

**Bear River ECC
Final Meeting Notes
August 16, 2023
Pocatello, Idaho**

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

Commitments Made at the August 16, 2023 Meeting	
Stenberg	<ul style="list-style-type: none"> Distribute Settlement Agreement Explanatory Statement, powerpoint, copy of bylaws, and decision matrix, work culture and decision making chart, and license article review table to ECC. Distribute map of habitat enhancement projects to ECC.
Coombs	<ul style="list-style-type: none"> Look into the cancelled Cottonwood Creek habitat enhancement project as a potential conservation easement.
Lucia	<ul style="list-style-type: none"> Provide information on water rights associated with SSLT's Mink Creek projects.
Hugentobler	<ul style="list-style-type: none"> Contact Cirrus for Soda Spin Studies, post to website.
Action items in blue have been carried over.	

Previous Meeting Notes and Action Items

Meeting notes from the May 2023 ECC meeting were approved as written. Action items carried over appear in blue in the table above.

Decisions Made by Email Since Last ECC Meeting

The following decision was made by email vote since the last ECC meeting. A record of voting is included in Attachment 1.

- Approved transfer of \$2,000 in habitat enhancement funding from Idaho Department of Fish and Game's (IDFG) Thomas Fork Diversion Design project to IDFG's Stauffer Creek Diversion Design project and bid package.

Decisions Made at This Meeting

None

Items Added to Agenda

None

Updates on Paris decommissioning and fall 2023 whitewater boater flows were provided by email prior to this meeting are included in Attachment 2.

Introductions

- Jaime Campbell has joined PacifiCorp as environmental analyst and will work primarily on the Ashton hydroelectric project.
- Eric Pankau has joined Sagebrush Steppe Land Trust (SSLT) as stewardship manager and will work directly with ECC.
- Ryan Whitworth, fisheries biologist at the Bureau of Land Management (BLM) Idaho Falls District Office.

ECC Calendar Review

- Fall 2023 whitewater boater flows will take place September 9 & 10 and September 16 & 17. An updated boater flow calendar is posted to Bear River website.
- The Oneida project will be drawn down for pumped storage studies sometime before September 15. Exact timing has not yet been established.
- An ECC work session on Oneida Pumped Storage Hydro and the Bear River Settlement Agreement will take place September 20, 2023.
- Next regular ECC meeting takes place October 18, 2023.

ECC Fund Balances

Habitat Enhancement Fund

\$ 425,810.00 – Currently in fund

\$ 362,730.00 – Outstanding obligations

\$ 63,080.00 – Unobligated funding

Land and Water Fund

\$ 1.6 million – Currently in fund

\$ 445,000 – Outstanding obligations

\$ 1.57 million – Unobligated funding

Current Habitat Enhancement Projects

Paris Decommissioning - PacifiCorp's filing of its Non-capacity Amendment of License and Surrender of Conduit Exemption for the Bear River and Paris hydroelectric projects was noticed by FERC in July. A job walk with contractors took place August 14. The public utility commission filing will take place next. Sinkhole work may need to be modified due to beaver activity in the area.

Paris Diversion - A prebid tour with contractors took place May 5. It was well attended but only two bids were received afterwards. Weather-related delays this year resulted in putting the project off until September 2024. The project will be re-bid next year and the diversion will be in place prior to the following irrigation season. Flow measurements were taken as agreed. Flows will be measured before and after the diversion is in place. It was noted that this year was not a typical year, with very high flows.

Bloomington Grazing - Project is moving along well.

Mussler - This project is ready to wrap. Final paperwork is in Conservation District office.

Stauffer/Bartschi - The stock water portion of this project is currently being installed. Work on the lower mile of the project will begin in September. The Natural Resources Conservation Service (NRCS) has been out to view the project and an NRCS tour is scheduled to take place next week.

Kackley - River Structures has completed topos for this project and should have a report at the October ECC meeting.

Bonneville Cutthroat Trout Broodstock Program

Kennedy said a lower-than-expected number of eggs were harvested this year.

IDFG recently surveyed Trout Creek and found multiple year classes of Bonneville cutthroat trout, so natural reproduction is taking place. Kennedy said if spawning substrates were improved, it would benefit the system, including Cottonwood Creek. It was noted that high water years have resulted in the need for diversion repairs in many locations.

Kennedy noted that a screen/trash rack is being considered for the Gentile diversion.

2023 Field Day

ECC members toured the Bonneville cutthroat trout broodstock ponds and Kackley Springs with IDFG May 30.

Bear River Hydroelectric Project License Article Review for Settlement Agreement Continuation

Settlement Agreement – Explanatory Statement

Stenberg reviewed the Settlement Agreement Explanatory Statement and will distribute a copy to the ECC by email. Major points covered included:

- Capital funds were identified by the ECC as a need.
- The ECC decided to not to fund studies, positions, equipment, etc.
- The ECC would establish monitoring criteria and do any necessary monitoring of projects.
- Management plans were developed for all PacifiCorp lands and PacifiCorp monitors effectiveness for those.
- Monitoring takes place annually for habitat enhancement projects.

Stenberg reviewed the background of the Bear River Hydro license (Powerpoint presentation), including post-license study provisions, license implementation provisions, a flow chart of the ECC's decision making process, and working culture and decision-making training. Copies will be distributed by email.

Summary of One-on-One Meetings

One-on-one meetings to review current license articles have now been held with IDFG, Idaho Department of Parks and Recreation, the U.S. Forest Service, Idaho Department of Environmental Quality, American Whitewater, Trout Unlimited, Greater Yellowstone Coalition, U.S. Fish and Wildlife Service, and Idaho Rivers United. Meetings have not yet been held with National Park Service or the Shoshone-Bannock Tribe.

Stenberg reviewed a summary of comments received during the license article review meetings (Attachment 3). Additional suggestions were made during this meeting to include a screen tender and maintenance as its own article, and to establish a fund to support the screen tender.

DeRito suggested a status summary of all funded studies, etc. to gain an understanding of where we are now. Stenberg noted that the annual report includes much of this information.

Davies said there is a need for a repository for study data. DeRito agreed, noting that the Bear River WISK site (at Utah State University), where some study data was previously housed, is now gone.

Additional Fisheries Evaluations Related to Bear River Settlement Agreement and Oneida Pumped Storage – Kennedy

A copy of this proposal was distributed to ECC members prior to this meeting. Main points of discussion included:

- The need to understand Bonneville cutthroat trout populations better.
- Necessary data are lacking – continue discussion of data collection.
- The need to be more strategic in measures that are taken.

License Continuation Vision and Next Steps: Study Implementation, Initial Consultation Document, September meeting agenda and Joint Agency Meeting

These topics were tabled for the next ECC meeting.

Next Agenda

Next ECC meeting will be held September 20, 2023, at the offices of Idaho Department of Environmental Quality, Pocatello, Idaho. Agenda items include:

- Oneida pumped storage hydro – to include water quality update and habitat analysis data
- Bear River Settlement Agreement – vision portion and next steps.

Adjourned to closed session for Land and Water Fund Updates.

