission the Paris Project and to surrender the Paris Project license exemption (the “Decommissioning Application”). The Decommissioning Application will include a Decommissioning Proposal that is consistent with Section 6 of this Agreement. The Decommissioning Application will include an application to surrender the Paris Project license exemption upon completion of the decommissioning activities stated in the Decommissioning Proposal. PacifiCorp will request that FERC approve the Decommissioning Application without material modification. PacifiCorp will request that FERC approve the Decommissioning Application only if FERC also approves PacifiCorp’s License Amendment Application (which PacifiCorp will submit in compliance with Section 4 of this Agreement).

6. Decommissioning Proposal. The Parties agree that PacifiCorp’s decommissioning proposal for the Paris Project (“Decommissioning Proposal”) will consist of the following actions with regard to the following facilities, works, equipment, and real property:

(A) Forebay. The Paris Project forebay sits at the end of the power canal and has two concrete control structures and earthen berms. PacifiCorp will decommission the forebay by: (i) demolishing and burying on-site the concrete inlet and outlet structures; (ii) disposing of metal and wood off-site; and (iv) performing basic contouring of the forebay berms and re-seeding any ground disturbed by this work.

(B) Penstock. Downstream of the Intake Structure is a steel penstock supported on concrete piers. PacifiCorp will decommission the penstock by: (i) removing the steel penstock; (ii) removing the concrete piers and burying on-site; and (iii) re-grading and re-seeding any ground disturbed by this work.

(C) Powerhouse. Downstream of the penstock is a rock masonry powerhouse containing one horizontal (above floor) turbine/generator unit. PacifiCorp will decommission the powerhouse by: (i) removing all generating and controls

equipment; (ii) disconnecting the powerhouse from PacifiCorp's electrical distribution system; and (iii) filling the penstock and discharge pipe openings in the powerhouse. The masonry powerhouse structure will remain in place on-site.

(D) Discharge Pipe. Exiting the Francis turbine/generator downstream of the powerhouse is a steel discharge pipe. PacifiCorp will decommission the discharge pipe by: (i) removing the lengths of pipe on either side of the county road and salvaging them or disposing of them off-site; (ii) leaving in place the section of discharge pipe located under the county road and filling this section of pipe with concrete slurry; and (iii) re-grading and re-seeding any ground disturbed by this work.

(E) Tailrace. At the downstream end of the discharge pipe is a concrete tailrace basin with a slide gate that allows water to be delivered to the Upper Southfield Ditch. PacifiCorp will decommission the tailrace basin by: (i) removing the concrete tailrace basin, associated slide gate and other old concrete structures; (ii) disposing of these concrete materials off-site or burying them on-site with the forebay and penstock concrete; and (iii) re-grading and re-seeding any ground disturbed by this work.

(F) Flume. Downstream of the tailrace basin is a steel pipe flume that crosses over Paris Creek and discharges the water that has passed through the Paris Project into an irrigation canal owned by the Paris Relief Canal Company. If the flume is not used as part of the new diversion structure of Paris Relief, PacifiCorp will decommission the flume by: (i) removing all steel and concrete structures; (ii) salvaging or disposing of all steel removed off-site; (iii) burying the concrete with the concrete from other removal activities, and (iv) re-grading and re-seeding any ground disturbed by this work.

(G) Employee House and Garage. There is an employee house, an associated freestanding garage, and an associated drain field located near the powerhouse. PacifiCorp will decommission the employee house by: (i) first abating asbestos in the house in compliance with all applicable Federal, state, and local law regarding the handling of asbestos; (ii) then demolishing the house and disposing of the material off-site (the concrete foundation will be buried on-site); (iii) leaving the free-standing garage in place surrounded and secured by an existing wire fence; (iv) servicing the septic tank and leaving the tank and drain field in place; and (v) re-grading and re-seeding any ground disturbed by this work.

(H) Paris Project Lands. Project lands consist of an approximately 30-acre parcel of real property owned by PacifiCorp (the "Paris Project Lands"). At the conclusion of decommissioning activities PacifiCorp will review options to dispose of Paris Project Lands. Potential options to be implemented at PacifiCorp's sole discretion include, but are not limited to: (i) retention of the Paris Project Lands, (ii) sale or transfer to a public agency the approximately one acre of Paris Project Lands comprising the Paris Creek frontage; and (iii) sale or transfer to a public or private entity the Paris Project Lands, including the empty powerhouse and empty garage with surrounding fence.

(I) Activities not included in the Decommissioning Proposal. The Decommissioning Proposal addresses only those facilities and structures that are part of the Paris Project (forebay to tailrace basin and flume). The Decommissioning Proposal does not address modification, decommissioning, or removal of any structures or facilities located upstream of the Paris Project forebay. For example, and without limitation, structures and facilities that are located upstream of the forebay and which are not part of the Paris Project and not part of the Decommissioning Proposal include: (i) the timber crib diversion structure located near Paris Spring on land administered by the USFS; (ii) the concrete intake structure located near Paris Springs on land administered by USFS; and (iii) the approximately four-mile-long irrigation/power canal crossing lands administered by the USFS, the BLM, and private land located between the Paris Springs diversion and intake structures and the Paris Project forebay. Any actions to be taken with regard to these structures or facilities, which are not part of the Paris Project, will be addressed through separate agreements between PacifiCorp and the USFS, between PacifiCorp and the BLM, between PacifiCorp and the affected private landowners, or between other parties.

7. Support for License Amendment Application and Decommissioning Application. The Parties will support the License Amendment Application and Decommissioning Application before FERC and any other adjudicator. No Party will oppose the License Amendment Application or the Decommissioning Application or advocate for material modifications to, or additional conditions on, the approval of the License Amendment Application or the Decommissioning Application.

8. Denial of Applications. If FERC denies either the License Amendment Application or the Decommissioning Application, then PacifiCorp may terminate this Agreement by providing written notice of termination to all other parties. If FERC has not issued orders approving the License Amendment Application and the Decommissioning Application within 120 days of PacifiCorp filing both applications with FERC, then PacifiCorp may, in its sole discretion, withdraw those applications and terminate this Agreement by providing written notice of termination to all other parties.

9. Acceptance or Rejection of Orders Approving Applications.

(A) Order Approving License Amendment Application. In the event FERC issues an order approving the License Amendment Application and the order, either initially or following conclusion of administrative or juridical review, or includes measures in addition to those identified in the License Amendment Application, then PacifiCorp may, at its sole discretion, accept or reject the proposed license amendment. If PacifiCorp rejects the proposed license amendment, it may withdraw its Decommissioning Application or reject any FERC order approving the Decommissioning Application. If FERC approves both the License Amendment Application and the Decommissioning Application without including additional measures or material modification, then PacifiCorp will accept the proposed license amendment.

October 11, 2021

(B) Order Approving Decommissioning Application. In the event FERC issues an order approving the Decommissioning Application and the order, either initially or following conclusion of administrative or juridical review, or includes measures in addition to, or materially inconsistent with, those identified in the Decommissioning Application, then PacifiCorp may, at its sole discretion, accept or reject the proposed conditions on decommissioning and surrender of the Paris Project license exemption. If PacifiCorp rejects FERC's order approving the decommissioning and surrender, PacifiCorp will withdraw its License Amendment Application or reject any FERC order approving the license amendment. If FERC approves both the License Amendment Application and the Decommissioning Application without including additional measures or material modification, then PacifiCorp will accept the terms and conditions of FERC's decommissioning and surrender order.

(C) Consequences of Rejection of License Amendment and Decommissioning/Surrender Order. If PacifiCorp rejects FERC orders approving the license amendment and the decommissioning/surrender pursuant to Section 9(A) and Section 9(B) of this Agreement, then PacifiCorp may terminate this Agreement by providing written notice of termination to all other parties.

10. PacifiCorp Approval of Out-of-Action Area PM&E Measure. If FERC issues orders approving amendment of Article 408(b) of the Bear River Project license and approving the Decommissioning Proposal and the surrender of the Paris Project license exemption, and if PacifiCorp accepts those FERC orders consistent with Section 9 of this Agreement, then PacifiCorp will provide the ECC with written approval of the ECC's proposal to fund design and construction of new irrigation intakes on the bypassed reach of Paris Creek as an out-of-Action Area habitat enhancement or restoration action under the Settlement Agreement.

11. ECC Funding of Design and Construction of New Irrigation Diversions. If FERC issues orders approving the License Amendment Application and the Decommissioning Application, and PacifiCorp accepts those orders pursuant to Section 9 of this Agreement, and PacifiCorp issues written approval of an out-of-Action Area habitat enhancement and restoration action pursuant to Section 10 of this Agreement, then the ECC will fund the design and construction of new irrigation diversions in the bypassed reach of Paris Creek. The purpose of the new irrigation diversions will be to provide functioning diversion structures for Paris Relief Canal Company and Upper South Field Irrigation Company ("Irrigators") so that they can continue to receive their irrigation water from Paris Creek once the Paris Project is decommissioned and Paris Creek water can no longer be delivered to the Paris Relief Canal Company's and Upper Southfield Irrigation Company's canal by way of the tailrace basin and flume at the downstream end of the Paris Project. PacifiCorp and Trout Unlimited shall be responsible for entering into a separate agreement with Paris Relief Canal Company, Upper Southfield Irrigation Company, and the Mattson family to address the specifics of the design and construction of the new irrigation intakes. The Parties' obligation to PacifiCorp under this Agreement is to use habitat enhancement funds established by the Settlement Agreement to fund the design and construction of the new irrigation intakes.

October 11, 2021

The ECC may, at its discretion, use other funding sources available to them to pay for all or part of the cost to design and construct the new irrigation intakes.

12. PacifiCorp to Cease Paris Project Water Diversion. PacifiCorp will cease diverting any water from Paris Creek for use by the Paris Project within 120 days after all of the following conditions precedent have been satisfied: (i) FERC issues orders approving the License Amendment Application and the Decommissioning Application; (ii) PacifiCorp accepts the orders approving the License Amendment Application and the Decommissioning application pursuant to Section 9 of this Agreement; (iii) PacifiCorp provides written approval of an out-of-Action Area habitat enhancement and restoration action as provided in Section 10 of this Agreement; (iv) the ECC funds the design and construction of new irrigation diversion in the bypassed reach of Paris Creek as provided in Section 11 of this Agreement; (v) the construction of the new irrigation diversion is completed and all obligations under the Memorandum of Understanding Regarding Paris Creek Project Decommissioning (between PacifiCorp, Paris Relief Canal Company, Upper Southfield Irrigation Company, Trout Unlimited, the City of Paris, and Eric, James and John Mattson) have been satisfied.

13. PacifiCorp Decommissioning of Paris Project. If all of the conditions precedent listed in Section 12 of this Agreement have occurred and PacifiCorp has ceased diverting any water from Paris Creek for use by the Paris Project consistent with Section 12 of this Agreement, then PacifiCorp will decommission the Paris Project consistent with the Decommissioning Proposal and the FERC order approving decommissioning of the Paris Project and surrender of the Paris license exemption.

14. Surrender of Paris Project License Exemption. If all of the conditions precedent listed in Section 12 of this Agreement have occurred and PacifiCorp has decommissioned the Paris Project as required by Section 13 of this Agreement, then PacifiCorp will surrender the Paris Project license exemption consistent with the FERC order approving decommissioning of the Paris Project and surrender of the Paris Project license exemption.

15. Disposition of Paris Project Water Rights. After PacifiCorp has permanently ceased operation of the Paris Project, PacifiCorp will provide notice to the Idaho Department of Water Resources that PacifiCorp has abandoned its water right for the Paris Project.

16. Dispute Resolution. Except to the extent that FERC or other agency with jurisdiction over the Paris Project or the Bear River Project has a procedure that precludes implementation of Sections 5.6.1 through 5.6.2 of the Bear River Settlement Agreement, all disputes among Parties regarding the obligations of the Parties under this Agreement shall, at the request of any Party, be the subject of a nonbinding alternative dispute resolution (“ADR”) procedure among the disputing Parties, as stated in Sections 5.6.1 through 5.6.3 of the Bear River Settlement Agreement.

17. General Provisions.

(A) Representations Regarding Consistency and Compliance with Statutory Obligations. By entering into this Agreement, USFWS, BLM, NPS, USFS, IDEQ, IDFG, and IDPR represent that they believe their statutory and other legal obligations are, or can be, met through implementation of this Agreement. Nothing in this Agreement shall be construed to limit any government agency with jurisdiction directly related to the surrender of the Paris Project license exemption or the amendment of the Bear River Project license from complying with its obligations under applicable laws and regulations or from considering public comments received in any environmental review or regulatory process related to the Paris Project or Bear River Project in accordance with this Agreement. This Agreement shall not be interpreted to predetermine the outcome of any environmental or administrative review or appeal process.

(B) Conditions Precedent and Conditions Subsequent. The Parties respective obligations to perform this Agreement are subject to conditions precedent and conditions subsequent, as more fully set forth in Sections 8 to 14 above.

(C) Paragraph Titles for Convenience Only. The titles for the paragraphs of this Agreement are used only for convenience of reference and organization, and shall not be used to modify, explain, or interpret any of the provisions of this Agreement or the intentions of the Parties. Reference to a given section of this Agreement shall be deemed to include all subsections of that section.

(D) No Third-Party Beneficiaries. Without limiting the applicability of rights granted to the public pursuant to applicable law, this Agreement shall not create any right or interest in the public, or any member of the public, as a third-party beneficiary of this Agreement and shall not authorize any non-Party to maintain a suit at law or equity pursuant to this Agreement. The duties, obligations, and responsibilities of the Parties with respect to third parties shall remain as imposed under applicable law.

(E) Successors and Assigns. This Agreement shall apply to and be binding on the Parties and their successors and approved assigns. Upon completion of a succession or assignment, the initial Party shall no longer be a Party to this Agreement, but shall remain secondarily liable for the performance of the assignee. No change in ownership of the Paris Project or the Bear River Project or transfer of the existing exemption or license by PacifiCorp shall in any way modify or otherwise affect any other Party's interests, rights, responsibilities, or obligations under this Agreement. Unless prohibited by applicable law, PacifiCorp shall provide in any transaction for a change in ownership of the Paris Project or Bear River Project or transfer of the existing exemption or license that such new owner or owners shall be bound by and shall assume the rights and obligations of this Agreement upon completion of the change of ownership and approval by FERC of the exemption or license transfer or transfers. A transferring or assigning Party shall provide notice to the other Parties at least 60 days prior to completing such transfer or assignment.



(F) Failure to Perform Due to Force Majeure. No Party shall be liable to any other Party for breach of this Agreement as a result of a failure to perform or for delay in performance of any provision of this Agreement if such performance is delayed or prevented by force majeure. The term "force majeure" means any cause reasonably beyond the affected Party's control, whether unforeseen, foreseen, foreseeable, or unforeseeable, and without the fault or negligence of the affected Party. Force majeure may include, but is not limited to, natural events, labor or civil disruption, breakdown or failure of Project works, orders of any court or agency having jurisdiction of the Party's actions, or delay in issuance of any required permit. Increased cost for the performance of any decommissioning measures or change in market conditions for the sale of electricity shall not be deemed to constitute force majeure, provided that PacifiCorp will not be obligated to perform measures in excess of the commitments specified in this Agreement. The Party whose performance is affected by force majeure shall notify the other Parties in writing within seven days after becoming aware of any event that such affected Party contends constitutes force majeure. Such notice will identify the event causing the delay or anticipated delay, estimate the anticipated length of delay, state the measures taken or to be taken to minimize the delay, and estimate the timetable for implementation of the measures. The affected Party shall make all reasonable efforts to promptly resume performance of this Agreement and, when able, to resume performance of its obligations and give the other Parties written notice to that effect.

(G) Governing Law. The Paris Project license exemption, the Bear River Project license, and any other terms of this Agreement over which a federal agency has jurisdiction shall be governed, construed, and enforced in accordance with the statutory and regulatory authorities of such agency. This Agreement shall otherwise be governed and construed under the laws of the state of Idaho. By executing this Agreement, no federal agency is consenting to the jurisdiction of a state court unless such jurisdiction otherwise exists. By executing this Agreement, no state agency or officer is consenting to the jurisdiction of a federal court unless such jurisdiction otherwise exists. All activities undertaken pursuant to this Agreement shall be in compliance with all applicable law.

(H) Notices. Except as otherwise provided in this Section 17(H), any notice required by this Agreement shall be written. It shall be sent by first-class mail or comparable method of distribution to all Parties still in existence and shall be filed with FERC. For the purpose of this Agreement, a notice shall be effective seven days after the date on which it is mailed or otherwise distributed. For the purpose of notice, the list of authorized representatives of the Parties as of the Effective Date is attached as Appendix A. The Parties shall provide notice of any change in the authorized representatives designated in Appendix A, and PacifiCorp's Environmental Coordinator under the Bear River Settlement Agreement shall maintain the current distribution list of such representatives.

October 11, 2021

(I) Signing Authority. Each signatory to this Agreement certifies that he or she is authorized to execute this Agreement and to legally bind the Party he or she represents, and that such Party shall be fully bound by the terms hereof upon such signature without any further act, approval, or authorization by such Party.

