

Contract No. 5-07-40-P0270

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
CENTRAL UTAH PROJECT, UTAH

LEASE OF POWER PRIVILEGE AMONG
THE UNITED STATES OF AMERICA,
THE CENTRAL UTAH WATER CONSERVANCY DISTRICT,
AND
HEBER LIGHT & POWER COMPANY
FOR
THE DEVELOPMENT OF HYDROELECTRIC POWER
AT
JORDANELLE DAM

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This Lease of Power Privilege ("Lease"), is made this 19th day of July, 2005, pursuant to the Act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto, particularly the Central Utah Project Completion Act ("CUPCA"), comprised of Titles II-VI of the Act of October 30, 1992 (106 Stat. 4600, Public Law 102-575), as amended; among the UNITED STATES OF AMERICA ("United States"), acting by and through the DEPARTMENT OF THE INTERIOR; the CENTRAL UTAH WATER CONSERVANCY DISTRICT ("District"), a water conservancy district organized and existing under the laws of the State of Utah, with its principal place of business in Orem, Utah; and HEBER LIGHT & POWER COMPANY ("HLP"), an Interlocal Cooperation Agency, created by the municipalities of Heber City, Midway City and Charleston, all in Wasatch County, Utah, under authority of Utah Code Ann., §11-31-1 et. seq., and a political subdivision of the State of Utah with its principal place of business in Heber, Utah.

1. PREAMBLE

(a) WHEREAS, the Central Utah Project ("CUP"), Bonneville Unit ("Bonneville Unit"), located in northern Utah, was authorized for construction, including hydroelectric power, by the Colorado River Storage Project Act (CRSP Act) of April 11, 1956 (ch. 203, 70 Stat. 105), as a participating project; and

(b) WHEREAS, the United States has constructed a portion of the Bonneville Unit of the CUP (initial phase), including, among other features, Upper Stillwater Dam, Bottle Hollow Dam, Starvation Dam, Currant Creek Dam, Jordanelle Dam, Soldier Creek Dam for the enlarged Strawberry Reservoir, the Syar Tunnel, and the Sixth Water Aqueduct and Tunnel; and the District has constructed the Wasatch County Water Efficiency Project and the Daniels

Replacement Project and is constructing other features of the Bonneville Unit pursuant to the CUPCA; and

(c) WHEREAS, in accordance with a Memorandum of Understanding, dated November 6, 1992, between the Federal Energy Regulatory Commission and the Department of the Interior, it has been determined that authority for licensing hydroelectric power on the Bonneville Unit rests with the Bureau of Reclamation (Reclamation); and

(d) WHEREAS, the District, under its contracts with the Department of the Interior, has certain operation, maintenance, replacement, and repayment responsibilities and obligations concerning the Bonneville Unit; and

(e) WHEREAS, by memorandum dated January 19, 1994, from the Commissioner of the Bureau of Reclamation, to the Program Director, Central Utah Project Completion Act Office, the Program Director was requested to pursue negotiation of a lease of power privilege, in accordance with the CUPCA and Reclamation law, for hydroelectric power development on the CUP; and

(f) WHEREAS, proposals for hydroelectric power development at Jordanelle Dam, received in response to the Federal Register Notice dated July 2, 1999, were evaluated by a team of experts (Team) selected by the Department of the Interior; and

(g) WHEREAS, based on the recommendation of the Team, the Department of the Interior has determined that the proposal jointly submitted by the District and HLP is the superior proposal and that negotiations should proceed with the District and HLP for the lease of power privilege at Jordanelle Dam.

It is agreed as follows:

2. DEFINITIONS

Where used herein, the following definitions shall apply:

(1) "Bonneville Unit" means those features and operations of the Bonneville Unit authorized for construction by the Colorado River Storage Project Act of April 11, 1956, (ch. 203, 70 Stat. 105), as amended, and particularly by CUPCA.

(2) "Facility" means a hydroelectric power facility, located in the vicinity of Jordanelle Dam, comprised of the complete unit for a hydroelectric power generation feature associated with the Jordanelle Dam and Reservoir and consisting of, but not limited to, structures, turbines, generators, and corresponding water conduits, valves, transformers, circuit breakers, fences, poles, wires, and control and protection devices to the HLP interconnection point for transportation, distribution and marketing of the Facility's output.

(3) "Leased Premises" means any interest in lands, roads, dam, and structures which the United States may hold, the use or occupancy of which are concurred in by the Department of the Interior as reasonably necessary or appropriate for the construction, operation, or maintenance of the Facility, as depicted in the site plan prepared by the District, and attached hereto and incorporated by reference as Exhibit 1.

(4) "Lease of Power Privilege" or "Lease" means the total agreement embodied in the combined terms and conditions of this Lease.

(5) "Lessee" means the District and HLP.

(6) "Department" means the Secretary of the Department of the Interior's duly authorized representative which is either or both the Program Director, Central Utah Project Completion Act Office, or Reclamation.