Attachment 1
Email Voting Records

Bear River ECC – Record of Email Voting		
Transfer of Thomas Fork Habitat Enhancement Funding to Stauffer Creek Diversions		
Vote Called by Stenberg		
August 7, 2023		
	Name	Organization
yes	Lyman	USFS
yes	DeRito	Trout Unlimited
yes	Cornell	IDEQ
	Nelson	Idaho Rivers United
yes	Jones	Idaho Parks and Rec
yes	Hillyard	Idaho Fish and Game
	Retherford	BLM
	Osborne	Sho-Ban Tribes
	Miller	National Park Service
yes	Vincent	American Whitewater
yes	Michalski	Greater Yellowstone
yes	Stenberg	PacifiCorp
yes	Jirak	USFWS

From: Stenberg, Mark (PacifiCorp) <Mark.Stenberg@pacificorp.com>

Sent: Monday, August 7, 2023 5:59 PM

To: Charlie Vincent <charliev@xmission.com>; Hunter Osborne (hosborne@sbtribes.com) <hosborne@sbtribes.com>; James DeRito <JDeRito@tu.org>; Jennifer Cornell (jennifer.cornell@deq.idaho.gov) <jennifer.cornell@deq.idaho.gov>; Kathy Rinaldi (krinaldi@greateryellowstone.org) <krinaldi@greateryellowstone.org>; Keith Jones <Keith.Jones@idpr.idaho.gov>; Kennedy,Patrick <pat.kennedy@idfg.idaho.gov>; Mabey, Lee -FS <lee.mabey@usda.gov>; Mathew Bringhurst (matthew_bringhurst@fws.gov) <matthew_bringhurst@fws.gov>; Michael Kuyper <mkuyper@blm.gov>; Miriam Hugentobler <miriam.hugentobler@gmail.com>; Nic Nelson <nic@idahorivers.org>; Allison Michalski <amichalski@greateryellowstone.org>; Andrew Stokes <Andrew.Stokes@idpr.idaho.gov>; Campbell-Lavallee, Jaime (PacifiCorp) <Jaime.Campbell-Lavallee@pacificorp.com>; dan_miller@nps.gov; Davies, Eve (PacifiCorp) <Eve.Davies@pacificorp.com>; Hillyard,Ryan <ryan.hillyard@idfg.idaho.gov>; Jeremy Jirak (jeremy_jirak@fws.gov) <jeremy_jirak@fws.gov>; Johnson,Becky <becky.johnson@idfg.idaho.gov>;kcolburn@amwhitewater.org; Lyman, Corey - FS, ID <corey.lyman@usda.gov>; Matthew.Schenk@deq.idaho.gov; Nick Kunath (nkunath@idahorivers.org) <nkunath@idahorivers.org>; Retherford, Drew W <dretherford@blm.gov>;Steven.Smith@deq.idaho.gov; Warren Colyer <wcolyer@tu.org>

Subject: Email Vote - Request to use surplus grant funds from the Thomas Fork Irrigation Design on Stauffer Creek Diversion Design

Hello Everyone,

Ryan Hillyard has asked in the email below if a budget surplus of \$2k on the Thomas Fork diversion design can be applied to the Stauffer Creek diversion project. I'm in favor of the request as both projects ranked well and it is a real hassle to get reimbursements processed. Please respond to this email with your approval or not of the request. We will document this request for email vote in the notes for the next ECC meeting along with the decision made. Please reach out to Ryan or myself if you have questions.

Mark Stenberg, MBA
(208) 339-9552

From: Hillyard, Ryan <ryan.hillyard@idfg.idaho.gov>
Sent: Monday, July 31, 2023 6:52 AM
To: Stenberg, Mark (PacifiCorp) <Mark.Stenberg@pacificorp.com>
Subject: [INTERNET] Request to use grant funds from Thomas Fork on Stauffer Creek

Mark,

This email is to request the use of the remaining grant funds from the Thomas Fork diversion design on the Stauffer Creek Diversions project. We currently have a remaining balance of \$2,000 in the Thomas Fork diversion design grant. The design for the Thomas Fork diversion was completed but had a large implementation cost and we are currently trying to find funding for that project or will try and design something less expensive at a future date. We are about \$2,000 short on the Stauffer Creek diversion design and bid package. I am requesting to use the remaining amount of the Thomas Fork grant on the Stauffer Creek diversion grant. This \$2,000 will allow us to use the design contractor to finish up the bid package and assist us with the pre-bid meeting with the interested contractors that will bid on the project. Please consider this and let me know ASAP, as we are trying to get this implemented as soon as possible because other funds for the project will expire towards the end of the year.

Thanks,
Ryan

Ryan Hillyard
Fisheries Biologist
Idaho Department of Fish and Game
Region 5
1345 Barton Road
Pocatello, ID 43204
(208) 236-1248 Office
(208) 251-9893 Cell

Attachment 2
Email Updates Provided by Email

Subject: Revised ECC agenda for August 16.

Date: Sunday, August 13, 2023 at 3:32:07 PM Mountain Daylight Time

From: Stenberg, Mark (PacifiCorp)

To: Charlie Vincent, Hunter Osborne (hosborne@sbtribes.com), James DeRito, Jennifer Cornell (jennifer.cornell@deq.idaho.gov), Kathy Rinaldi (krinaldi@greateryellowstone.org), Keith Jones, Kennedy,Patrick, Mabey, Lee -FS, Mathew Bringhurst (matthew_bringhurst@fws.gov), Michael Kuyper, Miriam Hugentobler, Nic Nelson, Allison Michalski, Andrew Stokes, Campbell-Lavallee, Jaime (PacifiCorp), dan_miller@nps.gov, Davies, Eve (PacifiCorp), Hillyard,Ryan, Jeremy Jirak (jeremy_jirak@fws.gov), Johnson,Becky, 'Kevin Colburn', Lyman, Corey -FS, Matthew.Schenk@deq.idaho.gov, Nick Kunath (nkunath@idahorivers.org), Retherford, Drew W, Steven.Smith@deq.idaho.gov, Warren Colyer

CC: Jeff Lovinger

Hello Everyone, I'm working on prepping materials for our Wednesday, August 16, ECC meeting at IDEQ Pocatello. I removed two of my report out items and have instead provided updates in this email on them. I also added some additional detail to the items in the Oneida PSH/Settlement Agreement Continuation discussion and some more time to that item.

Paris Decommissioning – Contractors interested in the PacifiCorp demo activities will meet for a job walk on August 14. FERC noticed the Paris surrender application and the Bear River License Amendment for comment. I've got invoices from Ward Brother's Dairy and Bloomington Grazing Association to process against ECC grant funds and PacifiCorp funds. Irrigation diversion construction to commence in 2024.

Black Canyon Whitewater Flows – We added September 16 & 17 as a makeup flow for cancelled spring flows. The schedule now has flows on September 9 & 10 and 16 & 17.