(J) Counterpart Signatures. This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument as if all the signatory Parties to all of the counterparts had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures, and may be attached to another counterpart of this Agreement identical in form having attached to it one or more signature pages.

(K) Entire Agreement. This Agreement sets forth the entire agreement and process of the Parties with regard to decommissioning of the Paris Project and the amendment of Section 3.2.1.a of the Bear River Settlement Agreement.

(L) Waiver of Jury Trial. To the fullest extent permitted by law, each of the Parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this Agreement. Each Party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

(M) No Partnership. Except as otherwise expressly set forth herein, this Agreement does not, and shall not be deemed to, make any Party the agent for or partner of any other Party.

October 11, 2021

The foregoing terms and conditions are hereby **AGREED:**

**PacifiCorp:**

**Tim Hemstreet**

Digitally signed by Tim  
Hemstreet  
Date: 2021.11.23 16:21:29  
-08'00'

\_\_\_\_\_  
Timothy Hemstreet  
Managing Director  
PacifiCorp–Renewable Resources

November 23, 2021  
Date

October 11, 2021

The foregoing terms and conditions are hereby **AGREED**:

**U.S. Department of Agriculture – Forest Service:**

MARY  
FARNSWORTH

Digitally signed by MARY  
FARNSWORTH  
Date: 2022.01.12  
11:05:23 -07'00'

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Mary Farnsworth  
Regional Forester  
Intermountain Regional Office

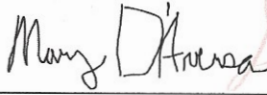
---

Date

October 11, 2021

The foregoing terms and conditions are hereby **AGREED**:

**U.S. Department of Interior – Bureau of Land Management:**



Digitally signed by MARY  
D'AVERSA  
Date: 2021.11.24 11:47:28  
-07'00'

---

Mary D'Aversa  
Idaho Falls District Manager

---

Date

October 11, 2021

The foregoing terms and conditions are hereby **AGREED:**

**National Park Service:**

**FRANK LANDS** Digitally signed by FRANK LANDS  
Date: 2022.02.08 16:56:31 -08'00'

---

Frank Lands  
Regional Director  
National Park Service  
Interior Regions 8, 9, 10 and 12

---

Date

October 11, 2021

The foregoing terms and conditions are hereby **AGREED:**

**U.S. Department of Interior – Fish and Wildlife Service:**

*Sandra M. Fisher*  
Sandi Fisher  
Deputy State Supervisor  
Idaho Fish and Wildlife Offices

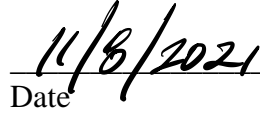
15 December 2021  
Date

October 11, 2021

The foregoing terms and conditions are hereby **AGREED**:

**Idaho Department of Environmental Quality:**

  
\_\_\_\_\_  
Jess Byrne  
Director

  
\_\_\_\_\_  
Date



October 11, 2021

The foregoing terms and conditions are hereby **AGREED**:

**Idaho Department of Fish and Game:**

  
\_\_\_\_\_  
Ed Schriever  
Director

11/12/2021  
Date

October 11, 2021

The foregoing terms and conditions are hereby **AGREED**:

**Idaho Department of Parks and Recreation:**



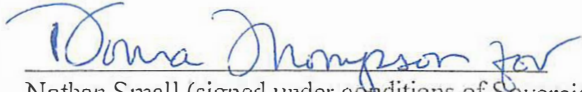
Susan E. Buxton  
Director

2/8/2022  
Date

October 11, 2021

The foregoing terms and conditions are hereby **AGREED**:

**Shoshone-Bannock Tribe:**



Nathan Small (signed under conditions of Sovereign Immunity Notice provided below)  
Chairman  
Fort Hall Business Council

10.2.21

Date

*Sovereign Immunity Notice: By executing this Agreement and agreeing to its terms, the Shoshone-Bannock Tribes do not waive their sovereign immunity. The Shoshone-Bannock Tribes specifically preserve and maintain their sovereign immunity and any and all rights appurtenant thereto.*

October 11, 2021

The foregoing terms and conditions are hereby **AGREED:**

**Trout Unlimited:**

**Kira Finkler**  
Digitally signed by Kira Finkler  
DN: cn=Kira Finkler, o=Trout Unlimited, ou,  
email=kira.finkler@tu.org, c=US  
Date: 2021.10.28 14:19:33 -0600

---

Kira Finkler  
Director  
Idaho Water and Habitat Program

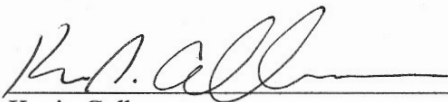
---

Date

October 11, 2021

The foregoing terms and conditions are hereby **AGREED**:

**American Whitewater:**



Kevin Colburn  
National Stewardship Director

11/2/2021  
Date

October 11, 2021

The foregoing terms and conditions are hereby **AGREED:**

**Greater Yellowstone Coalition:**

Kathryn Rinaldi  
Kathy Rinaldi  
Idaho Conservation Coordinator

November 7, 2021  
Date

October 11, 2021

The foregoing terms and conditions are hereby **AGREED**:

**Idaho Rivers United:**



\_\_\_\_\_  
Nic Nelson  
Executive Director

Dec. 16, 2022  
\_\_\_\_\_  
Date

October 11, 2021

APPENDIX A  
AUTHORIZED REPRESENTATIVES OF THE PARTIES



PARIS CREEK RESTORATION AGREEMENT AUTHORIZED REPRESENTATIVES OF THE PARTIES	
ECC Representative	Authorized Signatory
<p>Mark Stenberg Senior Operations Project Manager PacifiCorp – Renewable Resources 822 Grace Power Plant Road Grace, ID 83241 <a href="mailto:mark.stenberg@pacificorp.com">mark.stenberg@pacificorp.com</a></p>	<p>Timothy Hemstreet Managing Director Renewable Energy–PacifiCorp Lloyd Center Tower Rm 1800 825 NE Multnomah Portland, OR 97232 <a href="mailto:tim.hemstreet@pacificorp.com">tim.hemstreet@pacificorp.com</a></p>
<p>Corey Lyman Fisheries Biologist USDA–Forest Service 1405 Hollipark Drive Idaho Falls, ID 83401 <a href="mailto:corey.lyman@usda.gov">corey.lyman@usda.gov</a></p>	<p>Mary Farnsworth Regional Forester USDA Forest Service Intermountain Regional Office 324 25th Street Ogden, UT 84401 <a href="mailto:mary.farnsworth@usda.gov">mary.farnsworth@usda.gov</a></p>
<p>Ryan Beatty Fisheries Biologist Bureau of Land Management 1405 Hollipark Drive Idaho Falls, ID 83401 <a href="mailto:rbeatty@blm.gov">rbeatty@blm.gov</a></p>	<p>Mary D'Aversa Idaho Falls District Manager Bureau of Land Management Idaho Falls District Office 1405 Hollipark Drive Idaho Falls, ID 83401 <a href="mailto:mdaversa@blm.gov">mdaversa@blm.gov</a></p>
<p>Matt Bringhurst Wildlife Biologist – Conservation Partnerships U.S. Fish and Wildlife Service 4425 Burley Drive, Suite A Chubbuck, ID 83202 <a href="mailto:Matthew_Bringhurst@fws.gov">Matthew_Bringhurst@fws.gov</a></p>	<p>Sandi Fisher Deputy State Supervisor USFWS Eastern Idaho Field Office 4425 Burley Drive, Suite A Chubbuck, ID 83202 <a href="mailto:sandi_fisher@fws.gov">sandi_fisher@fws.gov</a></p>
<p>Susan Rosebrough Project Manager National Park Service 909 First Avenue Seattle, WA 98104-1060 <a href="mailto:susan_rosebrough@nps.gov">susan_rosebrough@nps.gov</a></p>	<p>Frank Lands Regional Director National Park Service Interior Regions 8, 9, 10, and 12 333 Bush Street, Suite 500 San Francisco, CA 94104-2828 <a href="mailto:PWR_Regional_Director@nps.gov">PWR_Regional_Director@nps.gov</a></p>
<p>Lynn Van Every Water Quality Regional Manager Idaho Department of Environmental Quality 444 Hospital Way #300 Pocatello, ID 83201 <a href="mailto:Lynn.Vanevery@deq.idaho.gov">Lynn.Vanevery@deq.idaho.gov</a></p>	<p>Jess Byrne Director Idaho Department of Environmental Quality 1410 N. Hilton Boise, ID 83706 <a href="mailto:Jess.Byrne@deq.idaho.gov">Jess.Byrne@deq.idaho.gov</a></p>

PARIS CREEK RESTORATION AGREEMENT AUTHORIZED REPRESENTATIVES OF THE PARTIES	
ECC Representative	Authorized Signatory
<p>Carson Watkins Regional Fisheries Manager Idaho Department of Fish and Game 1345 Barton Road Pocatello, ID 83204 <a href="mailto:carson.watkins@idfg.idaho.gov">carson.watkins@idfg.idaho.gov</a></p>	<p>Ed Schriever Director Idaho Department of Fish and Game P.O. Box 25 Boise, ID 83707 <a href="mailto:ed.schriever@idfg.idaho.gov">ed.schriever@idfg.idaho.gov</a></p>
<p>Open</p>	<p>Susan E. Buxton Director Idaho Dept. of Parks and Recreation PO Box 83720 Boise ID 83720-0065 <a href="mailto:susan.buxton@idpr.idaho.gov">susan.buxton@idpr.idaho.gov</a></p>
<p>Hunter Osborne Fisheries Department Shoshone-Bannock Tribes P.O. Box 306 Fort Hall, ID 83203 <a href="mailto:hosborne@sbtribes.com">hosborne@sbtribes.com</a></p>	<p>Devon Boyer Chairman, Fort Hall Business Council Shoshone-Bannock Tribe P.O. Box 306 Ft. Hall, Idaho 83203 <a href="mailto:dboyer@sbtribes.com">dboyer@sbtribes.com</a></p>
<p>James DeRito Bear River Project Coordinator Trout Unlimited 44 W Spring Creek Pkwy Providence, UT 84332 <a href="mailto:JDeRito@tu.org">JDeRito@tu.org</a></p>	<p>Kira Finkler Director, Idaho Water and Habitat Program Trout Unlimited 910 W Main St., Suite 342 Boise, ID 83702 <a href="mailto:kfinkler@tu.org">kfinkler@tu.org</a></p>
<p>Charles Vincent Regional Coordinator American Whitewater 1800 E 3990 So Salt Lake City, UT 84124 <a href="mailto:clvincent@xmission.com">clvincent@xmission.com</a></p>	<p>Kevin Colburn National Stewardship Director American Whitewater P. O. Box 1540 Cullowhee, NC 28723 <a href="mailto:kevin@americanwhitewater.org">kevin@americanwhitewater.org</a></p>
<p>Allison Michalski Idaho Conservation Associate Greater Yellowstone Coalition 60 E. Little Ave., Suite 101 PO Box 1072 Driggs, ID 83422 <a href="mailto:amichalski@greateryellowstone.org">amichalski@greateryellowstone.org</a></p>	<p>Kathy Rinaldi Idaho Conservation Coordinator Greater Yellowstone Coalition 60 E. Little Ave., Suite 101 PO Box 1072 Driggs, ID 83422 <a href="mailto:krinaldi@greateryellowstone.org">krinaldi@greateryellowstone.org</a></p>
<p>Kevin Lewis Conservation Director Idaho Rivers United P.O. Box 633 Boise, ID 83701 <a href="mailto:kevin@idahorivers.org">kevin@idahorivers.org</a></p>	<p>Nic Nelson Executive Director Idaho Rivers United P.O. Box 633 Boise, ID 83701 <a href="mailto:nic@idahorivers.org">nic@idahorivers.org</a></p>

**Attachment B:  
Environmental Assessment for  
Paris Project Decommissioning**

# **ENVIRONMENTAL ASSESSMENT: PARIS CREEK RESTORATION PROJECT**

**FERC PROJECT NO. 703  
PARIS CREEK, BEAR LAKE COUNTY, IDAHO**



Prepared by: Cirrus Ecological Solutions, LC  
Logan, Utah



February 21, 2023

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# 1. APPLICATION

## 1.1 APPLICANT'S NAME

PacifiCorp, a subsidiary of Berkshire Hathaway Inc.

## 1.2 TYPE

Surrender of a Federal Energy Regulatory Commission (FERC) license exemption for PacifiCorp's 715-kilowatt Paris Hydroelectric Project, FERC Project No. 703 (Paris Project), to allow decommissioning. An associated action includes an application to FERC to amend the Bear River Hydroelectric Project, FERC Project No. 20 (Bear River Project) license to authorize a reduction in minimum flows in the bypass reach of the Grace Development.

These two actions are components of the October 2021, *Paris Creek Restoration Agreement* (Restoration Agreement) between PacifiCorp and the Environmental Coordinating Committee (ECC) established by the FERC license for the Bear River Project.

This environmental assessment discusses the removal of Paris Project facilities included in the FERC license exemption as well as Paris Project facilities outside of the FERC license exemption (non-FERC facilities) along with the reduction in minimum flows in the Grace Development bypass reach. Based on the interconnectedness of these elements, decommissioning of the Paris Project, and reducing required minimum flows in the Grace Development bypass reach, as defined by the National Environment Policy Act, they should be discussed in the same environmental document (40 CFR 1508.25[a][1]). (See section 2.1 below.) Collectively, these elements are the proposed action.

## 1.3 PROJECT SIZE AND LOCATION

The Bear River basin is a 7,600-square mile watershed located in three states, encompassing approximately 3,300 square miles in Utah, 2,700 square miles in Idaho, and 1,500 square miles in Wyoming. The headwaters are in the Uinta Mountains of Utah. The Bear River follows a circuitous 500-mile route, crossing the Utah-Wyoming state line three times before flowing into Idaho, then turning south and returning to Utah and ultimately flowing into the Great Salt Lake, less than 100 miles from its headwaters.

The watershed includes arable and non-arable lands situated in the valleys and up to the ridgelines along the main stem of the river and its tributaries. Elevations range from 4,200 feet in the arable valleys up to 13,000-foot peaks in the upper reaches of the watershed, where glacially carved cirque basins serve as catchment areas for precipitation varying annually from 10 to 65 inches.

Bear Lake, a natural lake that also provides important off-stream storage for use by irrigators in the Bear River watershed, is located about 69-miles upstream of the Grace Development in Bear Lake County, Idaho, extending south into Utah. The lake is 19 miles long, 7.5 miles wide, and has a surface area of 110 square miles.

The watershed is mostly rural, including areas of forest, mountains, valleys, and open rangelands, with widely dispersed homes, farms and ranches, and small towns. Agriculture accounts for most water use in the Bear River basin. Surface and ground water are used to irrigate over 60,000 acres of cropland.

The Paris Project, operated under a license exemption and not part of the Bear River Project, is located on Paris Creek north of Bear Lake with historical tributary connectivity to the Bear River. The Paris Project area occupies 30 acres in Paris Canyon, east of the town of Paris, Idaho. Operation of the Paris Project includes FERC regulated and non-FERC infrastructure that diverts water from Paris Creek 250 feet below

Paris Springs and conveys it to the Paris Project. The non-FERC facilities are included in the Restoration Agreement and discussed in this environmental assessment.

**Paris Project FERC license exemption facilities include: (1) a 0.50-surface-acre forebay with a concrete intake structure and a headgate that was formerly used to deliver a water right farther down the historic canal; (2) a penstock intake headgate attached to a 1,300-foot-long steel penstock leading to the powerhouse; (4) an overflow spillway; (5) a 35-by-70-foot powerhouse containing a single above-ground Francis turbine; (6) a steel discharge tailrace pipe and a concrete tailrace structure that can deliver water to two irrigation companies and return water beyond the irrigation rights to Paris Creek; (7) operator housing; (8) a garage; and (9) a transformer and overhead transmission line connection to PacifiCorp's power system.**

**Non-FERC Paris Project facilities include (1) a 2-foot-high by 32-foot-long log timber and concrete diversion structure; (2) a 9-foot-wide concrete canal intake structure with two headgates; and (3) an approximately 3.6-mile conveyance canal.**

The Bear River Project as a whole, comprises PacifiCorp's Soda, Grace, and Oneida developments, and has an installed power generation capacity of 77 MW. The Grace Development has an installed capacity of 33 MW. The Grace Development is located near Grace, Idaho. The project components of the Grace Development include: (1) a 51-foot-high dam with a 38-surface-acre forebay; (2) a 4.9-mile flowline and penstock; (3) a 40 by 170 foot powerhouse containing three Francis turbines; (4) substation and appurtenant equipment; (5) and the 6.5-mile bypass reach (the Bear River between Grace Dam and the Grace Powerhouse tailrace).

## **1.4 FEDERAL LANDS OCCUPANCY**

The Grace bypass reach passes through a section of BLM-administered land. However, the proposed action would not affect this federal land.

The Paris Project FERC facilities occupy no federal lands.

The diversion structure and upper 0.78 miles of the irrigation canal, which are non-FERC Paris Project facilities, lie on land administered by the U.S. Forest Service (USFS). They are permitted under a special use authorization. An additional, 0.54 mile of the non-FERC, irrigation canal, is on land administered by the U.S. Bureau of Land Management (BLM).

