

Electronically filed on April 20, 2011

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

**Subject: Santa Clara Hydroelectric Project, FERC No. 9281
Complaint Letter Response**

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APR 25 2011 *amt*
WATER RIGHTS
SALT LAKE

Dear Ms. Bose:

This letter is in response to a letter PacifiCorp received from Mr. Robert Bell, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission ("Commission" or "FERC"), dated March 21, 2011, regarding a complaint the Commission received relating to PacifiCorp's Santa Clara hydroelectric project, ("Project"), FERC No. 9281. Mr. Bell requested that PacifiCorp respond to the complaint and provide information sufficient for Commission staff to address the complaint.

The complaint, dated February 7, 2011, from Mr. James McMahon, expressed concern about the Commission granting a conduit exemption to the Project in 1986, and that the Project is diverting flows in violation of the Project's water rights, resulting in harm to Virgin spinedace (*Lepidomeda mollispinis mollispinis*). PacifiCorp's response to these concerns follows.

1986 Conduit Exemption

On June 5, 1985, Utah Power and Light Company, a predecessor to PacifiCorp, filed an application for exemption with the Commission for the Project. On April 4, 1986, the Commission issued a conduit exemption for the Project finding that it satisfied the provisions of 18 CFR Chapter 1, Part 4, Subpart J. The water diverted and water conveyance system serves multiple purposes including irrigation and power generation, with irrigators utilizing major sections of the conveyance system for irrigation withdrawals. The record on file with the Commission speaks for itself and PacifiCorp has nothing further to add regarding the appropriateness of the conduit exemption.

Existing water rights

PacifiCorp owns three valid non-consumptive water rights dating back to 1916, 1919 and 1924 authorizing the diversion of water at three diversion points along the Santa Clara River for power generation. Water right 81-80 dated 1919 is for a diversion of 20.1 cfs, water right 81-66 dated 1916 is for a diversion in the amount of 15 cfs and water right 81-102 dated 1924 is for a diversion of 2.67 cfs. These diversion points are located: above Baker Reservoir; immediately above the Veyo Plant; and at Chadburn Warm Spring, respectively, as shown on the enclosed Exhibit B map. In addition to these diversion rights there are two water exchange agreements

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between PacifiCorp and the local water users that relate to storage water in Baker Reservoir and to PacifiCorp's use of Santa Clara River water and the conveyance system.

In addition to PacifiCorp's three non-consumptive water rights there are nine consumptive water rights for irrigation issued to various individuals and irrigation companies. Two of the diversion structures, Santa Clara Dam above Baker Reservoir and Veyo Dam near the Veyo Plant, as well as the water conveyance canal, are utilized by both PacifiCorp and the irrigators to deliver both consumptive and non-consumptive water in accordance with their respective water rights. The irrigators also divert water below the Gunlock Plant to fulfill their rights. Hence, flows in the water conveyance system can represent both non-consumptive hydroelectric generation water and consumptive irrigation water.

As requested by the Commission, PacifiCorp is including 2010 flow record information from the most recent semi-annual water use filings PacifiCorp made to the Utah Division of Water Rights (Water Rights), dated December 23, 2010. Median diversion flows from two of the diversion measuring points (MP1 and MP2) on the Santa Clara River from the time period January 1, 2010 to December 15, 2010 are shown in Table 1. Measuring Point 1 represents flows diverted from the Santa Clara dam where PacifiCorp holds a 20.1 cfs water right. Measuring Point 2 represents water diverted at the Veyo dam which bypasses PacifiCorp's Veyo development and flows to the Sand Cove and Gunlock developments. PacifiCorp's water right at the Veyo dam is 15 cfs. PacifiCorp does not currently divert from the Chadburn Warm Spring. Irrigation diversions in addition to power generation diversions into the conveyance system can result in measuring point readings greater than PacifiCorp's water rights.

Table 1. 2010 Median monthly diversion flow amounts (cfs).

Month	MP1	MP2
Jan	8.29	3.43
Feb	8.29	3.19
Mar	8.45 [#]	11.63
Apr 1-15	0 [#]	12.38
Apr 16-30	15.35	7.64
May	16.4	12
Jun	15.98	12.96
Jul	8.96	7.48
Aug	5.67 [*]	12.57
Oct	4.56	8.205
Nov	9.47	6.55
Dec	10.35	1.54

[#] No water diverted above MP1 for power March 13th through April 15th. Median for days diverted.

^{*} No water diverted above MP1 for power August 7th through August 26th. Median for days diverted.

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PacifiCorp has been working closely with the Utah Division of Water Rights to track water diversions and water losses along the conveyance system and to identify potential water conservation measures. PacifiCorp files monthly raw water diversion data and semi-annual water loss reports with Water Rights. To improve project efficiency, PacifiCorp has implemented improvements to water control and measurement structures as well as a water conveyance system inspection and maintenance program.