Mark Stenberg, MBA
Senior Operations Project Manager
PacifiCorp – Renewable Resources
(208) 339-9552

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Attachment 3
License Article Review Table

Bear River Hydroelectric Project, FERC Project No. 20
PacifiCorp 6.5.2023
FERC License Environmental Measures

License Article	Language	Status	2053 Vision
<p><i>Aerial Photography</i></p> <p><i>Telemetry Study</i></p> <p><i>Broodstock Development</i></p>	<p>would be generated pursuant to this element. The funding of this element is expected to cost no more than \$40,000.</p> <p>(b) a provision to conduct aerial photography to assist in understanding habitat features and identifying BCT restoration opportunities on the Bear River and its tributaries in the State of Idaho. Included in the plan shall be details as to how the data will be collected and identification of reports that would be generated pursuant to this element. Funding for this element is expected to cost no more than \$125,000.</p> <p>(c) a provision to prepare a Geographic Information System (GIS) layer depicting active diversions and other passage impediments in the Bear River drainage within the range of the BCT in the State of Idaho. Included in the plan shall be details as to how the data will be collected and identification of reports that would be generated pursuant to this element. Funding for this element is expected to cost no more than \$13,000.</p> <p>(d) a provision to conduct a BCT telemetry study on the Bear River and its tributaries in the State of Idaho. Included in the plan shall be details as to how the data will be collected and identification of reports that would be generated pursuant to this element. Funding for this element is expected to cost no more than \$150,000, with annual expenditures not exceeding \$50,000.</p> <p>(e) a provision for developing localized broodstocks of BCT, for stocking in the Action Area linked to native BCT protection and restoration efforts. Funding for this element is expected to cost no more than \$100,000 per year for three years. Funds available for use under this element, if not used for broodstock development, may be reallocated for use under Articles 405 and 406, provided that such funds must be used by end of seventh anniversary of the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401.</p> <p>(f) a study plan that evaluates the feasibility of evaluating fish passage at the Cove Project through modifications to the project, addition of fish passage facilities, and decommissioning of the Cove Project. Included in the study plan shall be details regarding methodology and identification of schedule for preparing the study results and filing the results with the Commission. Funds allocated under Articles 405 and 406 may be reallocated for the purposes described here.</p> <p>The licensee shall include with the plan documentation of consultation with the ECC, copies of comments and recommendations on the completed plan</p>		

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	<p>after it has been prepared and specific descriptions of how the ECC's comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the ECC to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p> <p>The licensee's financial responsibility for implementing the measures in this article shall not be limited by the funds specified herein, and may be modified by the Commission. The Commission reserves the right to make changes to the Comprehensive BCT Restoration Plan. Upon Commission approval, the plan becomes a requirement of the license, and the licensee shall implement the plan, including any changes required by the Commission. Annual updates on the progress of the elements (a) through (f) and all resulting reports, including analysis and conclusions, shall be filed with the Commission, as provided for in Article 401.</p>		
<p>Art. 404 <i>Conservation Hatchery Program</i></p>	<p>The licensee, in consultation with the ECC, shall develop a plan, for Commission approval, for stocking of native BCT in the Action Area. Funding for this stocking plan is expected to cost no more than \$100,000 annually. The funding shall be provided starting from the seventh anniversary of the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401, through the end of the license term. The stocking plan shall be filed with the Commission for approval within seven years after the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401.</p> <p>To the extent that \$100,000 is not expended in one year, any funds not expended may be carried over to succeeding years during the term of the license for fish stocking in accordance with this article, or shall be made available for habitat restoration actions (Article 405), land and water acquisition (Article 406), or enhancement and restoration of land or water acquired pursuant to Article 406. Funds not fully expended in a given year shall not expire during the license term, but shall be continuously carried over for use in completing BCT Restoration Plan elements in succeeding years, in accordance with this article. Carried-over funds shall bear interest but shall not further escalate. Upon expenditure, one half of the accrued interest shall belong to the licensee, and one half of the interest shall be available for mitigation under this article. Any funds not expended by the end of the license term shall not be available for any other purpose.</p>	<p>Ongoing</p>	<p>Keep BCT conservation hatchery program but review for updates. Interest in additional BCT studies/monitoring has been raised if adopted it should probably go in this section.</p>

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	<p>The licensee shall include with the plan documentation of consultation with the ECC, copies of comments and recommendations on the completed plan after it has been prepared and specific descriptions of how the ECC' s comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the ECC to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p> <p>The licensee's financial responsibility for implementing the measures in this article shall not be limited by the funds specified herein, and may be modified by the Commission. The Commission reserves the right to make changes to the stocking program. Upon Commission approval, the stocking program becomes a requirement of the license, and the licensee shall implement the stocking program, including any changes required by the Commission. Annual updates on the progress of the stocking program and all resulting reports, including analysis and conclusions, shall be filed with the Commission, as provided for in Article 401.</p>		
NEW Reservoir fishery			Proposal for ongoing monitoring of warm water reservoir fishery. Involvement in reservoir stocking?
Art. 405 <i>Habitat Restoration Program</i>	<p>The licensee shall develop a plan for undertaking actions to benefit and restore aquatic and riparian habitat for BCT and other fish and wildlife resources in the Action Area. Funding for this habitat restoration plan is expected to cost no more than \$167,000 annually. The funding shall be provided starting from the first anniversary of the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401, through the end of the license term. The plan shall be filed with the Commission for approval within one year after the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401.</p> <p>Funding allocated under this article may be used to study the effect of whitewater boating flows on BCT in the Bear River below Grace Dam over the license term. Should the FWS prescribe fish passage during the term of the license, the funds described in this article may be used to pay for such fish passage before other uses.</p>	Ongoing	<p>This program should remain or be expanded but discuss additional side boards for project review and funding. Is there a way to drive a more targeted approach to projects within the license article language? Ongoing effectiveness monitoring of projects should be discussed.</p> <p>Should screen tender support if adopted go in this license article as it supports maintenance of projects or should it go in the conservation hatchery program? Screen maintenance also, should it be its own article or program with screen tender. Probably build separate article for screen tender and maintenance.</p>

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	<p>To the extent that \$167,000 is not expended in one year, any funds not expended may be carried over to succeeding license years during the term of the license and may be expended for habitat enhancement and restoration actions in accordance with this article, or shall be made available for land and water acquisition (Article 406), enhancement and restoration of land or water acquired pursuant to Article 406, or fish passage as described in section 1.1.1 and 3.1 of the Agreement. Funds not fully expended in a given year shall not expire during the license term, but shall be continuously carried over for use in succeeding years, in accordance with this article. Carried-over funds shall bear interest but shall not further escalate. Upon expenditure, one half of the accrued interest shall belong to the licensee, and one half of the interest shall be available for mitigation under this article. Any funds not expended by the end of the license term shall not be available for any other purpose.</p> <p>The licensee shall include with the plan documentation of consultation with the ECC, copies of comments and recommendations on the completed plan after it has been prepared and specific descriptions of how the ECC's comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the ECC to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p> <p>Any planned alterations to project operations or facilities shall first be filed with the Commission for approval. The Commission reserves the right to make changes to the planned alterations. Upon Commission approval, the planned alterations become a requirement of the license, and the licensee shall implement the alterations, including any changes required by the Commission.</p> <p>The licensee's financial responsibility for implementing the measures in this article shall not be limited by the funds specified herein, and may be modified by the Commission. The Commission reserves the right to make changes to the habitat restoration plan. Upon Commission approval, the plan becomes a requirement of the license, and the licensee shall implement the plan, including any changes required by the Commission. Annual updates on the progress of activities being funded and all resulting reports, including analysis and conclusions, shall be filed with the Commission, as provided for in Article 401.</p>		