Removal of the diversion structure and abandonment of the canal would affect federal land. The USFS has authorized this work under a 2022 categorical exclusion (USFS 2022). The BLM has authorized this work pursuant to an agreement between PacifiCorp and BLM.

## **2. PURPOSE AND NEED**

### **2.1 BACKGROUND**

In September 1999, PacifiCorp filed license applications for the Soda, Grace-Cove, and Oneida Hydroelectric Projects, (FERC Project Nos. 20, 2401, and 472), and the FERC initiated the environmental analyses for relicensing the projects, pursuant to the Federal Power Act (FPA) and the U.S. Department of Energy (DOE) Organization Act. PacifiCorp and stakeholders signed a comprehensive settlement agreement (Bear River Settlement Agreement; PacifiCorp 2003) in August 2003, resolving all issues pertaining to relicensing.

An environmental impact statement (Bear River EIS; FERC 2003) addressing PacifiCorp's proposal was completed in April 2003, and the FERC issued a 30-year operational license (Project license) for the Bear River Project (FERC Project No. 20), consolidating the three previous licenses, in December 2003.

The *Bear River Settlement Agreement* (section 4) and the Project license (Article 402) called for establishment of an Environmental Coordination Committee (ECC) comprised of stakeholder representatives. The group is a consulted entity in the development of various adaptive management and monitoring plans. It has a pivotal role in the administration of post-licensing activities, including the development and implementation of long-term measures to protect and enhance aquatic resources in the project area.

The settlement agreement (section 3.1) and the new license (Article 403) went on to identify various types of fish protection and enhancement measures, specifically for the Bonneville cutthroat trout (BCT), an Idaho species of concern.

Under the settlement agreement, habitat enhancement and restoration actions were intended to occur primarily within an action area defined as the Bear River and land drained by the Bear River and its tributaries below the point of confluence of the Bear Lake Outlet Canal with the mainstem Bear River and above the Idaho-Utah border. However, the ECC is authorized to pursue and fund habitat enhancement and restoration actions outside this action area with PacifiCorp agreement.

In accordance with this license direction, PacifiCorp and the ECC intend to pursue a significant opportunity to restore cold-water habitat for BCT located outside of the action area. Specifically, the ECC intends to contribute aquatic resource restoration funds available under the settlement agreement and to provide other in-kind support to facilitate the decommissioning of the Paris Project, restoring access to an important expanse of BCT spawning habitat.

To partially offset both the decommissioning costs and 2,264 Mwh of lost power generation by decommissioning the Paris Project, PacifiCorp negotiated with the ECC, the parties to the Bear River Settlement Agreement, to reduce minimum flows in the Grace bypass reach established in (Article 408[b]) from 63 cfs to 48 cfs or inflow. This would provide PacifiCorp with an additional 15 cfs to generate power at the Grace Development through the remaining term of the Bear River Project license. In the Restoration Agreement, the parties agreed to this approach and agreed that PacifiCorp would seek FERC approval to decommission the Paris Project and amend the Bear River Project license.

## **2.2 PURPOSE OF AND NEED FOR ACTION**

The purpose of the proposed action is to meet the intent of the Bear River Settlement Agreement and the Project license regarding enhancement of BCT restoration and other aquatic habitat enhancements in the Bear River system. Specific criteria considered in this decision included the relative costs and long-term benefits in terms of:

- Riparian health.
- Water quality.
- BCT population viability.
- Hydrology.

The needs to be met in accomplishing this purpose are to:

- Surrender the FERC license exemption for the Paris Project.  
Cease operations and remove or otherwise decommission the Paris Project FERC facilities, as well as non-FERC Paris Project facilities, to restore Paris Creek flow.
- Amend the FERC license for the Bear River Project to reduce the minimum instream flow requirement below the Grace Development.



## **2.3 NEED FOR POWER**

The proposed decommissioning of the Paris Project would result in a net loss of power generation, and the need for power was a consideration in developing the Restoration Agreement. The Grace Development has produced an average of 148,353 MWh/year. Lost generation from the elimination of the Paris Project would be partially offset by the addition of 15 cfs to the Grace Development due to the reduced minimum flow requirement in the Grace bypass reach included in the Restoration Agreement.

## **3. PROPOSED ACTION AND ALTERNATIVES**

The proposed action (section 3.1) incorporates the pertinent terms of the Restoration Agreement (section 2.1). The no-action alternative (section 3.2) is defined, in accordance with NEPA and the CEQ regulations regarding its implementation (40 CFR 1502.14), as not undertaking the proposed action.

### **3.1 PROPOSED ACTION**

#### **3.1.1 PARIS PROJECT DECOMMISSIONING**

The proposed action would remove the following Paris Project FERC facilities on PacifiCorp-owned land: the intake structure and slide gate at the forebay head, the penstock and its intake structure, powerhouse equipment, part of the tailrace structure, and operator housing. The powerhouse building, the garage, and a portion of the tailrace flume needed to reconnect the irrigation company on the far side of Paris Creek to a new diversion structure will remain.

Non-FERC Paris Project facilities to be removed include the 2-foot-high by 32-foot-long diversion structure and headgate diverting water into the 3.6-mile conveyance canal. This work would be on USFS-administered land. A new diversion structure upstream of the Project tailrace would be constructed on Paris Creek to supply the existing irrigation companies that receive water from the Project tailrace. Trout Unlimited, a party to the Restoration Agreement, is taking the lead in construction of this new irrigation diversion. A joint permit application was submitted to the U.S. Army Corp of Engineers and the Idaho Department of Water Resources for the construction of this new irrigation intake and the connection of it to the canals that are currently connected to the Paris Project tailrace. Figure 1 shows the project area, including the Paris Project FERC facilities to be removed on PacifiCorp land and the non-FERC Paris Project facilities to be removed on USFS lands.

Following the decision to propose the decommissioning of the Paris Project, PacifiCorp and the ECC began collaborative discussions of how decommissioning would proceed. The objectives were to remove the Paris Project facilities and restore site conditions, particularly BCT access to habitat, while maintaining water delivery to irrigation companies and minimizing disturbance during feature removal.

Decommissioning work would be completed by PacifiCorp, in accordance with the Restoration Agreement. Removal plans were developed by a qualified engineering firm with guidance from PacifiCorp and the ECC. Facility removal and site restoration would be contracted through a competitive bidding process administered by PacifiCorp. Trout Unlimited would take the lead in overseeing the design and construction of the new fish-friendly irrigation intakes for the two irrigation companies that currently receive their water directly from the tailrace and would reconnect to the proposed diversion above the tailrace. The new irrigation intake structure is being constructed off PacifiCorp lands and is not within the FERC Paris Project. After decommissioning of the FERC Paris Project facilities water delivery pipes will cross PacifiCorp lands to connect the new irrigation diversion structure to irrigation company infrastructure.



**Figure 1. Paris Project decommissioning.**

The Paris Creek restoration project includes a sequence of steps to accomplish the work. The initial phase of the restoration project would be construction of a new irrigation diversion structure in Paris Creek approximately 0.25 mile upstream of the tailrace to deliver water to the canal companies. This first phase would not involve work with the FERC Paris Project and would not impact any of the Paris Project works subject to the FERC license exemption. Construction would be completed while Paris Creek flows were diverted through the powerhouse to minimize potential sediment transport. A fish screen would be included in the new irrigation diversion to protect fish over the full range of creek flows.

The second phase of the restoration project is decommissioning of the FERC Paris Project facilities which would involve demolition and removal of the forebay structures, removal of the penstock and grading of the site. Heavy equipment would be utilized to complete this phase. All concrete and rubble associated with demolition of the structures would be buried in designated locations on site, where it would facilitate grading. Decommissioning the powerhouse and demolition of the operator house would conclude removal of Paris Project FERC facilities. The powerhouse building would remain intact. All existing equipment, supplies and furnishings will be removed. Floor penetrations for the penstock and tailrace will be filled with concrete. Building will be secured to ensure public safety. The operator house would be demolished after asbestos abatement and disposed of off-site, except for the house foundation which would be broken up and buried in designated locations on site.

The third phase of work would be removal and demolition of the non-FERC diversion structure and headgate on the USFS. Access to the diversion structure would follow the existing canal, which would be partially recontoured and replanted as equipment was removed. Removal plans would minimize the potential for sediment transport by: (1) using a portion of the canal to access the headgate and diversion structure; (2) conducting the work during the fall low flow period; (3) draining of the canal and pulling stop logs in the diversion to lower the forebay as much as possible; (4) the diversion structure would be breached on its north end to further dewater the area above the diversion to remove water from the area of structure removal; (6) establishing streambed and channel banks; and (7) stabilizing and revegetating disturbed areas as part of removal work.

The final phase would be revegetation and/or seeding of all disturbed areas at the diversion and canal on USFS, canal alignment on BLM, forebay, penstock, house site and tailrace. Temporary sediment control measures (e.g., silt fencing, membrane, and straw bales) installed before and during construction would be left in place until these areas were considered stable and vegetation established.

The restoration project would restore natural flows in 3.5 miles of headwater BCT habitat.

### **3.1.2 GRACE BYPASS REACH MINIMUM FLOW REDUCTION**

Figure 2 shows the Grace bypass reach area. Minimum flows in the bypass reach are typically observed from October 15 through May 15, outside the irrigation season, when releases of water stored in Bear Lake for irrigation cease. If Bear River flows into the Grace Development outside the irrigation season are 63 cfs or less, the current license requires PacifiCorp pass all flows into the bypass reach, so no generation is possible.

The proposed action would reduce the minimum flow requirement for the Grace bypass reach from 63 cfs to 48 cfs. This would provide PacifiCorp 15 cfs of additional flow for power generation at the Grace powerhouse, which would partially offset the loss of generation at the Paris Project and the cost of decommissioning. No structural changes would be required.

### **3.1.3 OTHER CONDITIONS**

Consultation with the various agencies through the ECC over the decommissioning of the Paris Project and reduction in minimum flows in the Grace bypass reach resulted in a number of conditions to ensure compliance with federal and state agencies. These are discussed below.



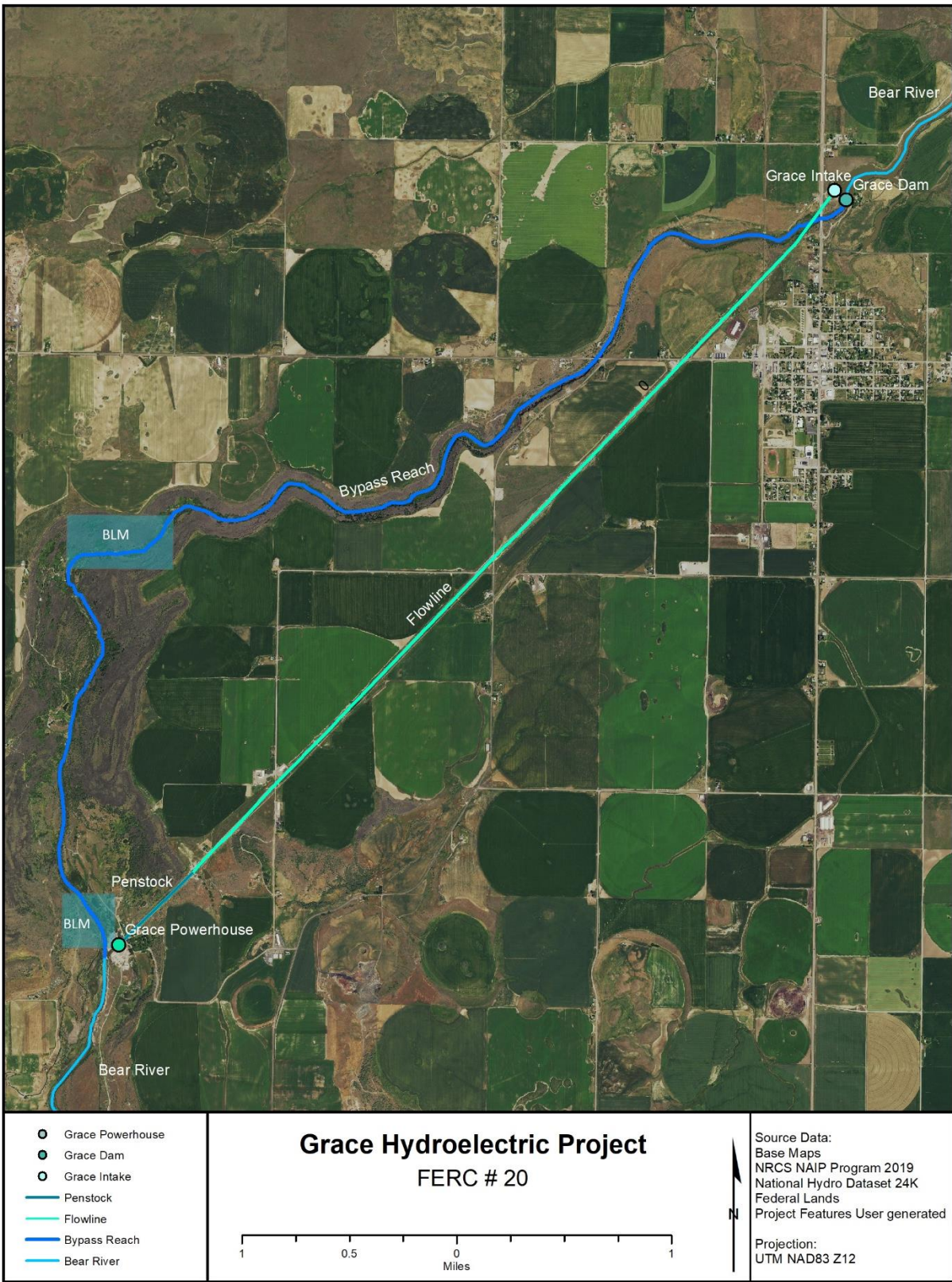


Figure 2. Grace bypass reach.

### **Water Quality**

The reduction in minimum flows in the Grace Development bypass reach does not require a modification of the 401 Water Quality Certification for the Bear River Project. IDEQ is in the process of reviewing the 404 permit application for 401 CWA Water Quality Certification for the actions to remove the non-FERC facilities on the USFS and the construction of the new irrigation diversion structure on Paris Creek.

### **Wetlands**

Removal of in-water structures in jurisdictional waters in Paris Creek will require a 404 permit from the USACE. No dredge or fill material will be discharged into the delineated areas. Where appropriate, silt fencing will be erected to prevent upland soil and debris from falling within the ordinary highwater mark of Paris Creek. A Stream Alteration Permit would also be required from Idaho Department of Water Resources (IDWR) for the in-water work. The IDWR permit is applied for jointly with the 404 permit application.

### **Livestock Grazing**

Cattle ranchers use the existing Paris Project canal for stock water. The proposal to cease diverting water into the canal would result in lost access to this water source. PacifiCorp, the ECC, and IDEQ are providing assistance to these organizations to implement their plans to develop alternative stock-water systems.

### **Cultural Resources**

Impacts on cultural resources would be mitigated through specific measures and protocols described in a Memorandum of Agreement (MOA). The MOA was developed in consultation with the Idaho SHPO, USFS, and BLM and has been through final review with these agencies. The cultural resource studies and draft MOA have been provided to the Shoshone Bannock Tribe for review and comment. The MOA was submitted to FERC in December of 2022 for their review. FERC will circulate for signatures.

## **3.2 NO-ACTION ALTERNATIVE**

Under the no-action alternative, the Paris Project would not be decommissioned. Project facilities would remain in place, and current operations would continue. Water would continue to be bypassed around 3.5 miles of Paris Creek. The minimum flow limit for the Grace bypass reach would remain at 63 cfs, as authorized under the current license.

## **3.3 SUMMARY AND COMPARISON OF IMPACTS**

The analysis documented in section 5 of this report indicates that implementation of the proposed action or the alternatives addressed in detail would have no significant environmental impact. The impacts of the proposed action and no-action alternative, in terms of the four resource issues analyzed in depth, are summarized and compared in Table 1.

<b>Table 1. Summary and comparison of impacts.</b>		
	<b>Proposed Action</b>	<b>No-Action Alternative</b>
<b>Water Quantity and Quality</b>	<ul style="list-style-type: none"> <li>• Flows are reduced in the bypass reach at Grace.</li> <li>• Water temperature may be altered in the bypass reach.</li> <li>• Natural flows returned to Paris Creek.</li> <li>• Short-term increase in turbidity levels during removal of diversion structure and construction of new diversion downstream.</li> </ul>	<ul style="list-style-type: none"> <li>• Flows in the bypass remain in the Bear River.</li> <li>• Existing flow patterns remain in Paris Creek.</li> <li>• No transport of sediment loads associated with decommissioning.</li> </ul>
<b>Fisheries and Aquatic Resources</b>	<ul style="list-style-type: none"> <li>• Enhanced fish movement in Paris Creek.</li> <li>• Habitat improvement in Paris Creek.</li> <li>• Enhanced potential trout spawning areas and in Paris Creek.</li> <li>• Enhanced cold-water species migration in Paris Creek above powerhouse.</li> <li>• Improved access to the upstream reaches for native fish.</li> </ul>	<ul style="list-style-type: none"> <li>• Fishery remains limited due to higher temperatures and low flow.</li> </ul>
<b>Wetland and Riparian Resources</b>	<ul style="list-style-type: none"> <li>• Wetland functions and values enhanced in Paris Creek.</li> <li>• Susceptible to colonization by noxious weeds during restoration.</li> <li>• Greater need for effective revegetation and weed control.</li> </ul>	<ul style="list-style-type: none"> <li>• Wetland functions and values unchanged.</li> <li>• No additional need for effective revegetation and weed control.</li> </ul>
<b>Cultural Resources</b>	<ul style="list-style-type: none"> <li>• Features of the historic district would be removed.</li> </ul>	<ul style="list-style-type: none"> <li>• Features of the historic district would not be affected.</li> </ul>

## 4. CONSULTATION AND COMPLIANCE

Consultation with relevant regulatory agencies and with the public is a key aspect of federal environmental review requirements. Further, a number of federal and state laws bear on projects of this nature and require consultation. This section outlines the agency and public consultation activities undertaken in the course of this project and the efforts to comply with applicable federal and state regulations.