(7) "Jordanelle Dam and Reservoir" means the dam, reservoir, and such features and equipment associated with the dam including, but not limited to, inlet structures, outlet structures, piping, water conduits, valves, fences, and control and protection devices.

3. LEASE OF POWER PRIVILEGE

(a) Subject to the terms and conditions herein set forth, the United States leases, to the Lessee:

(1) The opportunity or privilege to utilize the Leased Premises for the purpose of developing the Facility for generation and use and/or sale of hydroelectric power, and

(2) The right to use the water rights appropriated for hydropower purposes under Application 55-4494 (A40523) filed by the United States, through Reclamation, in the office of the Utah State Engineer, approved June 7, 1985 for developing and producing hydroelectric power.

(b) No Federal funds will be provided by the Department or utilized by the Lessee to develop or construct the Facility pursuant to this Lease.

4. TERM OF LEASE

This Lease shall be effective for 40 years from the date the Lease is executed unless terminated by mutual consent among the parties hereto or by default or cancellation under provisions of this Lease.

5. USE OF POWER

HLP will purchase and use or market the power generated at the Facility.

6. LEASE PAYMENTS TO THE UNITED STATES

(a) The District shall make annual lease payments in the amount of 3 mills per kilowatt-hour of gross energy produced by the Facility, measured at the generator, to the United States for the use of the Leased Premises. Calculation of said payments will begin after the initial successful startup and testing of the generating equipment, or within 20 days of the commencement of initial startup and testing of the generating equipment, whichever comes first, and then will continue throughout the term of the lease. In addition, during initial startup and testing, the District shall make said annual lease payments for that portion of gross energy produced by the Facility that is sold by the District and/or HLP and which results in a payment made for the energy produced. Lease payments shall be adjusted on an annual basis as provided in Article 6 paragraph (d).

(b) Each payment shall be made on or before April 1 in each year for the total generation during the prior calendar year as reported pursuant to Article 13 herein. Reclamation will send an invoice for lease payments to the District at least 30 days prior to its due date. Lease payments shall reference this Lease by contract number and title, and be made payable to the "Bureau of Reclamation." Lease payments shall be mailed to the Bureau of Reclamation, Upper Colorado Region, File No. 71548, PO Box 60000, San Francisco, California 94160-1548.

(c) Lease payments will be credited to the Upper Colorado River Basin Fund and applied as required by Section 5(c) of the CRSP Act, as amended.

(d) Lease payment mill rate shall be increased annually by 3 percent.

(e) The obligation for lease payments to the United States is separate from the obligation of the District for Department expenses under Article 7 herein and is not a general obligation guaranteed by other District revenues.

7. DEPARTMENT EXPENSES

(a) The District shall advance funds in increments of \$25,000 ("Incremental Advance") to Reclamation to pay expenses incurred by the Department under this Lease. Expenses shall include an hourly rate, travel, materials, mailing, copying costs, and administrative overhead costs at the then current rate, as incurred by Department personnel, contractors or consultants; provided, however, that no charge shall be assessed for information, services, or relationships that would normally be provided by the Department to the public at no charge. Departmental expenses under this Lease may include, but are not limited to, the following:

(1) Environmental compliance.

(2) Inspections performed during construction of parts of the Facility and related features that are identified by the Department as having potential impact on the Bonneville Unit and environmental commitments.

(3) Special inspections of the Facility called for by the Department, based upon a unique problem or upon a reasonable concern for the integrity of a Federal structure or operation of the Bonneville Unit.

(4) Preparation or review of technical studies.

(5) Review of designs, specifications, legal and other documents.

(6) Site visits and participation in meetings.

(7) Copies of reports, drawings, and similar data.

(8) Consultation, observation, review, and comment on tests of piping, valving, automated equipment, supervisory control systems, and any and all other aspects of construction, operation and maintenance that might impact the Bonneville Unit or environmental commitments.

(9) Work necessitated by non-performance of the Lessee.

(10) The expense incurred in the event of failure of all or any part of the Bonneville Unit resulting from operation or malfunction of the Facility.

(b) The Department will establish a non-interest bearing account to account for funds advanced by the District; an initial Incremental Advance of \$25,000 will be required upon execution of this Lease. At such time when funds in the account are anticipated to be reduced to or below \$5,000, the Department will request an Incremental Advance of funds as provided in paragraph (a) of this Article. The United States will not pay or credit the District for any interest. The Department will furnish the District, not less than on a quarterly basis prior to completion of the Facility, an accounting of activity, an itemization of all expenses incurred under this Article, and a reconciliation of such expenses billed with the amounts requested under this Article. After completion of the Facility, an accounting of activity and expenses will be furnished to the District on an annual basis or upon request of Incremental Advances.