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<p>Art. 406</p> <p><i>Land and Water Acquisition Program</i></p>	<p>The licensee shall develop, in consultation with the ECC, a plan for acquiring land and water rights, if available, in the Action Area. Funding for this acquisition plan is expected to cost no more than \$300,000 annually. The funding shall be provided starting from the first anniversary of the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 40 1, through the end of the license term. The plan shall be filed with the Commission for approval within one year after the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401.</p> <p>The licensee shall work collaboratively with agencies and local communities to acquire or lease water for non-consumptive use, or land, all on a willing-buyer and willing-seller basis in the Action Area. To the extent that \$300,000 is not expended in one year, any funds not expended may be carried over to succeeding license years during the term of the license, and shall only be available for land and water acquisition, restoration of land acquired through this article, or fish passage as described in sections 1.1.1 and 3 .1 of the Agreement. Funds not fully expended in a given year shall not expire during the license term, but shall be continuously carried over for use in succeeding years, in accordance with this article. Carried-over funds shall bear interest but shall not further escalate. Upon expenditure, one half of the accrued interest shall belong to the licensee, and one half of the interest shall be available for mitigation under this article. Any funds not expended by the end of the license term shall not be available for any other purpose.</p> <p>The licensee shall include with the plan documentation of consultation with the ECC, copies of comments and recommendations on the completed plan after it has been prepared and specific descriptions of how the ECC’s comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the ECC to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee’s reasons, based on project-specific information.</p> <p>The licensee’s financial responsibility for implementing the measures in this article shall not be limited by the funds specified herein, and may be modified by the Commission. The Commission reserves the right to make changes to the acquisition plan. Upon Commission approval, the plan becomes a requirement of the license, and the licensee shall implement the plan, including any changes required by the Commission. Annual updates on the lands and water rights acquired or leased and all resulting reports</p>	<p>Ongoing</p>	<p>This program should remain. Discuss need for more targeted approach.</p> <p>Should some concepts from the Land Trust MOA be folded into this article?</p> <p>Idea of additional staff support to facilitate both L&W and habitat projects was brought up.</p>

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	including analysis and conclusions, shall be filed with the Commission, as provided for in Article 401.		
<p>Art. 407</p> <p><i>Monitoring in Black Canyon</i></p>	<p>The licensee shall develop a plan to undertake creel surveys, Grace bypass reach telemetry studies, and macroinvertebrate sampling studies (hereinafter referred to as "monitoring"). Funding for this monitoring plan is expected to cost no more than \$35,000 annually. The funding shall be provided starting from the first anniversary of the issuance of the license through the seventh year, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401. The plan shall be filed with the Commission for approval within one year after the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401. Included in the monitoring plan shall be details regarding proposed analytical methodologies and schedules for undertaking the analyses and final preparing reports on the monitoring results.</p> <p>To the extent that \$35,000 is not expended in one year, any funds not expended shall be carried over to succeeding license years during the term of the license and may be expended for monitoring as described in this article. To the extent that funding described in this article is not expended by the seventh anniversary of the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401, remaining funds not expended may be carried over for the Conservation Hatchery Program (Article 404). Carried-over funds shall bear interest but shall not further escalate. Upon expenditure, one half of the accrued interest shall belong to the licensee, and one half of the interest shall be available for monitoring under this article. Funds carried over to the Conservation Hatchery Program shall remain available during the license term. Any funds not expended by the end of the license term shall not be available for any other purpose.</p> <p>The licensee shall include with the plan documentation of consultation with the ECC, copies of comments and recommendations on the completed plan after it has been prepared and specific descriptions of how the ECC's comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the ECC to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p>	Complete	This article is complete.

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	<p>protected to the maximum extent practicable. The licensee shall minimize the number of such project maintenance shutdowns, drawdowns, and spillway tests and shall attempt to schedule such activities at times that will not interfere with trout spawning or harm incubating trout eggs. If project operations or the minimum flows are modified in accordance with this article, the licensee shall notify the Commission as soon as possible, but not later than 10 days after each such incident, and shall provide the reason for the modified operation.</p> <p>Nothing in this article shall require the licensee to violate its obligations under, or permit or require any action inconsistent with, the water contracts and agreements, interstate compact, judicial decrees, state water rights, and flood control responsibilities described in section 5.10 and Appendix C of the August 28, 2002, Settlement Agreement.</p>		
<p>Art. 409 <i>Fish Stranding Minimization Plan</i></p>	<p>The licensee, in consultation with the ECC, shall develop a plan to minimize fish stranding resulting from the operation of the Project developments. The plan shall be filed with the Commission for approval within 6 months after the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401.</p> <p>The licensee shall include with the plan documentation of consultation with the ECC, copies of comments and recommendations on the completed plan after it has been prepared and specific descriptions of how the ECC's comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the ECC to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p> <p>The Commission reserves the right to make changes to the plan. Upon Commission approval, the plan becomes a requirement of the license, and the licensee shall implement the plan, including any changes required by the Commission.</p>	<p>Suspended</p>	<p>This article was suspended.</p>
<p>Art. 410 <i>Kackley Springs</i></p>	<p>The licensee, in consultation with the ECC, shall develop a plan to modify the flow from Kackley Spring to benefit the aquatic resources in the Bear River. The plan shall be filed with the Commission for approval within 1 year after the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401. Funding for this element is expected to cost no more than \$10,000.</p> <p>The licensee shall include with the plan documentation of consultation with the ECC, copies of comments and recommendations on the completed plan</p>	<p>Complete</p>	<p>This license article could turn into an action to improve the joint properties for public access and interpretation.</p>

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	<p>after it has been prepared and specific descriptions of how the ECC's comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the ECC to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p> <p>The licensee's financial responsibility for implementing the measures in this article shall not be limited by the funds specified herein, and may be modified by the Commission. The Commission reserves the right to make changes to the plan. Upon Commission approval, the plan becomes a requirement of the license, and the licensee shall implement the plan, including any changes required by the Commission. Annual updates on the progress of the Kackley Springs project shall be filed with the Commission, as provided for in Article 401.</p>		
<p>Art. 412 <i>Implement ramp rates</i></p>	<p>The licensee shall implement the following maximum ramping rates, associated with hydroelectric generation at the Bear River Project developments:</p> <ul style="list-style-type: none"> (a) 1.2 feet per hour downstream of the Soda development, ascending and descending, as measured at USGS Gage No. 10075000; and (b) 3.0 inches every 15 minutes on the descending arm of the ramp downstream of the Oneida powerhouse, as measured at USGS Gage No. 10086500. <p>Restrictions on ramping rates shall begin within six months of the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401. The licensee shall consult with the ECC regarding scheduling annual maintenance, and shall schedule and implement annual maintenance to minimize, to the extent practicable, effects to aquatic resources including spawning, incubation of trout eggs, and rearing. The licensee may increase the ramping rates described in this article in case of the following:</p> <ul style="list-style-type: none"> (i) emergency or to avoid damage to life or property; (ii) compliance with historic practices, water rights and flood control responsibilities that are memorialized in water contracts and agreements, an interstate compact and its subsequent amendments, state water rights, and judicial decrees and opinions, as described in section 5.10 and Appendix C of the August 28, 2002, Settlement Agreement; 	<p>Ongoing</p>	<p>This Article should remain as is. May need some terminology updates or additions to the Spinning Reserve language for Flex, EIM, etc.</p>