### 4.1 CONSULTATION

#### 4.1.1 SCOPING

Scoping is the process of soliciting input from other agencies and the public to determine the range of actions, alternatives, and impacts to be considered in an environmental review document (40 CFR 1508.25). For this proposed action, scoping to date has been accomplished through interaction with ECC which, as described below, includes a wide range of agencies and organizations who are stakeholders in the management of the Bear River Project. This is consistent with the role of the ECC as defined in the current FERC license. Issues and concerns identified through ECC interaction are listed in sections 4.1.2 and 4.1.3.

The ECC comprises the following agencies and organizations:

- PacifiCorp
- U.S. Fish and Wildlife Service (FWS)
- U.S. Bureau of Land Management (BLM)
- National Park Service (NPS)
- USDA Forest Service (USFS)
- Shoshone-Bannock Tribes (Tribes)
- Idaho Department of Environmental Quality (IDEQ)
- Idaho Department of Fish and Game (IDFG)
- Idaho Department of Parks and Recreation (IDPR)
- Idaho Council of Trout Unlimited (ITU)
- Idaho Rivers United (IRU)
- Greater Yellowstone Coalition (GYC)
- American Whitewater (AW)

#### **4.1.2 ISSUES ANALYZED IN DEPTH**

##### Water Quantity and Quality

- Would flows in Paris Creek and the Grace bypass reach be affected by the proposed action?
- Would downstream water quality be affected by the proposed action?

##### Fisheries and Aquatic Resources

- Would the aquatic ecosystem be affected by the proposed action?
- Would BCT restoration efforts be affected by the proposed action?
- Would native fish species other than the BCT be affected by the proposed action?

##### Wetland and Riparian Resources

- Would wetlands and riparian communities be affected by modification of facilities or flows?

##### Cultural Resources

- Would historic, Native American, or paleontological values be affected by the proposed action?

#### **4.1.3 ISSUES CONSIDERED BUT NOT ANALYZED IN DETAIL**

The following issues were discussed in ECC deliberations but determined not to warrant in-depth analysis for the reasons cited.

##### Water Rights

- Would water rights be affected by the proposed action?

This issue was considered but not carried into detailed analysis because the proposed action would not affect water rights. Paris Creek restoration plans were developed to ensure that water deliveries to canal companies and landowners would not be interrupted or otherwise affected. The restoration process, as outlined in section 3.3.1, would begin with a new intake structure and fish screen for the canal companies to maintain water delivery to irrigators prior to flows being cut off from the power plant.

Reducing the minimum flow in the Grace bypass reach would not alter the amount of water in the Bear River leaving the project area, as no consumptive use or other actions that would affect water quantity are proposed. Only the Grace bypass reach would be affected, and no water rights there would be impacted.

### Threatened and Endangered Species

- Would threatened or endangered species be affected by the proposed action?

The USFS completed a Categorical Exclusion for removal and disposition of the Paris Project diversion weir and intake structure located on their lands, used under a special use authorization. The agency concluded Canada Lynx (*Lynx canadensis*) habitat may be present in the area, but the species is not likely to occur. Two other species were noted and determined to be not present, North American Wolverine (*Gulo luscus*) and Monarch Butterfly (*Danaus plexippus*). The determination reached by USFS was No Effect on federally listed species.

The Bear River Project EIS concluded that current project operations would not affect any federally listed or candidate species. The FWS has documented the presence of bald eagles (*Haliaeetus leucocephalus*), the possible occurrence of gray wolf (*Canis lupis*; an experimental, nonessential population) and one listed plant species, Ute ladies'-tresses (*Spiranthes diluvialis*) in Caribou County, Idaho. Surveys documented in the Bear River EIS concluded that the wildlife species are generally transient individuals in the project area, and that the plant does not occur in the project area. (FWS 2005)

### General Wildlife

- Would general wildlife species be affected by the proposed action?

Activity during the Paris Creek restoration project and the Paris Project decommissioning may disturb wildlife, but disturbance would be temporary, short term, and restricted to a small area. Long-term wildlife benefits of the restoration would be far greater than these temporary disturbances.

Reducing the minimum flow requirement in the Grace bypass reach would not alter wildlife habitat as the change would be minimal and flows are already heavily manipulated to support power generation and irrigation demands.

### General Vegetation

- Would general vegetation be affected by the proposed action?

Vegetation types other than wetland/riparian communities and threatened or endangered species, discussed above, would be temporarily disturbed by removal of both Paris Project facilities and non-Project facilities as part of the Paris Creek restoration project, but such disturbance would be temporary. Following successful disturbed site restoration, naturally occurring communities would re-establish.

Any effects on vegetation due to reduction of minimum flows in the Grace bypassed reach would involve wetland/riparian vegetation, discussed above, and would be negligible as flow changes would not occur during the growing season.

### Recreation

- Would recreational use be affected by the proposed action?

The area impacted by the Paris Creek restoration project supports limited, dispersed recreational use, primarily recreational vehicle travel, sightseeing, and some hunting. These uses would not be affected by the restoration project or by decommissioning of the Paris Project. Fishing opportunity will be enhanced by improving fish access to the upper portion of the creek.

The severe topography of the Grace bypass reach limits recreational access and use. The upper and lower ends support sport fishing (fishery impacts are discussed under that heading), and under the current license PacifiCorp provides periodic summer releases to provide whitewater boating opportunities. These would not be affected by the proposed reduction in minimum flows as levels would be too low for boating by definition and flow impacts would occur outside the boating season.



### Scenic Resources

- Would scenic resources be affected by the proposed action?

The Paris Project attracts some sightseers, but the powerhouse, which is the main visual feature, would be left in place. The Project and non-Project facilities that would be removed are negligible components of the landscape.

Reducing the minimum flow requirement in the Grace bypass reach would have no visual impact.

### Wild and Scenic Rivers

- Would the potential for designation as a Wild and Scenic River be affected by the proposed action?

Paris Creek has not been identified for potential listing as a Wild and Scenic River.

### Power Generation

- Would overall power generation capacity regionally be affected by the proposed action?

The net loss in electrical production by the Paris Project due to decommissioning would be minimal. The additional power generation from Grace powerhouse would offset the decommissioning of the Paris Project.

## **4.2 COMPLIANCE**

FERC regulations (18 CFR 4.38 and 16.8) require consultation with cooperating agencies and other entities to ensure that any agency action does not jeopardize the continued existence of listed species or critical habitats, water quality standards, wetlands, and/or cultural resources within the project area.

Several of the agencies charged with protection of these resources, as well as other stakeholders, are participants in the ECC (see sections 2.1 and 4.1.1 above). Consultation on some issues involved agencies not formally part of the ECC, including the U.S. Army Corps of Engineers (USACE) and the Idaho State Historic Preservation Office (SHPO). Consultation specific to the Clean Water Act, the Federal Power Act, the Endangered Species Act, and the National Historic Preservation Act with ECC members and other agencies is discussed below.

### **4.2.1 CLEAN WATER ACT**

The Clean Water Act (CWA) is a 1977 amendment to the Federal Water Pollution Control Act of 1972, which set the basic structure for regulating discharges of pollutants to waters of the U.S. The CWA is administered by Environmental Protection Agency (EPA), but some permitting, administrative, and enforcement aspects of the law are delegated to other federal and state agencies under various programs.

Two sections of the CWA are pertinent to the proposed Paris Creek restoration project and operational change at Grace, Section 404 and Section 401. In addition, states are provided under the CWA joint authority with federal agencies to enforce and regulate water quality standards and permitting. Idaho's Stream Channel Protection Act (Title 42, Chapter 38, Idaho Code) provides the legal authority to ensure that stream alteration activities do not violate Idaho water quality standards.

Compliance with CWA Sections 401 and 404 and with Idaho's Stream Channel Protection Act is discussed below.

#### **CWA Section 404**

Section 404 of the CWA establishes a program to regulate the discharge of dredged and fill material into waters of the U.S., including wetlands. Such discharges are not permitted if the nation's waters would be significantly degraded or if feasible alternatives exist that are less damaging to the aquatic environment. The EPA and the USACE share jurisdiction over the permit program. Individual or Nationwide Permits

(NWP) may be issued only when applicants have demonstrated that the activity is in the public interest, that no practicable alternative is available, that wetlands would be protected to the maximum extent possible, and that water quality would not be significantly impaired (see CWA Section 401 below).

The NWP system was established to streamline the permitting process for minor activities that have been determined programmatically, on a nationwide basis, to comply with the criteria noted above. In regard to the Paris Creek restoration project, the USACE identified in pre-application discussions that permitting would likely be issued under NWP No. 27 for wetland and riparian restoration and creation activities.

### **CWA Section 401**

Any activity that requires a federal permit or license under the CWA, including a Section 404 dredge and fill permit or a FERC hydroelectric license, requires a CWA Section 401 water quality certification. This certification states that the activity would not cause a violation of state water quality standards. The IDEQ uses the authority granted to them under Section 401 to manage activities that impact their water resources. IDEQ can waive the certification (either expressly or by taking no action), deny the certification, grant the certification, or grant the certification with conditions. Any conditions associated with the certification become conditions of the license or permit.

A 401 certification in Idaho also ensures that an activity complies with water quality improvement plans (Total Maximum Daily Load Study; TMDL) developed for affected water bodies and that the activity does not adversely impact 303(d) listed streams (streams that already do not meet water quality standards). While 401 certification is typically considered a given when an NWP dredge and fill permit is issued, Idaho requires individual 401 certification if the waterbody in question is on the 303(d) list.

### **State of Idaho Stream Channel Protection Act**

The Stream Channel Protection Act requires a permit for any type of alteration work done inside the ordinary high-water marks of a continuously flowing stream to protect fish and wildlife habitat, aquatic life and water quality, recreation, and aesthetic values.

It was determined that a stream alteration permit would be required for the Paris Creek restoration project non-FERC facility removal and construction of the new irrigation intake. A Joint Stream Channel Alteration Permit application was submitted in December of 2022, initiating the IDWR and the USACE 404 permitting process.

### **4.2.2 FEDERAL POWER ACT**

The FPA provides for federal development and regulation of water, power, and resources, authorizing the FERC to issue licenses for hydroelectric projects, including dams, reservoirs, and other projects to develop and improve navigation or to develop and use power.

The FPA requires that licenses contain certain conditions to adequately protect, mitigate, and enhance fish and wildlife resources including spawning grounds and habitat, as well as beneficial public uses, including irrigation, flood control, water supply, and recreation.

Sections 18, 4(e), and 10(j) of the FPA are relevant to the proposed action and specifically refer to fishways, potential impacts to federal lands, and the coordination of resource agencies to enhance and protect fish and wildlife resources.

### **FPA Section 18**

FPA Section 18 states that FERC “shall require the construction, operation, and maintenance by a licensee at its own expense of such fishways as may be prescribed by the Secretary of Interior or the Secretary of Commerce, as appropriate,” and provides the Secretary of the Interior the authority to prescribe fishways at FERC-licensed projects or specific conditions related to fish passage facilities at hydropower projects.

The U.S. Department of Interior has reserved its authority to require the construction of fish passage facilities (Section 18 of the Project license, Para. 30).

#### **FPA Section 4(e)**

FPA Section 4(e) establishes that FERC must give “equal consideration” to developmental and non-developmental values in its licensing decisions on a reservation only if it finds that the license would not interfere or be inconsistent with the purpose for which such reservation was created or acquired. Section 3(2) of the FPA defines reservations as including lands and interests in lands owned by a federal land-management agency having authority under Section 4(e) to require “mandatory conditions” for projects located on federal reservations under their jurisdiction.

#### **FPA Section 10(j)**

FPA Section 10(j) requires FERC to consider resource agency recommendations pursuant to the Fish and Wildlife Coordination Act to protect, mitigate damages to, and enhance fish and wildlife resources. It requires the FERC to include license conditions based on recommendations provided by the federal and state fish and wildlife agencies.

As described in this document, the state and federal fish and wildlife agencies with authority to recommend terms and conditions under Section 10(j) are signatories of the comprehensive Bear River Settlement Agreement. These agencies agree that their final recommendations would be consistent with the relevant provisions of the settlement (FERC 2003).

### **4.2.3 ENDANGERED SPECIES ACT**

The Endangered Species Act of 1973 (ESA) provides for the conservation of ecosystems upon which threatened and endangered species of fish, wildlife, and plants depend, both through federal action and by encouraging the establishment of state programs. Under the ESA, the FWS must be consulted if a proposed action may adversely affect or jeopardize the continued existence of a threatened or endangered species. Such consultation is also required under the CWA Section 404(b)(1) guidelines.

#### **ESA Section 7**

Under Section 7(a)(2) of the ESA, federal agencies are required to consult with the FWS, as appropriate, to ensure that any federal action is not likely to jeopardize the continued existence of any threatened or endangered species, or adversely modify critical habitat designated for those species. The potential occurrence of threatened and endangered species is detailed in section 4.1.3. Based on this assessment, coupled with FWS participation in the ECC, the proposed action would not adversely impact any federally listed species or critical habitat, and no further consultation is necessary.

### **4.2.4 NATIONAL HISTORIC PRESERVATION ACT**

The National Historic Preservation Act (NHPA) is the primary federal legislation for the protection of historic resources. Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings, including permitting and licensing, on historic properties and to afford the Advisory Council on Historic Preservation (Advisory Council) a reasonable opportunity to comment. "Historic Properties" are defined as any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register of Historic Places (NRHP).

#### **NHPA Section 106**

NHPA Section 106 requires the development of a management plan to avoid or mitigate adverse effects on historic properties. The Section 106 review process consists of four steps: (1) identification and evaluation of historic properties; (2) assessment of effects of the undertaking; (3) consultation to resolve adverse

effects; and (4) comment by the Advisory Council. The NHPA also provides for consultation with any Indian Tribe that attaches religious or cultural significance to an historic property that may be affected by a project.

Other laws, such as the American Indian Religious Freedom Act or the Native American Graves Protection and Repatriation Act, may also apply if sacred areas or burials of Indian tribes are identified. These and other cultural resources with religious or cultural significance to a Native American Tribe can be considered as historic properties and addressed through the Section 106 process if they meet the criteria for eligibility. Compliance with Section 106 of the NHPA is discussed below in section 5.4.

## 5. ENVIRONMENTAL ANALYSIS

This section assesses the effects of the proposed action (described in section 3) on the environmental issues listed in section 4.1.2. Discussion under each issue begins with a description of the affected environment, then addresses and contrasts the direct, indirect, and cumulative effects of the proposed action and no-action alternative. In cases where more than one issue falls under a given resource heading, the issues are discussed sequentially in the description of the affected environment and under each alternative in the environmental consequences section. Discussion of the environmental consequences includes recommendations for mitigation to protect and enhance these resources.

### 5.1 WATER QUANTITY AND QUALITY

The following water quantity and quality issues were determined to require detailed analysis in this report (section 4.1.2):

- *Would flows in Paris Creek and the Grace bypass reach be affected by the proposed action?*

Under the proposed action the Paris Project would be decommissioned and run-of-river flows restored in Paris Creek from the headwaters to the current location of the Paris powerplant, approximately 3.5 miles downstream.

Under the proposed action flows in the Grace bypass reach would be reduced from 63 cfs or inflow to 48 cfs or inflow.

- *Would downstream water quality be affected by the proposed action?*

The proposed decommissioning of the FERC Paris Project facilities will not create any in-water work and will not adversely affect downstream water quality. The proposed decommissioning of non-FERC Paris Project facilities (removal of the existing diversion structure on the USFS) and construction of a new irrigation diversion structure would create the potential for short-term increased sedimentation of the creek downstream. In the longer-term, re-establishing in-stream flows would affect temperature, likely in a positive manner.

At the Grace Development, the proposed reduction in minimum flows in the bypass reach could potentially result in increased water temperatures in that reach and downstream. Further reducing flows in the bypass could be a factor in prolonged impairment for temperature.

#### 5.1.1 AFFECTED ENVIRONMENT

##### **Flow**

Paris Creek is fed by a cold-water spring originating approximately 3.5 miles above the Paris Project. The spring supports municipal, irrigation, and hydropower uses. Approximately 250 feet below the source, water is diverted into the power canal, leaving less than 1 cfs in Paris Creek, particularly from late summer

through the winter. Downstream of the Paris Project (from the tailrace), water is released into the works of two irrigation companies and/or returned to Paris Creek. The canal and diversion structure were constructed over a hundred years ago for irrigation purposes, and hydropower generation was added in 1910. The canal and diversion structure are not part of the Paris Project for which PacifiCorp holds a FERC license exemption.