Virgin spinedace

PacifiCorp contacted Mr. Rick Fridell, Utah Division of Wildlife Resources (DWR) to discuss the information in a 2008 DWR report on Virgin spinedace¹ and Mr. McMahon's allegations that operation of the Project is harming the fish. Based on PacifiCorp's discussion with the DWR and review of their report, it appears that the majority of the management and restoration efforts on the Santa Clara River for the Virgin spinedace focus below Gunlock Reservoir and not in areas affected by the Project. Mr. Fridell indicated that the Virgin spinedace population in the Santa Clara River near Veyo is stable, serves as a source for reintroductions to other areas, and has not been deleteriously impacted by ongoing operations of the Project.

In 1994, the Virgin spinedace was proposed for federal listing, under the Endangered Species Act, because of population declines resulting from habitat loss and modification. Since the proposed listing, the fish hasn't been listed as a threatened or endangered species due to the cooperative efforts of resource agencies and water users. The Virgin Spinedace Conservation Agreement and Strategy (VSCAS; Lentsch et al. 1995) developed in 1995, was modified and revised in 2002 (Lentsch et al. 2002), and serves as a collaborative and cooperative effort among resource agencies to expedite the implementation of conservation actions for the fish. Since implementation of the VSCAS, the upper mainstem Virgin River, the Beaver Dam Wash, and the tributaries to the Santa Clara River all maintain large and relatively stable Virgin spinedace populations. The VSCAS has been successfully implemented without federal listing of the Virgin spinedace through working with major water users while protecting their water rights. The VSCAS was recently extended to 2019 and signed by all participating parties.

PacifiCorp has been in compliance with FERC's Order Granting a Conduit Exemption dated April 4, 1986 and is not diverting water in excess of its Project water rights. PacifiCorp has and will continue to work with the Divisions of Wildlife Resources and Water Rights on appropriate utilization of water allocated under its water rights as well as protection of aquatic resources in the affected reaches of the Santa Clara River.

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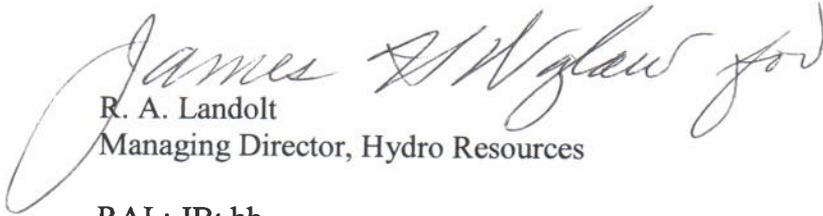
¹ VIRGIN SPINEDACE (*Lepidomeda mollispinis mollispinis*) CONSERVATION AGREEMENT AND STRATEGY 2000 - 2008 ASSESSMENT December 2008 Donald E. Wiley, Michael E. Golden, Richard A. Fridell, and Krissy W. Wilson)

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This letter and its attachments have been filed electronically. The security classification of each component in this packet is shown in the Enclosure list below. A complete paper copy has also been sent to the Portland Regional Office. If you have any questions concerning these documents, please contact Jim Burruss at 801-220-2566.

Sincerely,



R. A. Landolt
Managing Director, Hydro Resources

RAL: JB: bb

Encl: Response Letter – Public
Exhibit B – Public

eFile: Kimberly D. Bose, Secretary
Via eLibrary at www.ferc.gov

hc: Patrick Regan, P.E., Regional Engineer
Federal Energy Regulatory
Commission
805 SW Broadway, Suite 550
Portland, OR 97205

hc: Lee H. Sim, P.E., Assistant State Engineer
Utah Division of Water Rights
1594 West North Temple, Suite 220
PO Box 146300
Salt Lake City, UT 84114-6300

hc: Rick Fridell
Utah Division of Wildlife Resources
Southern Region
1470 North Airport Rd.
Cedar City, UT 84721-8413

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SANTA CLARA HYDROELECTRIC PROJECT

LANDS WITHIN PROJECT BOUNDARY	ACRES
UTAH POWER & LIGHT COMPANY (SEE LHM)	108.11
UTAH POWER & LIGHT COMPANY (LEASEMENT LAND)	37.01
TOTAL	145.12
US (BUREAU OF LAND MANAGEMENT LAND)	7.53
TOTAL AREA WITHIN PROJECT BOUNDARY	114.09

SEE APPENDIX 1 FOR OWNERSHIP MAP
SEE EXHIBIT 6, SHEETS B-2 AND B-3 FOR PROJECT LAYOUT.

