

**AFFIDAVIT**

STATE OF UTAH )  
 )SS.  
COUNTY OF CACHE )

On this 25 day of October, 2004, before me the undersigned authority, a Notary Public in and for the State of Utah, duly commissioned and sworn, personally appeared Michael Jablonski, to me known to be an officer of WETLAND MITIGATION SOLUTIONS, LLC, who being by me first duly sworn, on his oath, deposes and states:

- 1) A revised Agreement for the Creation/Restoration of Mitigation Wetlands was executed on January 27, 2003, between Wetland Mitigation Solutions, LLC and PacifiCorp, doing business as Utah Power & Light Company, and
- 2) Said revised Amendment authorizes Wetland Mitigation Solutions to create/restore up to thirty (30) acres of wetlands on real property owned by PacifiCorp within the Cutler Reservoir Resource Management Area generally located in the Section 35, Township 12 North, Range 1 West, Cache County, Utah, more particularly described in Exhibit I, Parcel A (Property Survey for Cindy Johnson, 10-17-02), and
- 3) Under the terms of the revised Agreement, PacifiCorp agrees to place the conditions, covenants, and restrictions described in Attachment A and the Amendment to Attachment A, signed on May 19, 2004, on the subject property in perpetuity.

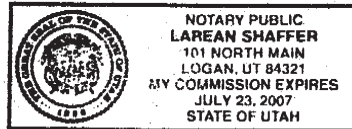
*Michael A. Jablonski*

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Michael A. Jablonski, Manager  
Wetland Mitigation Solutions, LLC  
165 E. 500 S.  
River Heights UT 84321

WITNESS my hand and official seal hereto affixed the day and year first above written.

*Larean Shaffer*  
\_\_\_\_\_  
Notary Public in and for the State of Utah

Residing in Logan, Utah



Ent 875426 Bk 1324 Pg 1362  
Date 25-Oct-2004 2:12PM Fee \$16.00  
Michael Gleed, Rec. - Filed By MG  
Cache County, UT  
For WETLAND MITIGATION SOLUTIONS LLC

ATTACHMENT A  
to the Agreement between PacifiCorp and Wetland Mitigation Solutions, LLC signed on 1/27/03, 2003.

**DECLARATION OF ESTABLISHMENT OF  
CONDITIONS, COVENANTS, AND RESTRICTIONS**

KNOW ALL MEN BY THESE PRESENTS, that whereas under section 1344 of Title 33 of the United States Code, the Sacramento District Engineer, U.S. Army Corps of Engineer, has authorized the creation/restoration of wetlands on real property owned by PacifiCorp Company, to fulfill obligations to mitigate wetland impacts as required under Section 404 of the Clean Water Act; more particularly described in Exhibit 1 which is attached to and made part of this declaration.

PacifiCorp Company, owner of said real property, in consideration of such authorization, certifies and declares that the following Covenants, Conditions, and Restrictions are placed on said property for the protection of the owner and the public at large:

- (a) The above described property will be maintained and managed in accordance with the FERC license, Project # 2420, the conditions of the permit issued under Section 404 of the Clean Water Act, and the PacifiCorp Cutler Reservoir Resource Management Plan, for the purpose of wetland mitigation; and that no alterations or changes in wetland designation to the above described property will be made unless expressly authorized by the U.S. Army Corps of Engineers.
- (b) No discharge of dredged or fill material or excavation shall be allowed, including construction of buildings or other structures, minor grading and placement of topsoil, unless prior authorization is obtained from the U.S. Army Corps of Engineers.
- (c) No changes to the wetland hydrology shall be made by the owner, which would be deemed to threaten the viability of the wetlands;
- (d) Any additional plantings shall include grasses, forbs, shrubs, and trees appropriate to the specific wetland type(s) in the area of the plantings.
- (e) PacifiCorp will employ appropriate vegetation management as necessary for weed control, and/or any other necessary habitat management or safety reasons in coordination with the Corps requirements.

These covenants are to run with the land for the duration of the FERC license, Project # 2420, and shall be binding in perpetuity on the owners and on all successors and assigns of the owners.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed on 1/27/03, 2003.

[Signature] SR. Vice Pres.  
PACIFICORP (OWNER)

Ent 875426 Bk 1324 Pg 1363

**AMENDMENT**

to Attachment A to the Agreement between PacifiCorp and Wetland Mitigation Solutions, LLC, signed on 1/27/03, 2003.

**AMENDMENT TO ESTABLISHED  
CONDITIONS, COVENANTS, AND RESTRICTIONS**

KNOW ALL MEN BY THESE PRESENTS, that whereas under section 1344 of Title 33 of the United States Code, the Sacramento District Engineer, U.S. Army Corps of Engineers, has authorized the creation/restoration of wetlands on real property owned by PacifiCorp Company, to fulfill obligations to mitigate wetland impacts as required under Section 404 of the Clean Water Act.

PacifiCorp Company, owner of said real property, in consideration of such authorization, has certified and declared that certain Conditions, Covenants, and Restrictions are placed on said property for the protection of the owner and the public at large. PacifiCorp Company now certifies and declares that the following additional Conditions, Covenants, and Restrictions are placed on said property for the same purpose:

- (f) If livestock grazing is to be implemented as a means of vegetation or habitat management or for safety reasons, the U.S. Army Corps of Engineers (Corps) will require the following:
  - (i) The Corps will consider a five-year trial grazing period.
  - (ii) Written justification for the use of livestock grazing will be submitted to the Corps prior to initiation of the trial grazing period. Written justification will identify objectives and explain how grazing will achieve those objectives.
  - (iii) If the proposed grazing period is approved by the Corps, annual monitoring of the results of grazing will be implemented. Annual monitoring reports to the Corps will not be required.
  - (iv) At the end of the five-year trial grazing period, a final report based on the annual monitoring results will be completed and submitted to the Corps. Final approval of the grazing program will be decided after the Corps reviews the final report.

This, and the previously established Conditions, Covenants, and Restrictions, are to run with the land for the duration of the FERC License, Project #2420, and shall be binding in perpetuity on the owners and on all successors and assigns of the owners.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed on

May 19<sup>th</sup>, 2004.

  
PACIFIC CORP (OWNER)

Ent 875426 Bk 1324 Pg 1364