The approximately 3.5 miles of stream from the diversion to the Paris Project are dewatered or have minimal flow from late summer to early spring runoff, restricting aquatic habitat. The Paris Project can divert up to 38 cfs into the canal. Average monthly flows through the plant range from 3.3 to 26.5 cfs (Table 2). Low flows in the reach from the headwater downstream to the powerhouse occasionally experience higher temperatures than downstream of the tailrace.

Flows entering the Grace forebay are ultimately dependent upon upstream releases from Alexander Reservoir which are subsequently influenced by irrigation deliveries from Bear Lake storage water, irrigation withdrawals, maintenance activities, winter operations, and electrical demand. Annual precipitation levels recorded in the Bear River basin influence the volume and timing of water released during any given year from upstream storage reservoirs and dams including Alexander Reservoir (Soda Dam) and even further upstream at Bear Lake (Stewart Dam). After water is released from Soda Dam, two irrigation diversions, owned by the Last Chance Canal Company, can divert up to 658 cfs for irrigation purposes before the Bear River enters the Grace forebay (FERC 2003).

Overflow at the Grace Dam generally occurs when forebay inflows exceed the amounts diverted to the Grace flowline. Flow diverted for power generation purposes generally includes all available water up to the design capacity of each turbine. The maximum diversion capacity of the Grace flowline is 960 cfs. Flow exceeding this capacity are passed into the bypass reach. Flow rates in the Grace bypass reach are the result of the minimum flow requirement, irrigation deliveries in excess of the flowline capacity, leakage at Grace Dam, and discharge from five major springs in the reach.

As a result of the FERC Bear River Project relicensing, minimum flows from Grace Dam have been implemented. These measures provide additional flow to the bypass reach when the Grace Development is generating. Article 408 of the Project license mandated minimum flows from Grace Dam will not drop below 80 cfs or inflow (FERC 2003). The license was amended in 2006 with decommissioning of the Cove Project. Under the settlement agreement, minimum instream flows were reduced in the bypass reach at Grace from 80 to 63 cfs or inflow. Average monthly releases from Grace Dam into the bypass reach under the current license are shown in Table 3.

### **Water Quality**

Paris Creek is not listed on the 303d list for impaired waters. Random data collection occurred during 2001 and 2012. Data was collected for a brief period in July of 2001 and from June to August in 2012 at three sites; above the power plant (Lot 8), downstream of the tailrace (Newberry), and the canal. Data showed increases in temperatures above the power plant in the upper section of Paris Creek (IDEQ 2022). No other water quality parameters were monitored.

For over a century the Bear River has been manipulated for a number of beneficial uses resulting in degraded water quality through much of the mainstem of the river. The Bear River is listed on the 303d list for impaired water. Impairments include temperature, total suspended solids (TSS), and total phosphorus (Total P). Temperatures in the Bear River often exceed water quality thresholds set forth by IDEQ for cold water aquatic life and salmonid spawning. Acceptable levels are based on State of Idaho water quality standards (IDAPA 58.01.02; IDEQ 2022).

**Table 2. Calculated flows through the Paris Project hydroelectric facility.**

	<b>October</b>	<b>November</b>	<b>December</b>	<b>January</b>	<b>February</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>August</b>	<b>September</b>
<b>1990</b>	-	-	-	3.2	2.8	1.3	8.4	22.7	16.0	8.0	6.8	3.6
<b>1990- 91</b>	4.9	4.5	4.3	3.3	2.8	2.0	2.6	18.9	35.0	14.4	10.9	8.7
<b>1991- 92</b>	7.1	5.8	4.7	3.8	2.6	2.2	8.9	18.5	6.7	4.9	3.0	2.7
<b>1992- 93</b>	2.9	2.8	2.3	1.5	1.1	0.9	1.4	17.8	36.1	31.4	21.2	16.5
<b>1993- 94</b>	12.9	9.4	6.9	4.7	1.2	0.0	3.3	28.7	16.8	9.9	6.9	5.7
<b>1994- 95</b>	4.7	4.0	3.6	2.9	2.0	1.3	3.4	22.4	35.9	28.1	17.6	13.2
<b>1995- 96</b>	10.8	9.0	6.8	4.5	3.6	3.6	7.2	28.0	35.2	32.3	23.6	16.3
<b>1996- 97</b>	13.8	10.4	7.8	7.3	6.9	6.0	9.9	30.5	32.8	34.4	29.0	24.0
<b>1997- 98</b>	18.7	13.7	10.9	9.4	7.6	6.8	7.8	31.9	34.9	33.1	22.2	16.4
<b>1998- 99</b>	13.4	10.2	8.7	7.1	5.9	5.3	6.3	21.8	34.7	30.2	24.0	18.0
<b>1999- 00</b>	12.7	11.3	10.2	8.8	7.1	5.4	7.6	30.5	21.4	11.1	8.9	7.0
<b>2000- 01</b>	6.0	6.5	5.1	4.6	3.6	3.3	4.0	24.0	10.0	6.7	3.6	3.8
<b>2001- 02</b>	-	2.1	3.0	2.4	1.7	1.2	2.7	21.8	19.5	9.7	5.3	5.8
<b>2002- 03</b>	5.2	3.7	2.1	1.5	1.2	1.5	5.5	23.1	20.9	10.6	7.4	6.9
<b>2003- 04</b>	6.1	4.5	2.4	-	-	-	2.4	24.8	23.1	13.4	10.5	9.3
<b>2004- 05</b>	8.0	6.5	5.2	3.8	3.5	3.5	6.0	25.1	32.6	24.7	21.2	17.3
<b>2005- 06</b>	12.7	10.6	9.1	7.0	5.5	4.9	8.6	29.2	28.5	25.0	22.0	16.8
<b>2006- 07</b>	14.9	11.1	8.8	7.4	6.3	6.1	8.7	28.8	18.9	13.1	9.1	6.2
<b>2007- 08</b>	5.6	3.3	4.1	3.1	2.0	2.4	0.7	17.1	29.5	27.4	19.0	13.6
<b>2008-09</b>	11.6	8.4	6.5	5.1	4.2	3.9	5.5	26.4	32.4	28.2	20.7	15.9
<b>2009-10</b>	13.6	8.2	8.5	6.8	5.8	4.5	5.2	16.2	31.8	21.8	15.6	11.9
<b>2010-11</b>	8.4	6.7	6.1	4.9	4.2	3.1	5.3	21.1	31.7	31.6	28.3	22.1
<b>2011-12</b>	17.9	11.6	11.0	9.4	8.3	4.6	10.2	29.6	28.0	18.3	13.7	10.8

**Table 2. Calculated flows through the Paris Project hydroelectric facility.**

	<b>October</b>	<b>November</b>	<b>December</b>	<b>January</b>	<b>February</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>August</b>	<b>September</b>
<b>2012-13</b>	9.2	3.4	5.2	3.6	3.2	3.1	3.7	24.2	18.1	10.8	4.3	6.5
<b>2013-14</b>	5.4	1.0	2.4	2.3	2.0	2.2	4.0	24.3	27.8	18.1	11.0	9.9
<b>2014-15</b>	8.4	2.3	3.7	3.1	2.5	2.9	13.4	30.3	29.5	20.1	15.1	11.9
<b>Average</b>	<b>9.8</b>	<b>6.8</b>	<b>6.0</b>	<b>4.9</b>	<b>3.9</b>	<b>3.3</b>	<b>5.9</b>	<b>24.5</b>	<b>26.5</b>	<b>19.9</b>	<b>14.7</b>	<b>11.6</b>
<b>Maximum</b>	<b>18.7</b>	<b>13.7</b>	<b>11.0</b>	<b>9.4</b>	<b>8.3</b>	<b>6.8</b>	<b>13.4</b>	<b>31.9</b>	<b>36.1</b>	<b>34.4</b>	<b>29.0</b>	<b>24.0</b>
<b>Minimum</b>	<b>2.9</b>	<b>1.0</b>	<b>2.1</b>	<b>1.5</b>	<b>1.1</b>	<b>0.0</b>	<b>0.7</b>	<b>16.2</b>	<b>6.7</b>	<b>4.9</b>	<b>3.0</b>	<b>2.7</b>

**Table 3. Flow releases from Grace Dam into the bypass reach.**

	<b>October</b>	<b>November</b>	<b>December</b>	<b>January</b>	<b>February</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>August</b>	<b>September</b>
<b>2009-10</b>	105	100	84	78	73	76	89	86	75	120	72	70
<b>2010-11</b>	75	78	71	66	66	66	245	104	187	114	227	342
<b>2011-12</b>	125	486	292	252	251	249	300	308	388	355	299	282
<b>2012-13</b>	133	99	92	103	80	78	144	-	-	-	-	-
<b>2013-14</b>	91	83	61	65	64	65	166	94	78	138	76	72
<b>2014-15</b>	71	69	70	69	67	65	161	119	103	104	85	79
<b>2015-16</b>	75	61	65	68	66	88	253	162	76	126	91	72
<b>2016-17</b>	85	74	73	69	71	572	278	100	67	68	80	102
<b>2017-18</b>	336	275	145	143	168	130	135	207	105	171	91	80
<b>2018-19</b>	76	66	67	68	68	88	126	162	69	161	70	68
<b>2019-20</b>	72	73	70	67	71	182	70	85	109	261	228	95
<b>2020-21</b>	64	58	56	59	59	79	100	152	359	205	94	90
<b>2021-22</b>	89	62	50									
<b>Average</b>												
	<b>108</b>	<b>122</b>	<b>92</b>	<b>92</b>	<b>92</b>	<b>145</b>	<b>172</b>	<b>144</b>	<b>147</b>	<b>166</b>	<b>129</b>	<b>123</b>
<b>Maximum</b>												
	<b>336</b>	<b>486</b>	<b>292</b>	<b>252</b>	<b>251</b>	<b>572</b>	<b>300</b>	<b>308</b>	<b>388</b>	<b>355</b>	<b>299</b>	<b>342</b>
<b>Minimum</b>												
	<b>64</b>	<b>58</b>	<b>50</b>	<b>59</b>	<b>59</b>	<b>65</b>	<b>70</b>	<b>85</b>	<b>67</b>	<b>68</b>	<b>70</b>	<b>68</b>



The most comprehensive water quality study completed to date in the Bear River Project area is detailed in the *Bear River/Malad Subbasin Assessment and Total Maximum Daily Load Plan* (ERI 2005). This study was completed as a result of indications that the Bear River from Soda Dam down to Oneida Reservoir were water-quality limited and not fully supporting coldwater aquatic life, primary contact recreation, and other beneficial uses. Waterbodies in this condition were included on the Idaho 2002/2003 303(d) list and remains listed in 2022 (IDEQ 2003; IDEQ 2022).

### **Total Suspended Sediment**

There is no baseline data for TSS in Paris Creek. However, observations indicate the creek has a minimal TSS loading during the majority of year, during spring runoff TSS may elevate slightly but remains clear and high quality.

As part of the Bear River Project Settlement Agreement, PacifiCorp in conjunction with the ECC has helped fund 8 to 12 habitat enhancement projects annually, and conservation easements have been created through purchases. Many of the projects funded since the issuance of the current license have focused on stabilizing erosive streambanks, replanting riparian vegetation, screening irrigation intakes, limiting livestock in riparian areas, installing beaver dam analogs, and relocating animal feeding operations away from waterways. Some projects have also installed sediment basins in fields to reduce sediment to streams (IDEQ 2017).

Beginning in 2006 to 2015, IDEQ began a long-term monitoring program to sample the Bear River at 21 locations. Synoptic surveys are completed quarterly to capture different hydrologic periods; lower basin runoff, upper basin runoff, summer base flow, and winter base flow (IDEQ 2017). Results indicated that the Bear River above Soda Dam to Oneida Reservoir was not impaired for TSS. Sediment standards recommended in the TMDL during the runoff season are 80 mg/l for river segments above receiving water bodies (reservoirs) and 60 mg/l for all other river segments. The sediment standard for the remainder of the year is 60 mg/l and 35 mg/l, respectively. Average sediment measurements collected from the Bear River above Soda Dam to Oneida Reservoir ranged from 31 mg/l to 33 mg/l (Table 4).

Average TSS is lower throughout the Grace Development than upstream of Alexander Reservoir. Sediment is resuspended in the reach downstream of Grace before entering Oneida Reservoir. Suspended load tends to be higher during the irrigation season with higher delivery flows to downstream users.

### **Total Phosphorus**

There is no baseline data available for Total P in Paris Creek. From 2006 to 2015, measurement of Total P in single water samples collected from the Bear River above Soda Dam to Oneida Reservoir consistently exceeded levels recommended by IDEQ (IDEQ 2017; Table 4). The state-recommended standard for Total P is 0.05 mg/l for river segments above a receiving water body and 0.075 mg/l for all other river segments (IDAPA 58.01.02). That sampling assessment indicated that existing Total P concentrations periodically exceeded targeted levels.

However, across sites, average Total P measurements (0.046 mg/L) taken below Grace Dam in the bypass reach were below state standards from 2006 to 2015. Average Total P measurements (0.05 mg/L) below the Grace Development were at state standards. Concentration tends to increase (0.07 mg/L) downstream to Oneida Reservoir.

### **Temperature**

Monitoring in Paris Creek in 2001 indicate the upper reach above the Paris Plant averages 10.6 to 24.0 °C. Downstream of the Project temperatures ranged from 5.8 to 14.0 °C. The canal maintained the lowest ranges of 4.6 to 10.6 °C (Lyman and Carter 2015).

Paris Creek monitoring in 2012 indicated that average temperatures from June to August above the power plant in the upper reach were 9.1 to 16.2 °C with a maximum temperature of 19.2 °C. Downstream of the power plant average temperatures were 7.1 to 11.0 °C with a maximum temperature of 15.1 °C. The canal

daily averages were substantially lower at 5.9 to 6.7 °C with a max temperature of 7.4 °C (Lyman and Carter 2015). No recorded temperature in 2012 violated the state standard for temperature.

The Bear River is a highly regulated river with impoundments for water storage and diversions for irrigation use that drastically alter the natural hydrograph. This has created sections of the river with limited flow in summer and areas of high flow to transfer water to irrigators or to produce electricity. These factors can drastically alter temperature in segments of the river.

Average temperature throughout the Bear River from Alexander Reservoir to Oneida often exceed state standards for maximum daily temperature during July and August. Average summer temperatures in the bypass reach are often lower than the mainstem of the Bear River in the lower bypass around the spring inflow. This is a result of spring inflow mixing with releases from Grace Dam. Higher inflows from Grace can influence temperature in the lower sections by mixing larger volumes of water with spring water raising average temperature. Temperature in the upper part of the bypass reach are typically similar to mainstem temps, but during periods of lower flow can exhibit temperature above 24.2 °C that would be lethal to BCT (Cirrus 2019).

The 2016 the status assessment for the Middle Bear River from Alexander Reservoir to Oneida Reservoir added temperature criteria as not supporting coldwater aquatic life and salmonid spawning. Temperature standards are set at 22 °C or less daily maximum; 19 °C or less daily average for coldwater aquatic life, and 13 °C or less daily maximum; 9 °C or less daily average for salmonid spawning. The spawning period is noted as during spawning and incubation periods for inhabiting species.

In 2018 PacifiCorp in conjunction with the ECC and consultants initiated a temperature study in the Bear River from Alexander Reservoir to Oneida Reservoir. Temperature measurements throughout the reach exceed max daily temperature criteria across all sites Table 5. The warmest and coldest temperatures were recorded just above Oneida Reservoir.

## **5.1.2 ENVIRONMENTAL CONSEQUENCES**

### **Proposed Action**

#### **Flow**

The proposed action would benefit Paris Creek by returning full flow to the stream channel from the headwaters downstream approximately 3.5 miles from the diversion to the power plant. Based on the flow data reported above (Table 2), a range of flows from 3.3 to 26.5 cfs would be added to the restored reach across the year. Maintaining flows during the summer and winter months would improve the aquatic environment.

The proposed action would affect flows in the Grace bypass reach by amending the minimum flow requirement established in the amended Project license from 63 to 48 cfs (plus dam leakage as well as additional spring discharge that accrues in the lower part of Black Canyon).

Flows in the Grace bypass reach under the proposed action are characterized in Table 6. Assessment of effects on flow values is based on the following assumptions:

1. Existing irrigation contracts and water rights must be met prior to making minimum flow releases from Grace Dam.
2. Minimum flow releases must be met when the Grace Development is generating.
3. Release of whitewater flows (ranging from 700 cfs and 1,500 cfs) into the Grace bypass reach would be identical between alternatives.
4. Grace Dam leakage is 2 cfs.