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	<p>(iii) utilization of spinning reserve for the PacifiCorp Eastern System control area, in compliance with the Northern Energy Reliability Council guidelines; or</p> <p>(iv) compliance with Article 401 of the Commission's license for the Cutler Project (Project No. 2420-001).</p> <p>If the ramping rates are modified in accordance with this article, the licensee shall notify the Commission as soon as possible, but not later than 10 days after each such incident, and shall provide the reason for the modified ramping rate. Based upon the frequency and magnitude of deviations, the Commission reserves the right to modify the required ramping rates set forth in this article.</p>		
<p>Art. 413</p> <p><i>Water quality monitoring and reporting</i></p>	<p>The licensee shall file, for Commission approval, the water quality monitoring plans identified in Conditions 1(a) and 5 of the 401 Water Quality Certification (WQC) that is attached as Appendix A of this license. The licensee shall file the final water quality monitoring plan with the Commission, within 30 days after its approval by the Idaho Department of Environmental Quality (IDEQ). The Commission reserves the right to make changes to the plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.</p>	<p>Complete</p>	
<p>Art. 415</p> <p><i>Operations and Compliance Plan Implementation</i></p>	<p>The licensee shall develop and implement an Operations and Compliance Plan to monitor the minimum flows and ramping rates at the Soda, Grace-Cove, and Oneida developments, as required by Articles 408 and 412. The Operations and Compliance Plan shall be developed in consultation with the ECC and the US Geological Survey (USGS), and filed with the Commission for approval within 6 months after the issuance of the new license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401.</p> <p>The Operations and Compliance Plan shall include, but not be limited to the following:</p> <ul style="list-style-type: none"> (a) the proposed methodology and locations for monitoring minimum flows and ramping rates; (b) specific measures to ensure that the monitoring system would operate under all conditions, including loss of external electric power to the project; (c) the design of the monitoring devices, including any pertinent hydraulic calculations, technical specifications or proposed instrumentation, erosion and sediment control measures, as appropriate, and design drawings of the system; 	<p>Ongoing</p>	<p>Keep this article and update the Operations and Compliance Plan per this article upon issuance of license amendment.</p>

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<p><i>Operations and Compliance Plan</i></p>	<ul style="list-style-type: none"> (d) a description of the relative extent of manned versus automatic operation of the monitoring equipment; (e) a description of the methods and schedule for installing, calibrating, operating and maintaining the monitoring equipment; (f) proposed data collection and storage protocols; (g) provisions for reporting the recorded data to the Commission and the consulted agencies: and (h) a schedule for implementing the plan. <p>The Operations and Compliance Plan shall include provisions consistent with the notification and consultation requirements for the minimum flows and ramping rates required by this license. In addition, should minimum flows or ramping rates deviate from the license requirements, the plan shall include a provision whereby the licensee files with the Commission a report of the incident within 10 days of the incident.</p> <p>The report shall, to the extent possible, identify the cause, severity, and duration of the incident, and any observed or reported adverse environmental impacts resulting from the incident. The report also shall include: (1) operational data necessary to determine compliance with the article; (2) a description of any corrective measures implemented at the time of the occurrence and the measures implemented or proposed to ensure that similar incidents do not recur; and (3) comments or correspondence, if any, received from interested parties regarding the incident. Based on the report and the Commission's evaluation of the incident, the Commission reserves the right to require modifications to the project facilities and operations to ensure future compliance.</p> <p>The licensee shall prepare the Operations and Compliance Plan in consultation with the ECC and USGS. The licensee shall include, with the plan, documentation of agency consultation, copies of comments and recommendations on the completed plan after it had been prepared and provided to the parties, and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on site-specific information.</p> <p>The Commission reserves the right to make changes to the plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.</p>		

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<p>Art. 416</p> <p><i>Oneida campground funding</i></p> <p><i>Maintain recreation sites</i></p>	<p>The licensee shall prepare a revised recreation plan, in consultation with the ECC. The plan shall be filed for Commission approval, within six months of the date of issuance of this license, or pursuant to an alternative schedule as determined by the Project Implementation Plan required under Article 401. The plan shall address upgrading, construction, operation, and maintenance of existing and proposed recreation facilities at the project.</p> <p>The plan shall include, at a minimum, the following information: (1) a description of the type and location of all existing recreation facilities and areas at the project; (2) a description of the type and location of all proposed recreation facilities, including but not limited to those included below, and improvements, including its proposed design, construction materials and methods, and schedule for implementation; (3) a description of how the needs of people with disabilities were considered in the design of the proposed facilities; (4) a description of any specific proposed measures for minimizing potential construction impacts associated with the proposed facilities; (5) identification of the entity or entities responsible for constructing, operating, and maintaining the project’s existing and proposed recreation facilities and areas; (6) a description of the operation and maintenance schedule for the project’s existing and proposed recreation facilities and areas; (7) a schedule for implementing the funding measures identified in items (a) and (b) below; and (8) drawings showing the type and location of the project’s existing and proposed recreation facilities.</p> <p>In addition, the plan shall include provisions to implement the following specific measures:</p> <ul style="list-style-type: none"> (a) provide an annual reimbursement of up to \$10,000 to the Bureau of Land Management (BLM) for the management and maintenance of Maple Grove and Redpoint Campgrounds, located at the Oneida development. To the extent that \$10,000 is not expended in one year, any remaining funds shall not be carried over to the next license year. (b) provide funding to the BLM to upgrade and improve facilities at the Maple Grove and Redpoint Campgrounds. The licensee shall provide a total of \$50,000 to the BLM for this purpose. (c) make improvements to the put-in and take-out access points in the Grace bypassed reach. The put-in access at the Highway 34 Bridge downstream of the Grace Dam shall be improved by developing a gravel parking lot for 15 vehicles, one portable or permanent restroom, at the licensee's option, and providing graveled access to Bear River. Weather permitting, the licensee shall open and maintain the restroom between April 1 and October 31 of each year. The licensee shall provide a staff gage to indicate flow level, and a rating table to translate flow level to cfs, near the put-in. The parking lot at the take-out shall be improved by graveling. 	<p>Ongoing</p>	<p>Recreation Plan needs to be updated to address greatly increased visitation at all projects. Potential facility upgrades and expansions in Oneida Canyon along with trails and improved sanitation facilities. Oneida boat launches will need to be evaluated for reservoir fluctuations. Evaluate need for moorage buoys or other tie up locations for boaters. Grace site could have improved sanitation at angler/boater sites. Soda day-use area at the dam needs to be moved away from the dam to second bridge, potentially add trails to Alexander, improve recreation site at end of Second Bridge RD.</p> <p>All boater flow items and Oneida RD could be folded into this plan.</p>