(c) Each request for an Incremental Advance of funds under this Article shall be in writing and shall include a statement describing the anticipated use of the requested funds. The Department will consult with the District in advance of requesting funds to identify anticipated activities related to the Facility. The District shall advance the requested funds within 30 days after receiving the request. In the event the District disputes the need for the requested funds, the District shall timely pay any undisputed amount and the disputed amount shall be resolved in accordance with Article 24. Any dispute shall not preclude payment of future requests for Incremental Advances of funds.

(d) Following the expiration or cancellation of this Lease, the Department will determine its expenses associated with the Facility and submit a final accounting report to the District. The Department will refund to the District any surplus in the account within 60 days after submitting the final accounting report. The District shall pay any deficit in the account within 60 days after receipt of the final accounting report.

8. DISTRIBUTION OF REVENUES

All power revenues received by the District from the Facility shall be applied in the following priority:

- (1) To lease payments to the United States.
- (2) To the annual operation and maintenance cost of the Facility.
- (3) To the recovery of costs and/or the payment of debts associated with construction of the Facility.
- (4) To the reserve fund (see Article 23 herein).
- (5) All additional power revenues received by the District shall be available to the Lessee for its own use.

9. ENVIRONMENTAL COMPLIANCE

(a) In accordance with the July 2, 1999, Federal Register notice, the Department will be the lead federal agency for compliance with the National Environmental Policy Act, as amended, (NEPA).

(b) The Lessee agrees to comply with the applicable terms and conditions resulting from NEPA and Endangered Species Act (ESA) compliance

(c) The Department and the District shall coordinate compliance activities for NEPA and the ESA, as required for development, operation, and maintenance of the Facility. The District will participate pursuant to its agreement with Interior, dated August 11, 1993, and entitled "To Provide For Compliance With the Provisions of the Central Utah Project Completion Act." The District agrees to comply with the applicable terms and conditions as may result from NEPA and ESA compliance. The District shall implement and comply with NEPA and ESA during construction and operation phases of the Facility.

(d) The District shall prepare an Environmental Commitment Plan for the Facility, subject to approval by the Department, which will provide specific details on environmental commitments and other environmental documents required under law. The District shall implement and comply with the Environmental Commitment Plan during construction and operation phases of the Facility.

10. WATER AND LAND USE

(a) The District shall be responsible to be sure that land rights, as necessary, are available for the construction and operation of the Facility. The water rights herein leased for power development shall be nonconsumptive, and the Facility shall be developed, operated and maintained consistent with applicable Federal and State law.

(b) The Department does not guarantee either the quality or quantity of water for the

Facility and has no obligation to alter operations of the Bonneville Unit or other Federal projects for the benefit of power generation at the Facility. The Lessee shall not be entitled to compensation for loss of generation due to changes in operations at the Bonneville Unit.

(c) The operation of the Facility shall not interfere with the purpose and operations of the Bonneville Unit, including but not limited to the Deer Creek/Jordanelle Operating Agreement dated November 1, 1994, as determined by Department in consultation with the District.

(d) Use of water diverted for CUP power purposes shall be an incident to other authorized Bonneville Unit purposes.

11. PRECONSTRUCTION REQUIREMENTS

(a) The following plans for the Facility are subject to approval by the Department before construction of the Facility begins:

(1) Plans and specifications and schedule(s) for construction and operation, including site restoration plans. Upon approval, such plans, specifications, and schedules(s) shall be deemed the "Plans and Specifications" as used in this Lease.

(2) Construction agreement between the District and the contractor selected for construction of the Facility.

(3) Operations plans in harmony with the Deer Creek/Jordanelle Operating Agreement.

(4) Environmental Commitment Plan and Environmental Commitment checklist. The Environmental Commitment Checklist will include, but not be limited to, environmental commitments contained in the documentation completed under NEPA for execution of this Lease.

(5) Test plan describing tests to be performed prior to acceptance of construction as complete.

(6) Emergency Action Plan, developed in harmony with the current Emergency Action Plan for Jordanelle Dam, setting forth the procedures to be followed in case of accident to, or failure of, the Facility.

(7) Security Plan. The District shall meet with representatives from the Department to develop a security plan that will be consistent with and integrated into the Department's security program for Jordanelle Dam and Reservoir. Security measures from the security plan will be included in construction of the Facility. The District shall be responsible for any additional security costs incurred by the Department related to construction, operation and maintenance of the Facility.

The District shall submit four (4) copies of the above documents to the Department, unless prohibited by Department security procedures.

(b) The District shall require its contractor to submit to the District and to the Department, prior to construction, evidence of the existence of a payment bond and a performance bond, as

required by Article 12, paragraph (b), and certificates of insurance as required by the construction agreement. Any such insurance certificate shall name the Lessee and United States as additional insured parties.

(c) The District must receive written approval from the Department prior to beginning construction. Such approval shall be based upon approval of the documents identified in Article 11 paragraph (a) and in compliance with Article 12 paragraph (b), and shall not be unreasonably withheld.