Site #	Site Name	n	TSS (mg/L)					Total P (mg/L)				
			Mean	Median	St dev	Max	Min	Mean	Median	St dev	Max	Min
BR-12	Above Alexander Reservoir	36	31	18	29	118	5	0.059	0.043	0.045	0.201	0.007
BR-13	Below Grace Dam	36	13	11	9	35	5	0.046	0.041	0.018	0.082	0.017
BR-14	Below Cove Power Plant	36	15	13	10	36	5	0.05	0.048	0.021	0.101	0.011
BR-15	Above Oneida Reservoir	36	33	28	47	295	5	0.075	0.071	0.056	0.333	0.011

		Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Soda Dam	Avg	18.3	21.5	19.5	15.4	9.4	4.7	3.3	2.9	2.7	3.1	6.4	11.2	15.9
	Max	20.8	<b>22.8</b>	21.7	17.3	12.9	8.2	3.8	3.2	3.2	3.9	12.1	13.7	17.4
	Min	15.7	19.0	15.8	12.4	7.3	3.3	2.9	2.6	<b>2.2</b>	2.3	2.6	8.8	13.5
Grace Forebay	Avg	21.6	19.7	15.5	9.4	3.7	1.6	1.0	1.0	2.5	6.6	11.6	16.1	21.6
	Max	22.4	<b>22.3</b>	18.1	13.8	7.2	2.9	2.1	2.0	4.3	12.5	14.2	18.0	22.4
	Min	20.7	15.7	12.4	6.7	1.5	0.4	0.3	<b>0.3</b>	1.2	3.1	8.6	13.1	20.7
Lower Bypass Reach	Avg	16.9	19.5	17.2	14.1	9.6	5.2	3.1	2.6	2.8	4.8	8.5	11.7	15.2
	Max	20.8	<b>23.0</b>	21.2	17.6	14.6	9.4	5.2	5.1	5.4	9.2	14.2	17.0	19.5
	Min	12.1	13.9	12.4	9.9	5.8	2.3	1.0	<b>0.6</b>	0.9	1.8	3.9	7.2	11.0
Cove Dam Site	Avg	18.5	21.7	19.7	15.6	9.6	4.2	2.0	1.5	1.6	3.8	6.9	11.6	16.0
	Max	21.4	<b>23.9</b>	22.2	17.9	14.4	8.1	3.5	3.3	4.0	6.4	13.3	15.9	17.7
	Min	16.3	18.7	16.0	12.0	6.1	2.1	0.1	<b>0.0</b>	<b>0.0</b>	2.1	3.6	8.4	13.3
Above Oneida Reservoir	Avg	19.0	21.8	19.4	15.3	9.9	4.2	1.7	0.9	1.9	5.8	7.8		
	Max	20.1	23.9	<b>24.3</b>	22.9	18.2	16.6	9.3	4.5	4.4	6.5	11.7	11.5	
	Min	16.4	14.1	18.2	15.1	9.9	4.1	1.0	<b>-0.1</b>	<b>-0.1</b>	<b>-0.1</b>	1.6	5.1	

<b>Location</b>	<b>Proposed Action</b>	<b>No-Action Alternative</b>
<b>Paris Creek</b>	Flows in upper reach of Paris Creek re-established with additional flows of 3.3 to 26.5 cfs, fully restoring the natural hydrograph of Paris Creek.	No water returned to Paris Creek. Upper 4 miles would remain dewatered most of the year.
<b>Grace Bypass Reach</b>	Minimum release of 48 cfs or inflow, plus dam leakage. Spring discharge adds 30 to 60 cfs to minimum flows in this reach. Flows in bypass reach are junior to upstream water rights, so discharge could drop below 48 cfs during drought years.	Minimum release of 63 cfs or inflow, plus dam leakage. Spring discharge adds 30 to 60 cfs to minimum flows in this reach. Flows in bypass reach are superseded by upstream water rights, so could drop below 63 cfs during drought years.
<b>Grace Flowline</b>	Additional 15 cfs available for power generation. No water diverted to flowline if inflow to Grace forebay is less than 48 cfs. Inflows above 48 cfs can be diverted to flowline up to design capacity of 960 cfs.	No water diverted to flowline if inflow to Grace forebay is less than 63 cfs. Inflows above 63 cfs can be diverted to flowline up to design capacity of 960 cfs.

- Five major springs located in the Grace bypass reach plus dam leakage produce a total flow contribution of 40 to 70 cfs (FERC 2003). This discharge amount typically satisfies the 35cfs water right held by Gentile Valley Irrigation Co.

Minimum flows in the Grace bypass reach would be influenced by upstream water rights and precipitation conditions in the Bear River Basin. Minimum flow releases from Grace Dam would be 48 cfs and leakage from Grace Dam would combine with 30 to 60 cfs produced by discharge from five major springs in the Grace bypass reach. A minimum flow release of 48 cfs is 15 cfs lower than the 63 cfs minimum flow release required under the current Project license. The additional 15 cfs would be available for power generation by the Grace Development and would help offset the loss of power resulting from decommissioning the Paris Project.

It should be noted that all monthly average and minimum flows shown for the upstream end of the Grace bypass reach have exceeded 48 cfs but have fallen below the currently permitted 63 cfs during winter months since 2010 (Table 3). This indicates that winter inflows have periodically fallen below 63 cfs. While releases from the Grace forebay to the bypass reach under the proposed action would be reduced, the 48 cfs minimum flow release would be much greater than the historical record when no minimum flow requirement was mandated.

PacifiCorp would divert water in excess of 48 cfs to the Grace flowline up to the design capacity of this structure (960 cfs). In general, flows in excess of the minimum flow release (48 cfs) and the flowline capacity (960 cfs) would spill into the Grace bypass reach.

#### **Total Suspended Solids**

Under the proposed action, no in-water work would occur as part of the decommissioning of the FERC Paris Project facilities and no impact to TSS is expected from that work. For the portion of the restoration project to remove the diversion structure in Paris Creek on the USFS and the construction of a new irrigation intake structure, localized ground and channel disturbances would occur. These would be temporary and would be minimized through removal plans and best management practices to protect water quality and minimize sediment transport.

Reduction of the required minimum flow release from Grace Dam to the bypass reach under the proposed action would not affect TSS in the Bear River or in the bypass reach because flow fluctuations would remain within the current range. No additional disturbance of the channel would be generated.

### **Total Phosphorus**

The Paris Creek restoration project and decommissioning of the Paris Project would have no effect on Total P concentrations in Paris Creek as no nutrients would be mobilized by facility removal or channel restoration. Reduction of the required minimum flow release from Grace Dam to the bypass reach under the proposed action would not affect Total P in the Bear River or in the bypass reach as flow fluctuations would remain within the current range and no nutrients would be added to the system.

### **Temperature**

Under the proposed action, the Paris Creek restoration project and decommissioning of the Paris Project would substantially reduce water temperature in approximately 4 miles of Paris Creek in the reach above the power plant, improving water quality. Based on average temperature data collected in 2012, the stream could see a reduction in temperature of 4 to 5 degrees during warm periods with the increase in flow to the reach.

Under the proposed action, water temperature in the upper portion of the Grace Development bypass reach could increase marginally if flows were reduced during the summer period to the proposed minimum flow. Inversely, water temperatures downstream of the springs in the bypass reach could be reduced as a result of lower inflow with a lower volume of water being mixed with cooler spring water.

Downstream of the Grace Development, water temperature would likely be unaffected. As the additional 15 cfs for generation would generally be available outside the irrigation season, in the winter months, it would not affect water temperature below the tailrace.

### **No-Action Alternative**

#### **Flow**

Table 6 summarizes projected effects on flows. The majority of Paris Creek to the headwaters would remain dewatered or have minimal flow during critical periods for aquatic life.

Flows in the Grace bypass reach would be supported by the minimum flow release of 63 cfs from Grace Dam or inflow, whichever is less, as called for by the Project license. Additional flow of 30 to 60 cfs would be provided by dam leakage and discharge from five major springs. Achieving the minimum flow release to the Grace bypass reach during drought years would ultimately depend on the flow remaining after irrigation demands were met.

#### **Water Quality**

Under the no-action alternative, water quality in both Paris Creek and the Bear River below the Grace Development would remain as described in section 5.1.1. The Paris Project would remain in place, and water temperatures above the powerhouse would remain elevated during warm periods and reduced flow. No changes in water quality would occur at the Grace Project.

### **Cumulative Effects**

Article 405 of the Bear River Project license deals with restoration of aquatic and riparian habitat for BCT and other wildlife resources in the Bear River. Efforts to implement this article would generate positive cumulative effects with the proposed action, particularly in terms of habitat improvements in upper Paris Creek.

## **5.2 FISHERIES AND AQUATIC RESOURCES**

The following fisheries and aquatic resource issues were determined to require detailed analysis in this report (section 4.1.2):

- *Would the aquatic ecosystem be affected by the proposed action?*

When the Paris Project is in operation, Paris Creek at times can be completely dewatered. This creates a loss of habitat in approximately 3.5 miles of stream channel, limiting upstream movement of aquatic species and the quality of aquatic habitat in the reach. In addition, upstream movement of fish during periods of higher flow, such as spring runoff could potentially strand fish as flows reduce. The proposed action will restore the natural hydrograph to 3.5 miles of Paris Creek.

Minimum instream flows are set by the current license to operate Grace Development, currently 63 cfs. Under the proposed action flows would be reduced to 48 cfs. This reduction in flow could affect habitat downstream in the bypass reach.

- *Would BCT restoration efforts be affected by the proposed action?*

The BCT, a native fish species in the Bear River system, is currently a state-listed “species of special concern.” Under license Article 405, PacifiCorp and the ECC are required to undertake projects that enhance BCT habitats. The restoration of Paris Creek and the decommissioning of the Paris Project is such a project, restoring 3.5 miles of high-quality habitat for BCT. At Grace, the reduction in the minimum flow release requirement could potentially limit movements of BCT in the bypass reach.

- *Would native fish species other than the BCT be affected by the proposed action?*

Other native, cold-water fish species in Paris Creek other than the BCT may benefit by restoring flow in Paris Creek as a result of the restoration project and the decommissioning of the Paris Project.

Native fishes in the Grace bypass reach could be affected through reduced minimum flow releases.

## **5.2.1 AFFECTED ENVIRONMENT**

### **Aquatic Ecosystem**

The aquatic resources and ecosystem in the Bear River basin have been adversely affected by a variety of activities associated with settlement and development of the basin, including land use practices and water resource development.

Agricultural diversions have affected the availability of coldwater habitat by reducing stream flows and contributing warm water from agricultural returns. Sediment inputs from agricultural sources, reductions in flushing flows caused by storage of irrigation water in Bear Lake, and interruption of sediment transport caused by numerous dams have reduced the availability of silt-free gravel substrates available for use by spawning salmonids.

Paris Creek is affected by limited flows that impacts riverine habitat, limit fish migration, and may strand resident fish during periods with no flow. At present, the upper reach is dewatered at times but supports brook trout and mottled sculpin. During periods of sufficient flow BCT may migrate upstream in the reach. Downstream of the powerplant where flow is continuous, Paris Creek supports resident and fluvial BCT in limited numbers, brook trout, and other native fishes.

The primary effects of the Grace Development on aquatic resources include inundation of riverine habitat, blockage of fish migrations, entrainment and turbine mortality, flow fluctuations associated with project operations and the delivery of irrigation water, and reduced flows in the bypass reach.

At present, the waters of the Grace Development area support a mixture of species including non-native brown trout, rainbow trout, common carp, smallmouth bass, yellow perch, walleye, and mountain sucker. Native fishes include the BCT, mountain whitefish, Utah sucker, redbside shiner, mottled sculpin, and Paiute sculpin.

## **Bonneville Cutthroat Trout**

The BCT (*Oncorhynchus clarki utah*) is a coldwater fish native to the Bear River drainage. In general, declines of native cutthroat trout populations have been evident throughout the Intermountain West with only a few populations remaining. Factors that led to these declines include habitat degradation, hybridization, and competition with non-native species (Behnke 1992). Numerous dams and diversions have blocked migration paths and caused losses through entrainment, which have reduced the abundance and curtailed migratory life history strategies of BCT and other native fish species. Overharvest and introductions of non-native species of trout have also been identified as factors that contributed to the decline of BCT.

Although the BCT is not currently federally listed under the Endangered Species Act, the American Fisheries Society (AFS) designated the native BCT as threatened throughout its range in 1979 then as endangered in 1989. The USFS has designated BCT as a sensitive species, and the State of Idaho considers it a species of special concern.

The primary goal of the state's conservation agreement and strategy for BCT is to ensure the long-term existence of this species within its historic range by coordinating conservation efforts among government agencies and interested parties. This strategy is organized so that jurisdictional and ecological boundaries can be recognized. Five Geographic Management Units (GMUs) have been designated for BCT conservation. The Cove Development is located within the Bear River GMU (Lentsch et al 2000). Further, protection and restoration of the BCT are key issues to the Bear River Settlement Agreement and the *Bonneville Cutthroat Trout Restoration Study Plan* (ECC 2004).

The current distribution of BCT in the State of Idaho is limited to the Bear River drainage. This species occurs in many tributaries of the Bear River, upstream of Soda Dam, and in Bear Lake. Prior to the relicensing of the Grace Development, BCT was known to be present in Cottonwood Creek (located upstream of the Oneida Project), Mink Creek (located downstream of the Oneida Project), and Birch Creek (a tributary of Mink Creek). This species was also known to occur in Dry, Foster, Sugar, and Maple creeks, and in the Cub River, in the section between Soda Dam and the Utah border (FERC 2003). Prior to relicensing the Grace Development, PacifiCorp studies did not document the presence of BCT in the Grace area. However, this species could have seasonally inhabited the Grace bypass and reaches of the Bear River downstream of the Grace Project to the upstream end of the Oneida Reservoir (FERC 2003).

The settlement agreement and removal of Cove Dam in 2006 reconnected lower sections of the Bear River to the Grace bypass. The settlement agreement also outlined the creation of a BCT broodstock program. In 2007 IDFG began collecting genetically pure BCT for the broodstock program, and in 2011, 17,000 BCT were released in the Bear River below Grace Dam and tributaries downstream of the development. This included over 6,500 BCT released into the Grace bypass reach (IDGF 2012). In 2021, IDFG released over 25,000 BCT into the Bear River and tributaries, and plans call for release of over 21,000 in 2022, continuing the restoration efforts for BCT in the Bear River (PacifiCorp 2022). Through restoration efforts, populations of BCT are found in Kackley Springs, Trout Creek, and Whiskey Creek in the Grace area.

Limited numbers of resident and fluvial BCT are known to occur in the lower reaches of Paris Creek, and the species has been documented upstream at times in the upper reach. Lack of flow, warmer stream temperature, and non-native fish may play a role in lack of BCT in the upper reach of Paris Creek.

## **Other Native Fishes**

Mountain whitefish, a member of the salmon and trout family, is native to the western U.S. and western Canada. This species prefers cold mountain lakes and streams with high oxygen concentrations. This species is present in the Grace bypass reach (FERC 2003).

The redbside shiner is a minnow native to southwestern Canada and the western U.S. This species is native to the Bonneville basin. In Idaho, this species is found in all major river systems. It prefers ponds, lakes,

ditches, springs, sloughs, and rivers where the current is slow or absent, the predominant substrate is sand or mud, and vegetation is abundant. Within the Grace Development area this species is found the Grace bypass reach (FERC 2003).

Also native to the Bonneville basin, the Utah sucker is capable of adapting to many different environmental conditions in streams and lakes. The presence of this species has been documented at the Grace Development (FERC 2003).

Mottled and Paiute sculpins are native to parts of Idaho, Utah, and other western states. In Idaho, mottled sculpin are found in the Snake River and tributaries above Shoshone Falls, the Bear River basin, and the Clearwater and Salmon rivers and tributaries. They prefer cool, clear streams with moderate to rapid current and are associated with rubble, gravel, or rocky bottoms. They are seldom found in silted areas. Paiute sculpin are found in the Clearwater drainage, the Snake River above Shoshone Falls, the Bear River basin, and the Big Lost River basin. This species inhabits streams with slight to moderate current and is found in riffle areas among rubble or large gravel; it also occurs in lakes. Both species occur in the Grace bypass reach (FERC 2003). Mottled Sculpin also occurs throughout Paris Creek (Lyman and Carter 2015).

### **Other Non-Native Species**

Non-native brook trout, a cold-water species, are currently found throughout Paris Creek. The population of brook trout suggests BCT are being displaced because of limited flows and limited available spawning habitats for BCT. Non-native rainbow trout are occasionally found in Paris Creek (Lyman and Carter 2015). Rainbow trout spawn during similar periods and often hybridize with BCT. This poses a negative impact on BCT.

Non-native fishes, in general, are currently known to occur throughout the Grace Development. The Grace bypass reach supports common carp, yellow perch, brown trout, and rainbow trout populations (FERC 2003). The rainbow trout were historically stocked by IDFG or escape into the reach from a private trout farm. Relicensing studies indicated that most of the game fishes are located in the lower half of the reach, in the vicinity of the springs (FERC 2003).

In general, exotic species are known to negatively affect native fish populations. Rainbow trout and brown trout are largely piscivorous (fish eating) as adults, so they can have negative impacts on native and non-native fish species. Rainbow trout directly and indirectly compete with native BCT. Brown trout are also more tolerant of warm water temperatures than Idaho's native trout species. Yellow perch can tolerate cool and warm water temperatures. In some systems perch provide both fishing opportunity for anglers and food for other larger fish species such as walleye. Common carp prefer warm, moderately shallow water of streams, rivers, natural lakes, and man-made impoundments where aquatic vegetation is abundant. Carp tolerate turbid, polluted waters with low dissolved oxygen and are generally considered undesirable because they disturb sediments while feeding, cause additional siltation, turbidity, and a negative impact on native fish species.