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<p><i>Assistance to Caribou County</i></p>	<p>(d) make improvements to the put-in and take-out access points in the Oneida reach below the powerhouse. The put-in access at the bridge downstream of Oneida powerhouse shall be improved by adding a gravel parking area for 10 vehicles, one portable or permanent restroom, at the licensee's option, and providing graveled access to the river. The licensee shall provide a staff gage to indicate flow level, and a rating table to translate flow level to cfs, near the put-in. The take-out access at the cattle guard in Oneida Canyon shall be improved by adding gravel parking for 10 vehicles, one portable or permanent restroom, at the licensee's option, and providing graveled access to the river. Weather permitting, the licensee shall open and maintain the restrooms between April 1 to October 31 of each year.</p> <p>(e) funding not to exceed \$3,000 annually to Caribou County for operation and maintenance of recreation sites at Soda reservoir. To the extent that \$3,000 is not expended in one year, any remaining funds shall not be carried over to the next license year.</p> <p>The licensee shall include with the plan documentation of consultation with the above entities, copies of comments and recommendations on the completed plan after it has been prepared and provided to the entities and specific descriptions of how the entities' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the entities to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p> <p>The Commission reserves the right to require changes to the plan. Annual updates on the activities required in this article shall be file with the Commission as provided for in Article 401. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.</p>		
<p>Art. 417</p>	<p>The licensee shall prepare a traffic safety plan for the Oneida Project Road, in consultation with the ECC, and file the proposed plan for Commission approval within six months of the date of issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401. The cost to the licensee is not expected to exceed \$100,000 for this purpose. The plan shall include, at a minimum, a detailed description of the Oneida Project road; including its use and present condition, location, proximity to project features, and existing signage or other associated features; appropriate drawings and/or maps of the road; and a schedule and plan to implement the following measures:</p>	<p>Ongoing</p>	<p>This would continue as a components of the recreation plan,.</p>

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<p><i>Maintain signs on Oneida Rd</i></p> <p><i>Oneida Road Improvements</i></p> <p><i>Law enforcement</i></p> <p><i>Dust abatement</i></p>	<p>(a) maintain traffic signs along the Oneida Project road at a cost to the licensee not to exceed \$1,000 annually. Annual funding for maintenance will not carry over to subsequent license years.</p> <p>(b) construct one turn-around loop at or near the day use area to improve safety and maneuverability for vehicles along the Oneida Project road. The licensee shall provide a sign to indicate vacancy availability at the Maple Grove Campground to be located at the day use area. The cost of this action to the licensee is not expected to exceed \$10,000.</p> <p>(c) provide annual funding to a local governmental law enforcement agency for law enforcement from May 1 through October 1 along the Oneida Project road. Annual funding by the licensee is expected not to exceed \$3,000. Further, the licensee shall funding by the licensee is expected not to exceed \$3,000. Further, the licensee shall provide the use of the company's radio frequency between Memorial Day and Labor Day each year to federal, state, or county law enforcement officers to facilitate law enforcement activities along the Oneida Project road. To the extent that \$3,000 is not expended in one year, any remaining funds shall not be carried over to the next license year.</p> <p>(d) implement dust abatement measures along the Oneida Project road adjacent to and up to 100 feet on either side of the Maple Grove and Redpoint Campgrounds from Memorial Day to Labor Day. Dust abatement measures shall be implemented as necessary, but no more frequently than twice annually.</p> <p>The licensee shall include with the plan documentation of consultation with the above entities, copies of comments and recommendations on the completed plan after it has been prepared and provided to the agencies and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p> <p>The Commission reserves the right to require changes to the plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission. Annual updates on the progress of activities identified in this article shall be filed with the Commission as provided for in Article 401. The licensee's financial responsibility for implementing the measures in this article shall not be limited by the funds specified herein.</p>		

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<p>Art. 418</p> <p><i>Grace Spill Gate</i></p>	<p>The licensee, in consultation with the ECC, shall develop a plan to release whitewater boating flows from the Grace Dam. The flow release plan shall be filed with the Commission for approval within six months after the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401. The plan shall include, at a minimum, a description of the modification to the dam or additional structures that are proposed to facilitate the whitewater release flows. Included in the plan must be the necessary calculations and analyses needed to demonstrate the facilities have sufficient capacity to release the maximum flow provided for in Article 419.</p> <p>The licensee shall include, with the plan, documentation of agency consultation, copies of comments and recommendations on the completed plan after it had been prepared and provided to the parties, and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on site-specific information.</p> <p>The Commission reserves the right to make changes to the plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.</p>	<p>Complete</p>	<p>This modification was completed to Grace Dam.</p>
<p>Art. 419</p> <p><i>Whitewater flows in Black Canyon</i></p>	<p>The licensee shall discharge whitewater boating flows in accordance with the schedule identified below. Such releases shall occur between April 1 and July 15 each year, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401. For the purposes of this article, inflow to Grace shall be equal to inflow to Soda Reservoir on that day minus irrigation deliveries to Last Chance Canal Company and Bench B, and minus leakage from the Grace facilities. Daily mean flow from tributaries into Soda Reservoir shall be estimated and included as inflow to Grace. All such inflows shall be deemed to be "available" for whitewater boating flows, as that term is defined herein and used in this article. Inflows to Soda Reservoir shall be determined at USGS Gage No. 1007500.</p> <p>(a) During years 1-3 of the issuance of the new license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401, when available inflow results in at least 500 cfs spill into the Grace bypassed reach, the licensee shall release additional flow into the bypassed reach, as approved in Article 415, such that the total flow in the bypassed reach is up to but does not exceed a total of 900 cfs. This release shall be</p>	<p>Ongoing</p>	<p>This article needs to be updated to reflect the final agreement on Black Canyon whitewater flows. Fall releases need to be discussed in future plant outage years as well as the mostly unused forth weekend.</p>

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	<p>provided on up to 16 separate occasions in any one year, if flows are available (opportunistic releases). No limits on ramping rates shall be imposed during this time period.</p> <p>(b) During years 4-6 after the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401, the licensee shall release flows into the Grace bypassed reach of between 700 and 1,500 cfs, if available as inflow (scheduled releases). Such flows will total no more than 96 hours of foregone generation at 1,050 cfs in any year, during specified time periods between April 1 and July 15. Such flows will be provided, if available, in 16 separate releases of six hours in length on weekend days. The Grace development will not operate during such releases unless available inflow is greater than the scheduled whitewater boating flow, and then the development will operate with that portion of the inflow that exceeds the scheduled whitewater boating flows. The licensee will implement the ramping rates for releasing the flows as required in Article 412.</p> <p>(c) In year 7 and subsequently after the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401, the licensee shall release whitewater boating flows between 700 and 1,500 cfs for 96 hours per year between April 1 and July 15 each year, if available as inflow, unless monitoring results (required under Article 407) show significant adverse effects on ecological attributes in Black Canyon. The required ramping rates determined in Article 412 shall also be implemented during this period. For the purposes of this section, "significant adverse effect" is defined as a measured change that materially degrades ecological attributes including, without limitation, water quality, native fish and macroinvertebrate habitat, and riparian habitat, to the extent that the ability to achieve the management objectives of the final BCT Restoration Plan, the RCAS, and the CTMAPP is impaired. In no event shall the licensee be obligated to provide more than 96 hours of scheduled whitewater boating flows in any given year at an average of 1,050 cfs.</p> <p>Nothing in this article shall require the licensee to violate its obligations under, or permit or require any action inconsistent with, the water contracts and agreements, interstate compact, judicial decrees, state water rights, and flood control responsibilities described in section 5.10 and Appendix C of the August 28, 2002, Settlement Agreement.</p>		