12. CONSTRUCTION

(a) The District shall construct the Facility in accordance with the approved Plans and Specifications, construction agreement, and the approved Environmental Commitment Plan and Environmental Commitment Checklist. Except in the case of an emergency which threatens either persons or property, no change from the Plans and Specifications shall be effected until written approval is obtained from the Department.

(b) The District shall provide evidence of a payment bond and a performance bond, held by the contractor constructing the Facility, for the benefit of the United States and the District in the full amount of the construction contract, securing the faithful performance of its contractual obligations under its construction agreement. The performance bond shall remain in effect a minimum of one (1) year after completion of construction of the Facility, or such additional warranty period as provided in the construction agreement. The date of completion of construction shall be as defined in Article 12 paragraph (n). The bonds shall be issued by a Surety Company satisfactory to the Department.

(c) In the event of an emergency at the Facility or Jordanelle Dam and Reservoir, the Department, the District, or the District's agent(s) may take appropriate action pursuant to the Emergency Action Plan, or may take such further action as necessary to prevent or minimize damage to the Jordanelle Dam and Reservoir and the Facility.

(d) The Department shall have the right to inspect the construction of the Facility for compliance with the requirements of this Lease.

(e) The District shall obtain and comply with any and all necessary Federal, State, and local permits and licenses. The District agrees to comply with all applicable codes, ordinances, and regulations.

(f) The District agrees to notify the Department of the District's intent to begin construction at least ten (10) days before commencement of such work or delivery of materials. The Department shall have the right to post and maintain on the Leased Premises notices authorized under applicable law.

(g) The Department shall have access to the Facility for the purpose of assuring

compliance with the terms and conditions of this Lease and to monitor the effects of the Facility on the Jordanelle Dam and Reservoir. The District shall cooperate with the Department in such reviews and inspections. If during construction of the Facility the Department determines that such construction poses a threat to the structural and operational integrity of the Jordanelle Dam and Reservoir, the Department may order corrective action be taken by the District at the District's sole cost and expense. If such action is not promptly undertaken by the District, the Department may order the District to stop work on or operation of the Facility and may perform the necessary work at the District's expense notwithstanding the dispute resolution provisions of Article 24.

(h) Construction of the Facility includes site restoration. If, for any reason, site restoration is not completed by the District in accordance with the Plans and Specifications, the work may be done by the Department at the District's expense.

(i) The District shall exercise care to preserve the natural landscape and shall conduct its construction operations to prevent any unnecessary destruction or scarring or defacing of the natural surroundings in the vicinity of the work. Movement of crews and equipment shall be within the areas defined in the Plans and Specifications.

(j) The Facility shall not interfere with reasonable and safe access to the Jordanelle Dam and Reservoir. The District shall schedule and coordinate the construction of the Facility so as to minimize interference with the Jordanelle Dam and Reservoir.

(k) The District shall require all contractors to accomplish onsite construction in accordance with all applicable Utah Occupational Safety and Health Administration (OSHA) rules and regulations.

(l) The District shall commence construction within three (3) years from the date of this Lease. Once any work affecting the Jordanelle Dam and Reservoir is begun, the District shall, with diligence, pursue construction to completion of the Facility. The Facility shall be constructed as shown in the approved Plans and Specifications or as shown in written change orders approved by the Department in writing. The District's failure to complete construction within five (5) years from the date of this Lease, in accordance with the terms and conditions of this Lease, shall be considered a default under Article 20.

(m) Unless otherwise agreed to, the District shall give the Department no less than two (2) weeks notice prior to commencement of testing. Testing will be harmonious with the approved test plan and operations plan. The Department shall have the opportunity to review and observe the testing. If, because of the addition of the Facility, the Department believes additional tests are reasonably required to ensure that the structural and operational integrity of the Jordanelle Dam and Reservoir is preserved, it shall outline such tests for the review and reasonable approval of the District. If the District approves of the requested additional testing, the District shall provide such additional tests as the Department may prescribe. If the District objects to the requested additional testing, the question over whether to conduct additional testing shall be

resolved pursuant to Article 24. The District shall provide written official test reports within 30 days after completion of the tests. The Department will accept or reject the test results, in writing, within 30 days after receipt of the test reports. Testing shall be considered complete upon acceptance of the test report by the Department. The District may use or sell to HPL power generated during the test period.

(n) At such time as the District determines that construction, testing, and site restoration of the Facility are complete, the District shall arrange a joint inspection with the Department. Any remaining work, testing, or modification needed on the Facility identified in writing by the parties during the inspection will be completed as soon as practical by the District. For the purpose of this Lease, construction of the Facility shall be complete as of the later date of either the date of the final inspection or the date the District complete the tasks, if any, identified in the final inspection to the satisfaction of the Department. Within 60 days of completion of the Facility, the District shall provide the Department with (a) two (2) complete sets of record drawings prepared on mylar film, and one (1) microfiche copy of a complete set; and (b) two (2) sets of manuals for Facility equipment that could have an impact on the operational and structural integrity of the Jordanelle Dam and Reservoir.