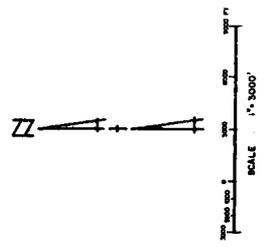
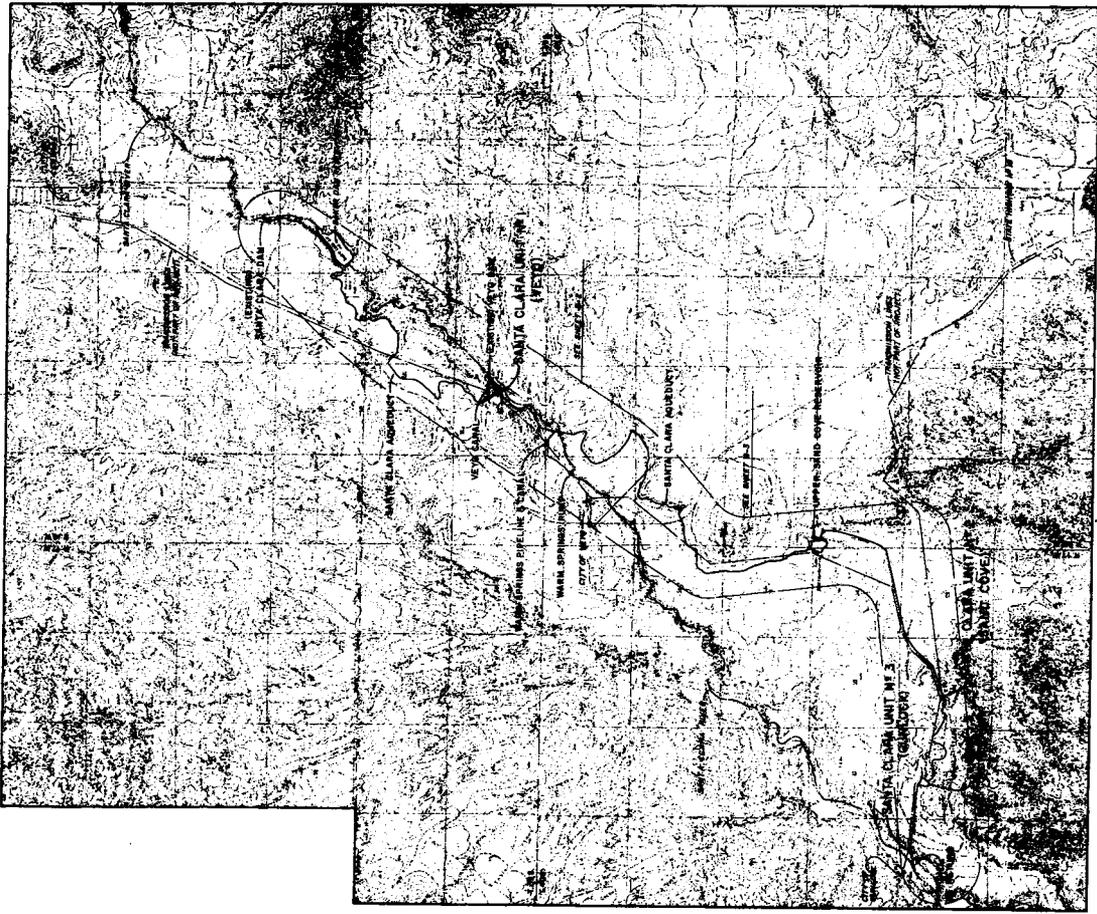


EXHIBIT B	
APPLICATION FOR EXEMPTION FROM LICENSING	
SANTA CLARA HYDROELECTRIC PROJECT	
WASHINGTON COUNTY SALT LAKE CITY, UTAH	
PROJECT MAP	SHEET B-1
PROJECT VICINITY	
MAY 1983	



LOCATED IN WASHINGTON COUNTY, UTAH
TO BE BUILT
SANTA CLARA HYDROELECTRIC PROJECT

THE PROJECT AND THE SANTA CLARA HYDROELECTRIC PROJECT, AS SHOWN ON THE PROJECT MAP, ARE LOCATED IN WASHINGTON COUNTY, UTAH, NEAR THE CITY OF MARK. THE PROJECT AND THE SANTA CLARA HYDROELECTRIC PROJECT ARE LOCATED ON LANDS OWNED BY THE UTAH POWER & LIGHT COMPANY, A PUBLIC UTILITY COMPANY, AND ARE SUBJECT TO THE REGULATIONS OF THE UTAH DIVISION OF WATER RESOURCES, SALT LAKE CITY, UTAH.

REGARDING THE PROJECT AND THE SANTA CLARA HYDROELECTRIC PROJECT, AS SHOWN ON THE PROJECT MAP, THE UTAH DIVISION OF WATER RESOURCES, SALT LAKE CITY, UTAH, HAS REVIEWED THE PROJECT AND THE SANTA CLARA HYDROELECTRIC PROJECT AND HAS DETERMINED THAT THE PROJECT AND THE SANTA CLARA HYDROELECTRIC PROJECT ARE LOCATED ON LANDS OWNED BY THE UTAH POWER & LIGHT COMPANY, A PUBLIC UTILITY COMPANY, AND ARE SUBJECT TO THE REGULATIONS OF THE UTAH DIVISION OF WATER RESOURCES, SALT LAKE CITY, UTAH.

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CHECKED BY	MW
ISSUED BY	P. E. Johnson