## **5.2.2 ENVIRONMENTAL CONSEQUENCES**

### **Proposed Action**

#### **Aquatic Ecosystem**

In general, impacts of dams on aquatic ecosystems include alteration of natural flow cycles, transformation of physical and biological characteristics of the river channel and the flood plain, and fragmentation of river continuity. Ecological effects of dam removal include changes in the fluctuation and magnitude of stream flows, water temperature, sediment transport, and connectivity. Flows in impounded rivers generally experience short-term variations (i.e., daily, weekly) while long-term variations are reflected in the dampening of large or seasonal floods and the elevation of low flows due to variations in power or water consumption. Regulated flows have been associated with decreased aquatic diversity.



Slowing flow behind a dam leads to temperature changes within the reservoir and downstream. Temperature stratification can occur within the reservoir. Whether warm or cold water is released, changes in downstream temperatures eliminate or shift the composition of fish species adapted to natural water temperatures. Warm water temperatures can act as a thermal barrier to movement for species such as trout.

Sediment transport is also affected by pooling or slowing flow behind the dam. Larger sediments settling in the inflow of a reservoir result in aggradation (raising of the streambed) upstream of the dam, while fine particles accumulate closer to the dam. These processes of sediment retention can cause sediment-low water to be released downstream limiting the sediments, and in some cases nutrients, available for organisms. Further, dams fragment the river in several ways including the isolation of populations and habitats, creation of physical and thermal obstructions for migrating and drifting organisms, and disruption of terrestrial and aquatic interactions (see Bednarek 2001, Poff and Hard 2002).

The Paris Creek restoration project and decommissioning of the Paris Project would have a profound positive impact on the aquatic environment of Paris Creek by restoring flows to the headwaters. Restored flows would provide cooler water temperatures, increase flow during critical summer periods, and promote spawning by cleaning substrate of fine sediment in spawning gravels. Surveys conducted in 2001 and again in 2011 found the most abundant species in creek were brook trout and mottled sculpin. In 2001 BCT were found in the upper reach but were not found in the 2011 survey. Below the powerhouse, BCT were sampled in both survey years in small numbers.

Substrate and spawning beds could potentially be affected by decreased minimum flow releases in the Grace bypass reach, specifically in Reach 3 above the five springs in the lower Black Canyon. While there is currently little empirical data, experience would suggest that a reduction in flows from 63 cfs to 48 cfs would not significantly impact aquatic resources. Reach 3 has a narrow u-shaped channel that reduces the impact of minor flow reductions on wetted channel width. Surveys conducted in 2005 and 2006 showed good spawning gravels in Reach 3 (Oasis 2011).

Electrofishing surveys conducted in 2005 and 2006 indicate that cold water fishes such as rainbow trout typically utilize habitats in reach 4 above the Grace Power Plant. However, one rainbow trout was collected in reach 3 during surveys 2006 survey, suggesting some upstream movement in the bypass reach (Oasis 2008). Other native and non-native fishes are found throughout the bypass reach.

### **Bonneville Cutthroat Trout**

The restoration of flows to Paris Creek would likely have a significant positive impact on BCT, restoring access and high-quality habitat from the Paris Project upstream to the headwaters.

It is unlikely that the reduced flows would affect BCT populations in the Grace bypass reach. As stated above, BCT mainly occur in tributaries of the Bear River and upstream of Soda Dam and in Bear Lake. Although BCT have been stocked in the mainstem of the Bear River near Grace beginning in 2011, from 2005 to 2010 no BCT were documented in surveys in the bypass reach or downstream of the development. Based on past survey data in the bypass reach, the most suitable habitat is likely found in the lower section from the upper-most springs down to the Grace powerplant, consistent with the thermal requirements of BCT.

A biological limitation for BCT populations is the presence of exotic species. The occurrence of other salmonids (i.e., brown trout, rainbow trout) in the bypass reach has been documented (FERC 2003). These species may compete directly for food and space with BCT and limit the success of restoration efforts.

High summer water temperatures in the bypass reach above the springs may pose a limitation for use by adult BCT. Laboratory experiments have indicated that 24.2°C is the estimated 7-day incipient lethal temperature for this species, and that mortality occurs at temperature over 25°C (Johnstone and Rahel 2003). These experiments indicated that fish survived 7-day exposures to a diel cycle of 16 to 26°C despite a daily, 6-hour exposure to temperatures higher than 24 °C. Temperatures in the lower bypass tend to be much

cooler and have a wider daily diel fluctuation offering habitat more suitable for BCT to thermally regulate during warmer periods of the summer.

#### **Other Native Fishes**

The habitat improvements resulting from the proposed action would benefit other native fish species, including mottled sculpin, in Paris Creek. No notable effect on other native fish in the Grace Development area is anticipated.

#### **Other Non-Native Species**

The proposed action's habitat improvements would benefit other non-native fish species in upper Paris Creek, particularly brook trout. No notable effect on other non-native fish in the Grace Development area is anticipated.

### **No-Action Alternative**

#### **Aquatic Ecosystem**

This alternative would not restore Paris Creek through restoration actions and the decommissioning of the Paris Project. This would severely limit potential restoration of 3.5 miles of high-quality headwaters habitat for BCT and other native fishes. Flow limitations in the upper section would continue, and temperatures in the upper section would remain elevated increasing thermal stresses to fish populations. These constraints would continue to impair upstream movement of BCT from lower reaches of Paris Creek.

The Grace Development would remain operating under current requirements for minimum flow in the bypass reach. No changes to the aquatic environment would occur.

#### **Bonneville Cutthroat Trout**

This alternative would hinder continued habitat restoration efforts for BCT. It would limit the potential to restore a viable population of resident and fluvial BCT in the Bear River drainage. BCT would continue to be stocked in the bypass reach and surrounding tributaries as the settlement agreement outlines.

#### **Other Native Fishes**

Native fishes such as mottled sculpin would continue to be affected by lack of flow in the upper reach of Paris Creek. Other native fishes in the Grace bypass reach would not be impacted under this alternative.

#### **Other Non-Native Species**

In Paris Creek non-native brook trout would continue to be the dominant species in Paris Creek. It is unlikely that the implementation of this alternative would have a negative impact on non-native species that are adapted to the current environmental conditions in the Bear River drainage.

### **Cumulative Effects**

Article 405 of the Bear River Project license deals with restoration of aquatic and riparian habitat for BCT and other wildlife resources in the Bear River. Efforts to implement this article would generate positive cumulative effects with the proposed action, particularly in terms of habitat improvements in upper Paris Creek.

## **5.3 WETLAND AND RIPARIAN RESOURCES**

The following wetland/riparian issue was determined to require detailed analysis in this report (section 4.1.2):

- *Would wetlands and riparian communities be affected by modification of facilities or flows?*

Paris Creek and sections of the canal support a well-defined wetland and riparian community that may be altered with the restoration activities in Paris Creek and the decommissioning of the Paris Project. A narrow riparian wetland community occurs along the river through most of the Grace Development.

### **5.3.1 AFFECTED ENVIRONMENT**

Wetlands in Paris Creek or the Grace bypass reach have not been mapped but are described below on field-based observations.

#### **Riparian**

The term riparian has been defined as “plant communities contiguous to and affected by surface and subsurface hydrologic features of perennial or intermittent lotic and lentic water bodies (rivers, streams, lakes, or drainage ways). Riparian areas have one or both of the following characteristics: (1) distinctively different vegetative species than adjacent areas, and (2) species similar to adjacent areas but exhibiting more vigorous or robust growth forms. Riparian areas are usually transitional between wetland and upland” (FWS 1997).

At Paris Creek, riparian communities are found from the headwaters of the creek to below the powerplant. The riparian corridor is primarily a mix of shrub willows, dogwood, and river birch. The riparian corridor has not been surveyed, but field-based observations have confirmed the corridor. Additionally, portions of the canal support a narrow band of shrub-type plants and have not been surveyed.

In the Grace Development, riparian communities are associated with the Bear River and springs located in the bypass reach. Due to the confined nature of the Bear River channel, the riparian zone is typically limited to a narrow fringe. Where seeps occur along the river channel, the riparian community extends further upslope away from the river. Riparian communities are also associated with the spring complexes that occur throughout project area.

#### **Wetlands**

Wetlands are “those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions” (Federal Register 1982).

A narrow band of palustrine emergent wetlands surrounds the small forebay at the Paris Project. Other small pockets of palustrine emergent wetlands are likely associated with Paris Creek and the riparian corridor.

Palustrine emergent wetlands are most common near the springs and seeps in the Grace bypass reach, although palustrine wetlands also occur along reaches of the river in small pockets.

### **5.3.2 ENVIRONMENTAL CONSEQUENCES**

#### **Proposed Action**

Under the proposed action, small pockets of riparian vegetation and wetlands could be lost as a result of abandoning the conveyance canal. However, restoration of flows in the stream itself would likely expand the riparian corridor in areas from the headwaters down to powerplant. With increased flows in Paris Creek during critical growing periods, small, isolated wetlands found in the canyon bottom may be restored or enhanced. The restoration of flows in the creek would likely offset any lost riparian and wetland areas associated with canal.

The proposed action would reduce the minimum flow releases in the Grace bypass reach by 15 cfs, from 63 cfs to 48 cfs. This change in flows would be unlikely to result in a measurable effect on riparian and wetland vegetation along the bypass channel. Minimum flows typically occur during the late fall and winter periods when they have less effect on riparian plants.

### **No-Action Alternative**

Under the no-action alternative, restoration of Paris Creek would not occur, and riparian and wetland habitats would remain in their current condition.

The minimum flow releases of 63 cfs below the Grace Dam would continue, so this alternative would not notably affect wetlands or riparian resources along the bypass reach.

### **Cumulative Effects**

No actions with the potential to interact with the proposed action to generate cumulative effects on wetland and riparian resources were identified.

## **5.4 CULTURAL RESOURCES**

The following cultural issues were determined to require detailed analysis in this report (section 4.1.2):

- *Would historic, Native American, or paleontological values be impacted?*

Most of the facilities comprised by the Paris Project were built over 100 years ago and contribute to the area's historic character. Decommissioning and removal could impact these values. No cultural values would be affected by reducing the minimum flow release requirement at Grace Development.

### **5.4.1 AFFECTED ENVIRONMENT**

The Paris Project consists of the forebay, penstock, tailrace, powerhouse with associated equipment, and operator house. The Paris Creek restoration project would also involve modification of two structures that are not part of the Paris Project, the diversion structure located in Paris Creek and a 4-mile-long conveyance canal. The initial construction of the diversion structure and canal occurred in the late 1800's, known as the Weilenmann Ditch. These facilities were enlarged in 1909 and 1910 for use by Bear Lake Power Company (Ellis 2022). In 1909, the owners of the Weilenmann Ditch entered into an agreement with the Bear Lake Power Company under which the owners agreed that the power company could enlarge the canal and use it to transport water to the Paris Project, and the power company agreed to operate and maintain the canal. A subsequent 1936 agreement was entered into with the irrigation companies that are currently connected to the tailrace structure. Under this agreement the water rights of these companies is diverted through the canal and delivered to them at the tailrace. The Paris Project powerhouse building and features were constructed from 1909 to 1910, and began operation in July 1910 (Mark 2022).

In compliance with the National Historic Preservation Act (NHPA), contractors for PacifiCorp conducted an intensive survey in 2022 to identify, record, and evaluate cultural resources at the Paris Project and along the non-Project canal and diversion structure. One survey addressed non-Project facilities and included a 60-foot-wide area along the canal, forebay, headworks, and areas that potentially could be disturbed during decommissioning (Ellis 2022). Additional surveys were completed in the FERC project boundary and included the powerhouse, penstock, and associated employee residences (Mark 2022).

The historic structures and facilities documented during these surveys total 12 resources. Eleven are elements to a potential Paris Development historic district. These consist of two elements that are not part of the Paris Project—the diversion and intake structure and the canal—and nine elements that are part of the Paris Project—the forebay, downhill spillway, penstock, bridge/spillway over Upper Southfield Ditch, power plant, operator's house, garage, fire hose house, and tailrace with slide gates. These retain integrity and are recommended eligible for the National Register of Historic Places under Criterion A in the area of Industry and under Criterion C in the areas of Architecture and Engineering (Mark 2022).

The Shoshone-Bannock Tribes are represented on the ECC and expressed no Native American concerns regarding the proposed action. The Tribes have also been provided copies of the studies to review and comment on.

Those surveys found no paleontological resources in the APE, and no prehistoric sites were recorded.

## 5.4.2 ENVIRONMENTAL CONSEQUENCES

### Proposed Action

The proposed Paris Creek restoration project and the proposed decommissioning of the Paris Project would impact historic properties (i.e., resources listed on or determined eligible for listing on the National Register of Historic Places). Specifically, part or all of the following structures and facilities would be removed: the diversion and headworks, the portion of the conveyance canal on USFS land, other structures and buildings on site, intake trash racks in the forebay, and penstock. All these features are considered contributing elements of the historic properties or are themselves, individually, historic properties. Their removal would constitute an **adverse effect** under 36 CFR 800, the implementing regulations of the National Historic Preservation Act, through both direct loss of resources and indirect effects from changes to the setting, feeling, and association of the remaining resources within the overall hydroelectric complex. To resolve these adverse effects per 36 CFR Part 800, a draft MOA addressing the adverse effects to a historic resource was prepared and submitted to FERC in December of 2022, for review and signature routing.

### No-Action Alternative

Continued operation of the Paris Project would maintain the current status of the historical hydroelectric complex and not jeopardize current or future eligibility for National Register listing.

### Cumulative Effects

No actions with the potential to interact with the proposed action to generate cumulative effects on cultural resources were identified.

## 6. LIST OF PREPARERS

<b>Contributor</b>	<b>Education &amp; Experience</b>	<b>Contribution</b>
<b>Justin Barker</b> Cirrus Ecological Solutions, LC	B.S. in Geography and Earth Resources, and 26 years professional experience.	Primary analyst and author.
<b>Neal Artz</b> Cirrus Ecological Solutions, LC	Ph.D. in Range Science; 35 years experience in natural resource management, socioeconomic impact assessments, project management and technical writing.	Project administration and document review.
<b>Eric Duffin</b> Cirrus Ecological Solutions, LC	MSc. in Watershed Science, and 26 years professional experience.	Technical review.
<b>Judith Seamons</b> Cirrus Ecological Solutions, LC	B.S. in Home Economics; 31 years document production and desktop publishing experience.	Document production and administrative assistance.

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**Attachment C:  
ECC Meeting Minutes Documenting the  
Final Review of the Applications and  
Environmental Assessment, and  
Emails of Support, January 18, 2023**



**Bear River ECC  
Final Meeting Notes  
January 18, 2023  
Pocatello, Idaho**

<b>ECC Meeting Participants</b>		
	<b>Name</b>	<b>Organization</b>
x	Mark Stenberg	PacifiCorp
x	Jennifer Cornell	Idaho Department of Environmental Quality
x	Jim DeRito	Trout Unlimited
x	Corey Lyman	U.S. Forest Service
x	Matt Bringham	U.S. Fish and Wildlife Service
	Patrick Kennedy	Idaho Department of Fish and Game
	Allison Michalski	Greater Yellowstone Coalition
x	Drew Retherford	Bureau of Land Management
	Charlie Vincent	American Whitewater
	Hunter Osborne	Shoshone-Bannock Tribes
x	Andy Stokes	Idaho Department of Parks and Recreation
	Dan Miller	National Park Service
x	Nic Nelson	Idaho Rivers United
<b>Others Present</b>		
	Steven Smith	Idaho Department of Environmental Quality
x	Ryan Hillyard	Idaho Department of Fish and Game
x	Eve Davies	PacifiCorp
x	Matt Lucia	Sagebrush Steppe Land Trust
x	Matt Schenk	Idaho Department of Environmental Quality
x	Matt Coombs	Sagebrush Steppe Land Trust
x	Jeremy Jirak	U.S. Fish and Wildlife Service

<b>Commitments Made at the January 18, 2023, Meeting</b>	
All	<ul style="list-style-type: none"> <li>• Comments on the 2022 annual report are due February 17, 2023</li> <li>• Grant proposals (short forms) for 2023 habitat enhancement projects are due by March 3</li> <li>• Grant applications (long forms) for 2023 habitat enhancement projects are due by April 7</li> <li>• Funding subcommittee meets April 19 to rank projects</li> </ul>
Stenberg	<ul style="list-style-type: none"> <li>• Share ECC funding spreadsheets with Stokes, interested ECC members</li> <li>• Check status of 2022 fish screen repair and screen tender invoice/payment</li> <li>• Call email vote on ECC letter of support for revised RCPP application, reducing ECC funding amount. Provide to Coombs by January 31, 2023.</li> <li>• Schedule call to discuss Larsen management plan/new information with Lucia and interested ECC members.</li> <li>• <a href="#">Email ECC to confirm removal of Fox as a subject property</a></li> <li>• <a href="#">Meet with IDFG regarding the 2023 screen tender funding proposal</a></li> <li>• <a href="#">Coordinate with Lyman to visit Kackley.</a></li> <li>• <a href="#">Distribute Bouwes' Station Creek report to the ECC.</a></li> </ul>
Stenberg & Hillyard	<ul style="list-style-type: none"> <li>• Rescope Elkhorn and Stauffer projects prior to 2023 grant cycle.</li> </ul>
Hillyard	<ul style="list-style-type: none"> <li>• Coordinate any necessary rotenone treatment at Paris by summer 2023.</li> <li>• Review new information in the most current BCT Plan with the ECC to help identify possible priority streams.</li> <li>• Consider submitting a proposal for a stewardship fund for the screen tender position.</li> </ul>

	<ul style="list-style-type: none"> <li>• Contact the Mattsons regarding an access agreement for the point of diversion on their property.</li> </ul>
DeRito	<ul style="list-style-type: none"> <li>• Draft a Land and Water proposal for the Paris diversion for the March ECC meeting</li> <li>• <a href="#">Check in on Davis Diversion/provide status update.</a></li> </ul>
Coombs	<ul style="list-style-type: none"> <li>• Provide a clean copy of the B&amp;R Ranch project scoping report to the ECC.</li> <li>• <a href="#">Look into the cancelled Cottonwood Creek habitat enhancement project as a potential conservation easement.</a></li> </ul>
Lucia	<ul style="list-style-type: none"> <li>• Hold call with the ECC to discuss the Larsen management plan/new information.</li> <li>• <a href="#">Provide information on water rights encumbered on SSLT's Mink Creek projects.</a></li> </ul>
Action items in <a href="#">blue</a> have been carried over.	