(o) Revisions required to the Standing Operating Procedures (SOP) for Jordanelle Dam and Reservoir as a result of construction and operation of the Facility shall be recommended by the District and submitted to the Department for its review and approval. Such revisions will be completed at the District's expense. Final copies and revisions of the Jordanelle Dam and Reservoir SOP will be distributed by Reclamation to the District.

13. OPERATION AND MAINTENANCE OF THE FACILITY

(a) Throughout the term of the Lease, the District shall, at the District's sole cost and expense, operate and maintain the Facility in good condition and repair and in accordance with all applicable laws, rules, ordinances, orders, and regulations. The Facility shall be operated and maintained in accordance with the operations plans, the Emergency Action Plan, and the Environmental Commitment Checklist as each may be amended. No material alterations in the Facility or its operation, as depicted in the record drawings and operations plan, shall be undertaken by the District without the written approval of the Department, which shall not be unreasonably withheld. The Department will withhold such approval only to (i) ensure the structural and operational integrity of the Jordanelle Dam and Reservoir or (ii) ensure that the operations of the Bonneville Unit are not otherwise interfered with. After modification to the Facility, the District shall perform testing, related to such modification, as may be required by the Department to ensure the structural and operational integrity of the Jordanelle Dam and Reservoir. The District assumes full responsibility for any pollution caused by its operations of the Facility and agrees to indemnify the Department for damages caused by any such pollution.

(b) If the Facility or operation thereof interferes with or threatens to interfere with the Bonneville Unit, the District shall correct the interference immediately and, if necessary, as determined by the Department, shut down the Facility notwithstanding the dispute resolution

provisions of Article 24. Upon notice, the District shall modify the Facility or its operation of the Facility to correct any problem and shall repair any damage in a manner acceptable to the Department, or the District shall bear the complete cost for the Department to repair any damage to the Bonneville Unit caused by the Facility notwithstanding the dispute resolution provisions of Article 24.

(c) The Department shall have access to the Facility for the purpose of assuring compliance with the terms and conditions of this Lease and to monitor the effects of the Facility on the Jordanelle Dam and Reservoir. The District shall cooperate with the Department in such reviews and inspections.

(d) Daily water flows and energy generation data shall be made available to the Department on a monthly basis or as otherwise reasonably specified by the Department.

14. DEPARTMENT REVIEWS AND APPROVALS

The Department reserves the right to review and approve schedules, designs, specifications, inspections, inspection reports, tests and reports, and construction and construction reports of the Facility, but only for the express purpose of determining any impacts to the structural and operational integrity of the Jordanelle Dam and Reservoir.

15. FUTURE WORK

(a) The implementation of this Lease does not in any way restrict the Department, in consultation with the District, from making any future changes to the Bonneville Unit. For any proposed changes that may affect the Facility or its operation, Department will first consult with the Lessee.

(b) The costs of any future changes to the Jordanelle Dam and Reservoir shall be in accordance with the then existing contracts and agreements between the Department and the District. The costs of any future structural or operational changes to the Facility, necessitated as the result of changes to the Jordanelle Dam and Reservoir or otherwise, will be assumed by the Lessee.

16. OWNERSHIP

Title to the Jordanelle Dam and Reservoir, including the Leased Premises and water rights, is retained by the United States. The Facility shall be owned by the District during the term of this Lease. Ownership of the Facility upon expiration shall be as provided in Article 22.

17. LIABILITY

(a) The Lessee hereby acknowledges that the Department will not be responsible for making sure the Facility is technically or economically feasible. Inspections, reviews, and approvals by the Department do not relieve the Lessee of its responsibilities under the terms of this Lease or otherwise.

(b) The Lessee agrees to indemnify the United States for any injury, loss or damage incurred by any person or entity, resulting from any action performed hereunder, and any negligent act or omission of the Lessee in connection with its performance under this Lease.

(c) The Lessee shall have no claim against the United States for loss of generation caused by the normal or extraordinary operation and maintenance of the Bonneville Unit including, but not limited to, the quantity or quality of water delivered through the Jordanelle Dam and Reservoir.

18. INSURANCE

The Lessee shall maintain at all times during the term of this Lease workman's compensation insurance covering all employees of the Lessee.

19. FAILURE TO MAKE PAYMENTS

Upon failure of the District to pay any sum of money when due as provided in this Lease, that amount past due will be assessed the following:

- (1) Interest per annum on the unpaid balance from the due date of the bill through the date of the payment. The interest charged will be based on the "Treasury Current Value of Funds Rate" in effect at the time the debt becomes overdue.
- (2) An administrative charge of \$5.00 per month.
- (3) Penalty charge of 6% per annum on the unpaid balance computed after 90 days of delinquency, from the due date to the date of payment.