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401 Certificate	Annual Oneida Operations Report to IDEQ in November: Record of water releases for power, irrigation, or flood control. Submit to IDEQ.	Ongoing	Talk to IDEQ. Is there value in this annual report?
Art. 420 <i>Boatable flows in Oneida reach</i>	<p>The licensee, in consultation with the ECC, shall develop an operational regime that minimizes the frequency of river level fluctuations below the Oneida powerhouse. Pursuant to this goal flows below the powerhouse shall be greater than 900 cfs between Memorial Day and Labor Day, if available. This operational regime shall be filed with the Commission for approval within six months of license issuance, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401.</p> <p>Nothing in this article shall require the licensee to violate its obligations under, or permit or require any action inconsistent with, the water contracts and agreements, interstate compact, judicial decrees, state water rights, and flood control responsibilities described in section 5.10 and Appendix C of the August 28, 2002, Settlement Agreement.</p> <p>The licensee shall include with the operational regime documentation of consultation with the above entities, copies of comments and recommendations on the completed plan after it has been prepared and provided to the agencies and specific descriptions of how the agencies' comments are accommodated by the operational regime. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the operational regime with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p> <p>The Commission reserves the right to require changes to the operational regime. Upon Commission approval, the licensee shall implement the operational regime, including any changes required by the Commission.</p>	Ongoing	Maintain this license article. It could be clearer that the intent is to provide stable flows during this period of the irrigation season without load following or peaking.
Art. 421 <i>Black Canyon Boatable flow release schedule</i>	<p>The licensee, in consultation with the ECC, shall develop a plan to forecast and announce whitewater boating flows for each year. This forecast and announcement plan shall be filed with the Commission for approval within six months of license issuance, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401.</p> <p>The plan shall include provisions for: (1) forecasting the availability of inflow for whitewater boating flows on or about March 1 of each year after the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401, consistent with the obligations stated in section 5.10 and Appendix C of the August 28, 2002 Settlement Agreement; (2) announcing the initial water year forecast; (3) consulting with American Whitewater on the distribution of whitewater</p>	Ongoing	This article should remain but needs to updated consistent with the agreement on boater flows are FERC correspondence about submittal of the schedule.

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	<p>releases; (4) consulting with the ECC in developing a mutually agreeable flow regime and filing a report with the Commission detailing the schedule. If the forecast is such that flows may be conducive to whitewater boating flows for a total of more than 96 hours, then the ECC will recommend the days upon which such flows will be released. In the event the licensee and the ECC cannot mutually agree on a schedule for releasing the whitewater flows stipulated in Article 419 and 420, the licensee shall, no later than March 20, of each year, file recommendations for a flow regime for Commission approval.</p> <p>The licensee shall include, with the plan, documentation of agency consultation, copies of comments and recommendations on the completed plan after it had been prepared and provided to the parties, and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on site-specific information.</p> <p>The Commission reserves the right to make changes to the plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.</p>		
<p>Art. 422 <i>Flow Phone and website</i></p>	<p>The licensee shall provide a flow information website and a toll free “flow phone” number within four months after issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401.</p> <p>The website shall present, in monthly calendar format, the scheduled dates for flow releases into Black Canyon, identified by the ECC and approved by the Commission, after the licensee announces the annual irrigation allocation to the Bear River irrigators, and updated weekly between April 1 and July 15 each year. The website shall provide current and past flow conditions for locations between the Bear Lake Outlet Canal and the Bear River below the Oneida development, including the Bear River above Soda dam (USGS Gage No. 10075000), the Bear River below Grace dam (USGS Gage No. 10080000), and the Bear River below the Oneida powerhouse (USGS Gage No. 10086500). The gages shall provide a telephone uplink with existing equipment to a website, provided and maintained by the licensee from March 1 to November 30 each year, and flow data shall be expressed in hourly averages (cfs) for the current and prior six days. The website shall present data from the gages graphically and such data shall be updated every 4 hours. The website shall include seven-day forecasts of Project flows in the</p>	<p>Ongoing</p>	<p>Website yes, is the flow phone still a good communication channel?</p>

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	<p>Black Canyon and below the Oneida powerhouse. The website shall include disclaimers for accuracy and predictability.</p> <p>The toll-free flow phone shall include the last recorded flow for the three gages each day. The flow phone will also list the next four scheduled release dates, identified by the ECC after the licensee announces the annual irrigation allocation to the Bear River irrigators, and including any updates since March 1. The recorded message shall indicate that releases into the Black Canyon occur, based on available flow, when inflow into Soda Reservoir less irrigation withdrawals between Soda Dam and Grace Dam plus leakage from the Grace flowline is equal to or greater than 700 cfs, and that releases into Black Canyon will not exceed 1,500 cfs.</p> <p>A report documenting the creation of the website and the toll-free number shall be filed with the Commission no later than six months from the date of issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401.</p>		
<p>Art. 423 Protect historical resources</p>	<p>The licensee shall implement the <i>Programmatic Agreement among the Federal Energy Regulatory Commission and the Idaho State Historic Preservation Officer for Managing Historic Properties that may be Affected by a License Issuing to PacifiCorp for the Continued Operation and Maintenance of the Soda Project (FERC No. 20), Grace-Cove Project (FERC No. 2401) And Oneida Project (FERC No. 472) in Caribou and Franklin Counties, Idaho</i>, executed on February 25, 2003, and including but not limited to the Historic Properties Management Plan (HPMP) for the projects.</p> <p>Consistent with the Programmatic Agreement and within one year of license issuance, the licensee shall file with the Commission, for approval, an HPMP. In the event that the Programmatic Agreement is terminated, the licensee shall implement the provisions of its approved HPMP. The Commission reserves the authority to require changes to the HPMP at any time during the term of the license. If the Programmatic Agreement is terminated prior to Commission approval of the HPMP, the licensee shall obtain approval from the Commission and the Idaho State Historic Preservation Officer before engaging in any ground-disturbing activities or taking any other action that may affect any historic properties within the projects' area of potential effects.</p>	<p>Ongoing</p>	<p>Review HPMP and this license article with Operations and SHPO for potential updates.</p>