## Decisions Made by Email Since Last Meeting

None

## Decisions Made at This Meeting

- Approved PacifiCorp's Paris Hydroelectric Project Petition for Surrender of Exemption and Application for Amendment of License for submittal to the Federal Energy Regulatory Commission.
- Approved the B&R Ranch Project Scoping Report, as edited.

## Previous Meeting Notes and Action Items

December meeting notes were approved as written. Action items carried over appear in blue in the commitments table, above.

## ECC Calendar

Updates to the ECC's calendar were reviewed and approved.

## Updates

### ECC Fund Balances - Stenberg

Land and Water Acquisition Fund (unobligated): \$1,622,514.52

Habitat Enhancement Project Fund (unobligated): \$316,000.00

### 2023 Grant Fund Cycle

A flyer announcing the availability of 2023 habitat enhancement funds was distributed to the ECC and others prior to this meeting. Project proposals (short forms) for habitat enhancement projects are due by March 3, 2023. Project applications (long forms) are due by April 7, 2023. The funding subcommittee meets April 19 to rank projects.

## **Current Habitat Enhancement Projects**

**Hull Fencing** – This project has been invoiced.

**Fish Screen Repairs and Screen Tender** – Status of 2022 invoice and payment needs to be checked.

**Bartschi/Stauffer Creek** – First year’s work included upgrades to irrigation practices. Work on the stream channel took place in 2022. Work will resume in July. Remaining tasks include one mile of stream channel work, stock water, and fencing. The project should be complete in 2023.

**Elkhorn Ranch** – This project will be scaled down to focus on fish passage. Eco blocks will be replaced with weirs. Diversion work can go forward once the water adjudication process is complete. Stenberg and Hillyard will re-scope this project in advance of the 2023 grant review process.

**Bloomington** – This project has not yet been billed.

**Thomas Fork** – Plans to move forward are still under consideration.

**Dip Creek** – Fencing is in. This project should be billed soon.

**Davis** – DeRito will provide an update on this project at the next ECC meeting.

**Boa Ogoi** – Stenberg will provide an update on this project at the next ECC meeting.

**Paris Creek Irrigation Diversion** – Work is ongoing.

**Kackley and Cove** – Remaining funds are being used to water plantings.

**Mussler** – Project is 90 to 95 percent complete. Bank grading remains to be completed.

## **Paris Decommissioning**

PacifiCorp’s draft Paris Hydroelectric Project Petition for Surrender of Exemption and Application for Amendment of License were distributed to the ECC for review prior to the December ECC meeting. Comments were received from Idaho Department of Environmental Quality and were incorporated into the documents.

Stenberg reviewed the final Petition of Surrender of Exemption and Application for Amendment of License with the ECC and asked for ECC approval to proceed with the FERC filing. ECC members voted unanimously to approve the final petition and application, and for PacifiCorp to proceed with the filing. ECC members provided the following additional comments:

**Jennifer Cornell, IDEQ** – IDEQ is fully in support of the project, which is expected to result in habitat and water quality improvements.

**Drew Retherford, BLM** – BLM supports the project. Retherford will speak with his manager about providing a letter of support.

**Jim DeRito, Trout Unlimited** – TU is fully supportive of the project and is a signatory to the Paris Creek Restoration Agreement, coordinating the new point of diversion.

**Matt Bringham and Jeremy Jirak, USFWS** – USFWS is supportive.

**Ryan Hillyard, IDFG** – IDFG supports the project. IDFG would like to turn the fishery over to a Bonneville cutthroat trout population. IDFG had concerns about decreased flows in the Black Canyon but this may be a benefit, with less warm water coming out of Grace that could affect the hatchery.

**Corey Lyman, USFS** – Forest Service supports the project.

**Nic Nelson, IRU** – Supports the project but is coming in late in the process and has concerns that returning flows may be put back up for use.

Letters of support are included in Attachment 1.

### **Schedule of Decommissioning Activities**

The 404 permit for the project was submitted December 14, 2022. PacifiCorp's consultant is currently working on plans for the tailrace. Plans are 99 percent complete. PacifiCorp will hold a walkthrough with contractors as soon as snow is off at the site this spring. The decommissioning is expected to occur in the fall (potentially could start in August but may extend into 2024—the remainder of the schedule is determined by how quickly FERC responds).

Hillyard asked why a fish screen is needed at this location. DeRito said it's needed because fish can get entrained in the new irrigation diversion. Currently they cannot get entrained in the canals where they connect to the tailrace. This will also allow all the work to be done at once (diversion and fish screen). DeRito noted that the design is almost complete, so any questions or concerns should be provided soon. If rotenone treatments by IDFG need to be scheduled, this summer is the best window to do so because it could be the last time flows are diverted around the reach if decommissioning happens this fall

### **Paris Diversion**

DeRito said fewer people are using the Upper Southfield Canal. There have been issues with holes that will need pipes. There has been discussion of changing the point of diversion but it is probably too late to include it in this process. Upper Southfield is working on their plans to fix the leaks.

The consultant is close to completing overall design for the new diversion. Costs are going up. The original estimate was \$600,000, now it's probably closer to \$800,000. Stenberg suggested that DeRito consider applying for ECC Land and Water funding to complete this work. DeRito will draft a project proposal for consideration at the March ECC meeting.

### **Watershed Approach to Habitat Enhancement Projects**

Stenberg said this approach to habitat enhancement project selection was first proposed by ECC members some time ago and Lynn Van Every of IDEQ brought it up again just prior to his retirement. It would target specific reaches for focus. One way to accomplish this would be to give greater weight to priority streams during project ranking. Stenberg noted the number of habitat enhancement project applications has been down in recent years.

Schenk noted that many habitat enhancement projects are opportunistic, and he did not want to hamstring other good projects [outside of priority reaches]. He asked how priority reaches would be identified. It was noted that Steven Smith had been working on an ECC project map with project descriptions, which may be available for review.

Stenberg said Steve's Creek was one stream mentioned as a possible priority reach. Hillyard said he would support Steve's Creek, noting valuable habitat and willing landowners.

DeRito said he supported the watershed approach and suggested reviewing IDFG's recently updated Bonneville Cutthroat Trout Restoration Plan, using new information in the plan as a guide. Hillyard will review new information in the plan with the ECC to inform identification of priority streams.

Cornell suggested getting word out to adjacent landowners where habitat enhancement projects are under consideration.

### **Stewardship Fund for Screen Tender**

Stenberg said given that there are only 10 years remaining in the license, large yearly amounts would be needed to build the fund to a sufficient level for when the license expires. He noted there is money in the Land and Water Fund and asked IDFG to consider bringing a Land and Water project proposal to the ECC to establish a stewardship fund for a screen tender. Hillyard said this may be complicated, as the state legislature determines IDFG employees and funding. He asked whether Sagebrush Steppe or Trout Unlimited could employ the screen tender.

Hillyard noted that there currently no easements in place for any of the fish screens and IDFG could lose access to them at any time. Stenberg said it would be timely for the ECC to consider this and any proposals for "future proofing."

DeRito suggested the new point of diversion on the Mattson for access agreement consideration. Hillyard will contact them.

**Next Agenda:**

- Consider a project proposal for Land and Water Funds for the Paris Diversion
- Review new information in the BCT Restoration Plan to inform identification of priority streams
- B&R Ranch – Updates from final appraisal
- Comments on the annual report
- Paris Decommissioning update
- Update on Larsen and Jensen
- Station and Mink Creek Updates

**Attachment D:  
Letters and Emails of  
Support from ECC Organizations**

**From:** Charles Vincent <charliev@xmission.com>

**Date:** Thursday, January 19, 2023 at 9:59 AM

**To:** Mark Stenberg <Mark.Stenberg@PacifiCorp.com>, Miriam Hugentobler <miriam.hugentobler@gmail.com>

**Cc:** Kevin Colburn <kcolburn@amwhitewater.org>

**Subject:** Paris Decommissioning Support

Mark/Miriam:

Follow-up on yesterday's ECC meeting discussion, American Whitewater recently reviewed the document package for Decommissioning of the Paris Hydropower facility and fully supports proceeding with the document filing and field execution of the project.

Thanks,

Charlie Vincent

AW Regional Representative

[CLVincent@xmission.com](mailto:CLVincent@xmission.com)

801-243-4892



**From:** Johnson,Becky <becky.johnson@idfg.idaho.gov>  
**Sent:** Thursday, January 5, 2023 4:21 PM  
**To:** Stenberg, Mark (PacifiCorp) <Mark.Stenberg@pacificorp.com>  
**Cc:** Kennedy,Patrick <pat.kennedy@idfg.idaho.gov>; Miriam Hugentobler <miriam.hugentobler@gmail.com>  
**Subject:** [INTERNET] RE: Paris Decommissioning documents for 60 day review

**THIS MESSAGE IS FROM AN EXTERNAL SENDER.**

Look closely at the **SENDER** address. Do not open **ATTACHMENTS** unless expected. Check for **INDICATORS** of phishing. Hover over **LINKS** before clicking. [Learn to spot a phishing message](#)

Hi Mark,

We have reviewed the draft Paris decommissioning documents you provided and have no additional comments or edits to recommend. We discussed internally the potential need for a rotenone treatment for brook trout to make BCT recovery possible in Paris Creek and look forward to future discussions with you on that topic.

Thank you for the opportunity to comment.

Becky

Becky Johnson  
Technical Assistance Manager  
Idaho Department of Fish and Game  
1345 Barton Road  
Pocatello, ID 83204  
O: 208.236.1258  
M: 208.251.2588





STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

444 Hospital Way, #300, Pocatello, ID 83201  
(208) 236-6160

Brad Little, Governor  
Jess Byrne, Director

November 29, 2022

Mark Stenberg, Project Manager  
PacifiCorp  
822 Grace Power Plant RD  
Grace, ID 83241

Subject: Amendment to the License for the Bear River Hydroelectric Project

Dear Mr. Stenberg:

The Idaho Department of Environmental Quality (DEQ) lends their full support to the application by PacifiCorp to FERC for amending the Bear River Hydroelectric Project license to adjust the minimum instream flow requirement in the Grace development's bypassed reach. This amendment is part of completing the Paris Creek Restoration project, a significant effort toward restoring ecological functions to Paris Creek. As a stakeholder and partner in the project, DEQ has participated in its planning and development in recognition of the many resulting water quality benefits.

The ecological benefits resulting from the Paris Creek Project include restoring flows to the head waters and providing an increase in the average monthly flow in 4 miles of creek previously experiencing low to no flow. This increase in flow could potentially reduce in-stream temperatures by 4 to 5 degrees during warm periods. Higher flows would clean the substrate of fine sediment in gravels thus promoting successful spawning of sensitive Bonneville Cutthroat Trout found in the system. Overall, this project is seen as an important opportunity to restore and enhance cold-water habitat for Bonneville Cutthroat Trout and improve water quality in Paris Creek.

DEQ recognizes the significant ecological improvements the Paris Creek Project will provide. DEQ understands the compromises required to allow this project to move forward, including the reduction in flow through the Grace bypass reach. For these reasons, as previously stated DEQ fully supports the request for amendment to the FERC license.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Cornell".

Jennifer Cornell  
Surface Water Quality Manager  
DEQ Pocatello Regional Office

Cc: Katy Bergholm, Regional Administrator, DEQ-PRO; [katy.bergholm@deq.idaho.gov](mailto:katy.bergholm@deq.idaho.gov)  
Matthew Schenk, Water Quality Analyst, DEQ-PRO; [matthew.schenk@deq.idaho.gov](mailto:matthew.schenk@deq.idaho.gov)  
Tambra Phares, 401 Certification Lead, State Office; [tambra.phares@deq.idaho.gov](mailto:tambra.phares@deq.idaho.gov)



Forest  
Service

Caribou-Targhee National Forest HQ

1405 Hollipark Drive  
Idaho Falls, ID 83401  
208-557-5900  
Fax: 208-557-5827

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**File Code:** 1500  
**Date:** January 26, 2023

Mark Stenberg  
Senior Operations Project Manager  
PacifiCorp

Subject: Support Letter for the Paris Creek Restoration Project

Dear Mr. Stenberg,

The Caribou-Targhee National Forest (CTNF) appreciates PacifiCorp's efforts to move forward with the Paris Creek Restoration Project and FERC filings. Agency staff have been involved with the coordination and development of the restoration project. The Intermountain Regional Forester is a signatory of the Paris Creek Restoration Agreement indicating their support of this work.

I appreciate the cooperation and work that has gone into this restoration project and appreciate PacifiCorp's commitment to improving conditions in the Bear River Watershed. For further information, please contact Corey Lyman at 208-557-5838 or myself.

Sincerely,



MELVIN BOLLING  
Forest Supervisor



**RESOLUTION**

**WHEREAS**, the Fort Hall Business Council (FHBC), governing body of the Shoshone-Bannock Tribes (Tribes) has the ultimate responsibility for approvals and oversight of the administration of all Tribal contracts, grants, cooperative agreements, regardless of source; and

**WHEREAS**, the Fort Hall Business Council (FHBC), governing body of the Shoshone-Bannock Tribes (Tribes), has the ultimate responsibility to direct staff to conduct work off-reservation; and

**WHEREAS**, the protection, preservation, and enhancement of Tribes' reserved off-reservation Treaty Rights retained by our ancestors is vital for maintaining health, well-being, spirituality and culture of the Tribes and members; and

**WHEREAS**, the right to partner with companies and corporation is primarily exercised within the public domain on lands managed by the federal government and staff direction has been to expand the Tribes management authority to ensure that environmental concerns are addressed at the source; and

**WHEREAS**, Tribes along with Pacificorp and other federal agencies and NGO (non-profit organizations) are party to the FERC Bear River Relicensing Settlement Agreement, which includes participation with Pacificorp and other signatories through the ECC (environmental coordination committee) for PM&E (protection, mitigation, and enhancement) fish and wildlife, including native Bonneville Cutthroat trout projects in the Bear River watershed and any outside the Action Areas in agreement with Pacificorp; and

**WHEREAS**, the Tribes will support by vote and agreement (signatory) to fund EDD projects, including decommissioning of hydro operations impacting native fish and wildlife including FERC application filing by Pacificorp (land owner of hydro project on Paris Creek) for the Paris Project decommissioning restoring instream flows; now

**THEREFORE, BE IT RESOLVED BY THE BUSINESS COUNCIL OF THE SHOSHONE BANNOCK TRIBES**, that with regards to the Paris Creek Restoration Project, the Tribes will support the funding through Bear River Settlement Agreement PM&E by vote with EEC or signatory agreement for Pacificorp support in decommissioning FERC filing for the Paris Project, in accordance with the Fort Bridger Treaty of 1868 and Natural Rivers Policy.

Authority for the foregoing resolution is found in the Indian Reorganization Act of July 18, 1934 (48 Stat., 984), as amended, and in the Shoshone-Bannock Tribes Constitution and Bylaws of the Fort Hall Reservation, as amended, including but not limited to the authority found in the Constitution, Article VI.

Dated this 17th day of November 2022.

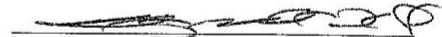


Nathan Small, Tribal Chairman  
Fort Hall Business Council

**SEAL**

**CERTIFICATION**

**I HEREBY CERTIFY**, that the foregoing resolution was passed while a quorum of the Business Council was present by a vote of 5 in favor, 1 absent (CJW), and 1 not voting (NS) on the date this bears.



Claudia J. Washakie, Tribal Secretary  
Fort Hall Business Council

ENVR/CTRT-2022-0969