Further collection efforts will be consistent with the Debt Collection Improvement Act of 1996.

20. DEFAULT

(a) Each or any of the following events shall constitute default under this Lease:

- (1) Failure of the Lessee to comply with each and every material condition of this Lease;
- (2) Abandonment of the Facility by the Lessee;

(b) In the event of default by the Lessee, the Department will give written notice to the

Lessee and the Lessee shall then have sixty days to correct the default condition specified in the notice. However, in the event action to correct a default requires more than 60 days, the Lessee shall have a reasonable time to correct the default if the Lessee commences the action within 30 days after written notice and diligently pursues it to full correction in a manner satisfactory to the Department.

(c) Failure of the Lessee, without just cause, to initiate construction of the Facility within three (3) years of the date of this Lease or to complete construction within five (5) years of the date of this Lease shall be considered to be abandonment of the Facility. Failure to operate the Facility, without just cause, for a period of 6 consecutive months or to maintain the Facility in good condition and repair shall be considered to be abandonment of the Facility. Failure of the District to generate electricity with the Facility, in and of itself, shall not constitute a failure to operate the Facility, provided that the District maintains the Facility in good condition and repair and provides justification as to failure to generate electricity to the Department.

(d) Any prevention, delay, nonperformance, or stoppage due to an act of nature or inability to obtain labor or materials or reasonable substitutes or any court or regulatory order enjoining, or restricting performance under this Lease shall excuse nonperformance, or stoppage, except obligations imposed by this Lease for the payment of monies due under this Lease.

(e) Each party hereto may use any remedy available either at law or in equity against a party in default hereof. The waiver of a default or a provision of this Lease shall not be deemed to be a waiver of any other provision, or of a subsequent default of the same provision.

(f) Any excessive delay resulting from compliance with the provisions of Federal environmental laws or administrative review by a Federal agency, pertaining to the Facility, may extend the time periods provided in this Article and Article 4 for a period equal to that of the delay. In the event of judicial review of environmental studies prepared in compliance with NEPA, or litigation arising out of this Lease, time periods provided in this Article and Article 4 will be extended for a period equal to that of the delay, provided such review or litigation was initiated by parties other than the District and/or HLP.

21. CANCELLATION

(a) In the event of any default by the Lessee that is not corrected as provided in Article 20, the Department shall have the right to cancel this Lease and pursue either of the following actions:

(1) Assume possession of the Facility for its own use, or lease the Facility to someone other than the Lessee. In either event, all right to use the Leased Premises and water rights for hydroelectric power purposes shall automatically revert to the United States and the Lessee shall be compensated for any un-depreciated value remaining in the Facility, based upon a 20 year straight line depreciation method of the construction cost of the Facility. Any new lessee assuming possession of the Facility will be required to enter into a

contract with the District to coordinate operation and maintenance of the Facility with Jordanelle Dam and Reservoir.

(2) The Department may require the District to remove all or part of the Facility and restore the Leased Premises to their original condition at the District's expense. In this event, the District shall be entitled to salvage, for its own benefit, any features or equipment so removed. Any features or equipment left in place under this Article shall automatically become the property of the United States.

(b) The District shall make any payments due the Department under this Lease as of the date of cancellation within 60 days after cancellation. The District shall be responsible for any other debts associated with the Facility unless otherwise provided in this Lease.

22. EXPIRATION OF LEASE

(a) Upon expiration of the lease term pursuant to Article 4, the United States shall have the right to:

- (1) Enter into a new lease with the Lessee;
- (2) Assume title and possession of the Facility for its own use;
- (3) Assume title and possession and thereafter transfer ownership of the Facility and use of the CUP water rights for hydroelectric power generation to another party subject to terms and conditions of a new lease of power privilege; or
- (4) Discontinue operation of the Facility. In the event the Department determines the Facility should no longer be operated, the Department may require the District, at its expense, to remove the Facility and restore the Leased Premises to their original condition, as far as practical. Such features and equipment, or parts thereof, including piping and control devices installed on the Jordanelle Dam and Reservoir that are necessary for the unimpaired operation of the Bonneville Unit, shall be left in place and shall become the property of the United States.

(b) If the United States elects to assume title and possession of the Facility or assume possession and transfer its ownership to another party, the United States shall either compensate the District, or obligate a new lessee to compensate the District, in an amount equal to the value of the Facility on the date of expiration as determined by an independent appraiser and appraisal methods to be jointly selected and determined by the District and the Department. The Department shall not transfer ownership of the Facility to any third party until such compensation has been paid pursuant to a new contract. Any new lessee assuming possession of the Facility will be required to enter into a contract with the District to coordinate operation and maintenance of the Facility with Jordanelle Dam and Reservoir.