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<p>Art. 424 and 425</p> <p><i>Land Management</i></p>	<p><u>Art. 424.</u> The licensee, in consultation with the ECC, shall develop a Land Management Plan for the Project. The Land Management Plan shall define and describe the manner in which licensee-owned lands within the Project boundary shall be managed during the license term to minimize effects to natural resources, while providing for ongoing operations and maintenance activities for the Project, and subject to the rights of lessees under existing leases. The Land Management Plan shall include all new project lands that are in the expanded project boundaries for the Grace-Cove and Oneida developments, required by Article 427. The plan shall be filed with the Commission for approval, within one year from the date of issuance of this license or on an alternative schedule as determined by the Project Implementation Plan required under Article 401. At a minimum, the plan shall include the following provisions:</p> <ul style="list-style-type: none"> (a) a description of any existing or proposed measures to be implemented on licensee-owned lands to reduce livestock grazing impacts, including an implementation schedule. (b) a description of any existing or proposed measures to be implemented to protect and improve habitat and wetlands on project lands and in the Cove bypassed reach, including an implementation schedule. (c) documentation of the establishment of a shoreline buffer zone on licensee-owned lands, the installation of fencing on the buffer zone, and implementation of the associated provisions, required under Articles 425 and 426. This documentation shall include a detailed description of the buffer zone and fencing, including appropriate maps or drawings showing the location and width of the buffer zone and fencing in relation to the Bear River and reservoirs and around wetlands and springs for each of the developments within the project boundary. <p>The licensee shall include with the plan documentation of consultation with the above entities, copies of comments and recommendations on the completed plan after it has been prepared and provided to the agencies and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p> <p>The Commission reserves the right to require changes to the plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.</p>	<p>Ongoing</p>	<p>Keep this article but review and update as needed. Plans should be reviewed with stakeholders. Discuss solar site at Alexander.</p>

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	<p><u>Art. 425.</u> The licensee shall, in consultation with the ECC, prepare a shoreline buffer zone plan on licensee-owned lands along the Bear River and reservoirs and around wetlands and springs for each of the developments within the Project boundary, subject to the rights of lessees under existing leases. The plan shall be filed with the Commission for approval within six months of license issuance or on an alternative schedule as determined by the Project Implementation Plan required under Article 401. The shoreline buffer zone shall also apply to licensee-owned lands within any new project lands that are in the expanded project boundaries for the Grace-Cove and Oneida developments, as required by Article 427. A buffer zone provision, which will at a minimum provide for the exclusion of livestock from riparian and wetland areas, shall be incorporated into all licensee-issued leases.</p> <p>The licensee shall include with the plan documentation of consultation with the above entities, copies of comments and recommendations on the completed plan after it has been prepared and provided to the agencies and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p> <p>The Commission reserves the right to require changes to the plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.</p>		
<p>Art. 426 <i>Fencing in Cove Bypass Reach</i></p>	<p>The licensee, in consultation with the ECC, shall prepare a buffer zone plan for licensee-owned land within the Cove development bypassed reach, to prevent the encroachment of livestock and protect riparian vegetation. The plan shall be filed with the Commission for approval within one year of license issuance or on an alternative schedule as determined by the Project Implementation Plan required under Article 401. Fencing shall be constructed to exclude livestock while allowing access by big game and other wildlife, but at the same time not reduce benefits that private landowners receive from unhindered livestock access to the Cove bypassed reach. In addition, the licensee shall fund 25% of the cost of fencing the buffer zone on non-licensee private land in the Cove bypassed reach for landowners who consent to fencing and to providing the balance of the funding. The licensee shall also pay 100% of the ongoing costs for normal fencing maintenance on non-licensee private land within the Cove bypassed reach with the consent of the landowners. This maintenance on</p>	<p>Initial construction complete (maintenance ongoing).</p>	<p>This is complete but maintenance should continue. Could be rolled into Land Management Plan article.</p>

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	<p>non-licensee land shall not include paying for repairs resulting from intentional destruction or vandalism.</p> <p>The licensee shall include with the plan documentation of consultation with the above entities, copies of comments and recommendations on the completed plan after it has been prepared and provided to the agencies and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.</p> <p>The Commission reserves the right to require changes to the plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.</p>		
<p>Art. 428 <i>Interests in project lands</i></p>	<p>The licensee shall expand the project boundary at the Grace-Cove and Oneida developments to ensure continued recreational access to the Bear River in the vicinity of these developments. At the Grace-Cove development, the expanded boundary shall include PacifiCorp lands on both sides of the bypassed reach upstream of Cove dam and the Grace powerhouse. At the Oneida development, the expanded boundary shall include all PacifiCorp and BLM lands from the existing downstream project boundary, below the powerhouse, to the proposed boater takeout at the cattle guard in Oneida Canyon, on the primary access road side of the Bear River, between the road and the river or 200 feet from the river, whichever is greater. The licensee shall file revised Exhibit G drawings with the Commission, showing their recommended changes in the project boundary, within eight months year [sic] after the issuance of the license, or on an alternative schedule as determined by the Project Implementation Plan required under Article 401. This filing shall also include survey data on the total area of additional project lands.</p>	<p>Ongoing</p>	<p>This could be deleted as these action are complete.</p>
<p>Art. 429 ???</p>	<p>(a) In accordance with the provisions of this article, the licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters, and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy are consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensee shall also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of and ensure compliance with the</p>	<p>Complete</p>	<p>Standard article</p>

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	<p>covenants of the instrument of conveyance for, any interests that it has conveyed, under this article.</p> <p>If a permitted use and occupancy violates any condition of this article or any other condition imposed by the licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any noncomplying structures and facilities.</p> <p>(b) The type of use and occupancy of project lands and waters for which the licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time and where said facility is intended to serve single-family type dwellings; (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline; and (4) food plots and other wildlife enhancements.</p> <p>To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the use and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the licensee shall: (1) inspect the site of the proposed construction; (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site; and (3) determine that the proposed construction is needed and would not change the basic contour of the impoundment shoreline. To implement this paragraph (b), the licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program. The Commission reserves the right to require the licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.</p>		

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	<p>(c) The licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges or roads where all necessary state approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project impoundment. No later than January 31 of each year, the licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.</p> <p>(d) The licensee may convey fee title to, easements or rights-of-way across, or leases of, project lands for: (1) construction of new bridges or roads for which all necessary state and approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary and state water quality certification or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary and state approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is 5 acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from project waters at normal surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year.</p> <p>At least 60 days before conveying any interest in project lands under this paragraph (d), the licensee must submit a letter to the Director, Office of Energy Projects, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G map may be used), the nature of the proposed use, the identity of any Federal or state agency official consulted, and any Federal or state approvals required for the proposed use. Unless the Director, within 45</p>		

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	<p>days from the filing date, requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period.</p> <p>(e) The following additional conditions apply to any intended conveyance under paragraphs (c) or (d) of this article:</p> <ol style="list-style-type: none"> (1) Before conveying the interest, the licensee shall consult with Federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer. (2) Before conveying the interest, the licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value. (3) The instrument of conveyance must include the following covenants running with the land: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands shall occur in a manner that shall protect the scenic, recreational, and environmental values of the project; and (iii) the grantee shall not unduly restrict public access to project waters. (4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values. <p>(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article shall be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall</p>		

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	<p>be consolidated for consideration when revised Exhibit G drawings would be filed for approval for other purposes.</p> <p>(g) The authority granted to the licensee under this article shall not apply to any part of the public lands and reservations of the United States included within the project boundary.</p>		