23. RESERVE FUND

(a) Commencing one year after operation of the Facility and continuing during the life of this Lease, the District shall maintain a reserve fund equal to one year's anticipated operation and maintenance expenses and one year's annual lease expense to the Department, for use in the manner, for the purposes and the circumstances agreed upon by the Department and the District. The reserve fund will be established and maintained through annual deposits in the amounts stated to a segregated account created by the District. Deposits shall be derived from funds obtained from revenues received pursuant to Article 8 herein or from other revenues of the District. The annual deposit shall be made in the month of May in each year. The reserve fund shall be used for the following purposes:

- (1) To cure any financial default under this Lease to the Department
- (2) For extraordinary repair or replacement of the Facility, subject to agreement by the Department.
- (3) To reimburse the District for annual operation and maintenance costs of the Facility to the extent that power revenues are not sufficient therefore and to reimburse the costs encountered or created by emergency conditions.

(b) The District shall deposit its reserve fund in an account in accordance with the District's investment policy and practices, provided, any interest paid on the reserve funds shall be and become a part of the fund from which interest was accrued. Interest that causes the fund to exceed the reserve fund maximum may be withdrawn by the District to bring the fund balance back down to the maximum or disbursed in accordance with Article 8 herein, at the sole discretion of the District.

(c) Upon expiration of the term of this Lease, any amounts then remaining in a reserve fund shall be disbursed and applied in accordance with Article 8 herein.

(d) The maximum annual deposits and reserve fund amounts may be adjusted from time to time as mutually agreed to by both the Department and the District.

24. DISPUTE RESOLUTION

(a) In the event of a dispute between the parties, the decision of the Department must be appealed to the Assistant Secretary - Water and Science for his/her determination prior to review by the federal court. The decision of the Assistant Secretary will be final for the Department and will be binding upon all parties hereto unless determined otherwise by a federal court. In the event that any action is filed in federal court, following a determination of the Assistant Secretary, in relation to this Lease, the unsuccessful party in the action shall pay to the successful party, in addition to all sums that either party may be ordered to pay, a reasonable sum, as determined by the court, for the successful party's attorney's fees and court costs. This provision shall not waive any right of the Lessee or the Department under Federal Law.

(b) This article shall not apply to any action or inaction by the Lessee during construction, operation and maintenance of the facility which may impair the structural integrity of Jordanelle Dam and Reservoir.

25. AUDIT

(a) The District and the Department shall maintain accurate records and books of account in accordance with generally accepted accounting principles and consistent with this Lease. Said books and records shall present fairly all costs and expenses utilized either directly or indirectly in computing any charges or payments to the other parties under this Lease.

(b) Upon 30 days' written notice, the District and the Department shall afford the other party or its independent auditors reasonable access to the relevant records and books of account during the term of the Lease, and for a period of twenty-four months thereafter.

26. NOTICES

(a) Any notice authorized or required to be given to the Lessee shall be delivered or mailed by certified mail to the General Manager, Central Utah Water Conservancy District, 355 West University Parkway, Orem UT 84058-7303 and General Manager, Heber Light & Power Company, 31 South 100 West, Heber UT 84032. Any notice authorized or required to be given the Department shall be delivered or mailed by certified mail to the Program Director, CUP Completion Act Office, P.O. 51338, Provo UT 84605.

(b) Any changes in these addresses shall be made by written notice to the other parties.

27. ASSIGNMENT LIMITED - SUCCESSORS IN INTEREST OBLIGATED

The provisions of this Lease shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Lease or any right or interest therein shall be valid until approved in writing by the Department.

28. RULES, REGULATIONS AND DETERMINATIONS

(a) The parties agree that the delivery of water or the use of the Bonneville Unit, pursuant to this Lease, is subject to Reclamation law, as presently or in the future amended and supplemented, and rules and regulations promulgated by the Secretary of the Interior under Reclamation law.

(b) The Department shall have the right to make determinations necessary to administer this Lease that are consistent with the laws of the United States of America and the State of Utah, and the provisions of this Lease, and the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with the Lessee.

29. COVENANT AGAINST CONTINGENT FEES

The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessee for the purpose of securing business. For breach or violation of the warranty, the Department shall have the right to cancel this Lease without liability.

30. OFFICIALS NOT TO BENEFIT

No member of or Delegate to Congress, Resident Commissioner, or official of the Lessee shall benefit from this Lease other than as a water or power user or landowner in the same manner as other water or power users or landowners.

31. LIAISON OFFICER

Each party shall provide the name of a Liaison Officer and the address and telephone number through which contacts are to be made during the term of this Lease. Changes in the appointment of the Liaison Officers shall be made by written notice to the other parties. At all times, the District shall provide qualified personnel, to inspect the work, to ensure compliance with the Plans and Specifications, and to represent the District in the ongoing construction, operation and maintenance work.

32. AMENDMENT

This Lease may be amended, altered, or modified only in writing and signed by all of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed on the day and year first above.

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR

By: Ronald Johnston
Program Director
CUP Completion Act

By: Rick L. Gold
Regional Director
Upper Colorado Region
Bureau of Reclamation

Approved: W. M. Larkin
Regional Solicitor
Salt Lake City UT

CENTRAL UTAH WATER
CONSERVANCY DISTRICT

By: Ronald McKee
President

HEBER LIGHT & POWER COMPANY

By: [Signature]
Power Board Chairman

KEY

- PROPOSED PROJECT TRANSMISSION LINE
- - - EXISTING TRANSMISSION LINE
- - - - - TEMPORARY STAGING & CONSTRUCTION PREMISES
- - - - - LEASED PREMISES BOUNDARY LINE
- - - - - FEDERAL LAND BOUNDARY LINE
- - - - - PRIVATE PROPERTY BOUNDARY LINE

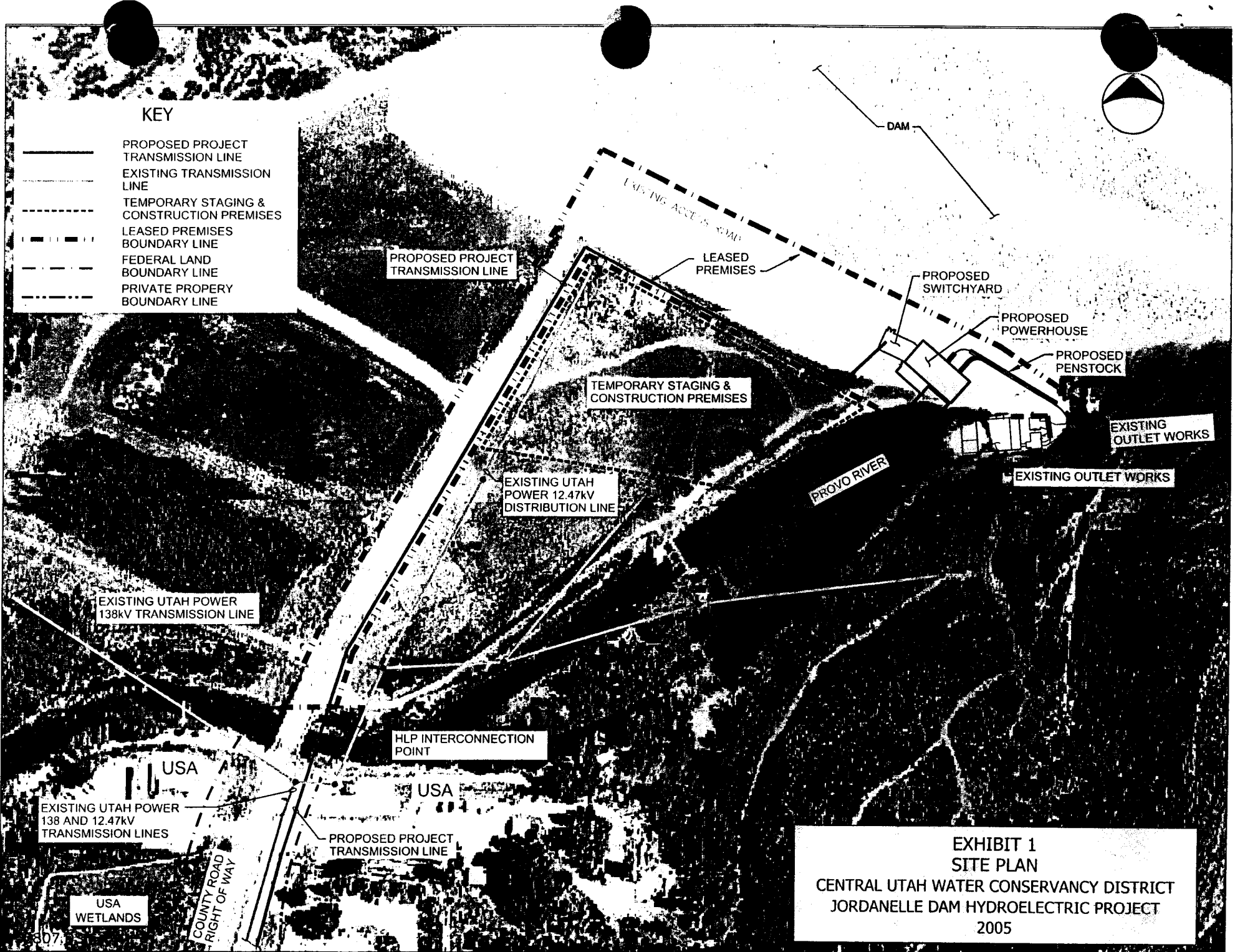
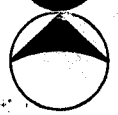


EXHIBIT 1
SITE PLAN
CENTRAL UTAH WATER CONSERVANCY DISTRICT
JORDANELLE DAM HYDROELECTRIC PROJECT
2005