

WASHINGTON AFFILIATED INTEREST FILING

REDACTED ATTACHMENT B

**SECOND AGREEMENT FOR ADDITIONAL LEASE AND MANAGEMENT OF
LEASED WATER IN THE HUNTINGTON-CLEVELAND IRRIGATION
COMPANY**

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CLEVELAND IRRIGATION COMPANY**

This agreement is entered into this 17 day of JUNE, 2022 by and between PacifiCorp, an Oregon Corporation ("PacifiCorp") and the Huntington-Cleveland Irrigation Company, a Utah non-profit corporation ("Huntington-Cleveland"). Together, PacifiCorp and Huntington-Cleveland are referred to singularly as a "Party" and collectively as the "Parties."

WHEREAS, Huntington-Cleveland owns water rights and several reservoirs on Huntington Creek and its tributaries which it uses to supply irrigation, municipal and industrial water to its shareholders ("Shareholders"); and

WHEREAS, PacifiCorp owns the Huntington Thermal Plant in Emery County, Utah ("Huntington Plant"), together with certain water rights and shares of stock in Huntington-Cleveland ("Shares") for use at the Huntington Plant; and

WHEREAS, PacifiCorp requires water in addition to its owned water rights and Shares to operate the Huntington Plant due to a period of extended drought; and

WHEREAS, Huntington-Cleveland and PacifiCorp entered into an Agreement for Lease and Management of Leased Water in the Huntington-Cleveland Irrigation Company, dated May 10, 2022 for the lease of 2,694 acre-feet of 2022 Class A and Class B allocated water; and

WHEREAS, Huntington-Cleveland and leasing shareholders intend to lease to PacifiCorp an additional 68.15 acre-feet of their 2022 Class A and Class B allocated water at the lease rate of [REDACTED] per acre foot ("PacifiCorp Lease Pool" or "Lease Pool"). Such leasing shareholders have agreed not to call for their water held in the PacifiCorp Lease Pool; and

WHEREAS, for PacifiCorp to use water made available from the Lease Pool, said water must be stored by PacifiCorp in its Electric Lake Reservoir and/or by Huntington-Cleveland in Huntington-Cleveland's Left Fork Reservoirs for release on PacifiCorp's request from the date of execution of this Agreement until February 28, 2023; and

WHEREAS, Huntington-Cleveland desires to facilitate this lease of water to PacifiCorp from the date of execution of this Agreement until February 28, 2023, consistent with this Agreement; and

WHEREAS, as of the date of execution of this Agreement, Huntington-Cleveland has allocated 1 acre foot of water for every 5.0 Class A Shares (Primary water) in the 2022 irrigation season; and

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WHEREAS, as of the date of execution of this Agreement, Emery Water Conservancy District has allocated 1 acre foot of water for every 1.43 Class B Shares (Project water) in the 2022 irrigation season; and

WHEREAS, the Parties desire to enter into this Agreement for the leasing and delivery of the leased water, pursuant to the terms and conditions set forth herein.

NOW THEREFORE, the Parties agree as follows:

1. The Parties acknowledge receiving sufficient consideration for the commitments contained in this Agreement and waive any argument that they might have in any judicial proceeding that no consideration exists to support this Agreement or that the consideration received is not sufficient.
2. The term of this Agreement runs from the date of execution through February 28, 2023.
3. Within 30 days of receipt of invoice from Huntington-Cleveland, PacifiCorp shall pay Huntington-Cleveland a lump sum payment of [REDACTED] for the 68.15 acre-feet of leased water. Huntington-Cleveland shall distribute to leasing shareholders their portion of the payment. PacifiCorp has no responsibility or liability for distribution of funds to the leasing shareholders.
4. The Parties acknowledge that, at the date of execution of this Agreement, PacifiCorp leases from Huntington-Cleveland a fixed amount defined block of water of 68.15 acre feet, consisting of: 1) Huntington-Cleveland's allocation of 1 acre foot of water for every 5.0 Shares of Class A stock; and 2) Emery Water Conservancy District's allocation of 1 acre foot of water for every 1.43 shares of Class B stock. However, if either of these allocations are adjusted throughout the irrigation season (either increasing or decreasing), then PacifiCorp's volume of leased water shall not change.
5. The Parties agree to assign the 68.15 acre-feet of lease water in the PacifiCorp Lease Pool into PacifiCorp's Electric Lake by storing Huntington-Cleveland's natural flow entitlement that would otherwise be released from Electric Lake following runoff season.
6. The Parties, in coordination with the Huntington River Commissioner, will account for PacifiCorp's use of the Lease Pool water throughout the term of this Agreement in order to determine the balance of Lease Pool water to be delivered to PacifiCorp through February 28, 2023.

7. Throughout the term of this Agreement, PacifiCorp's use of water sources for the Huntington Plant will be in the following priority:
 - (a) PacifiCorp's water under its Shares in Huntington-Cleveland (Huntington Creek direct flow).
 - (b) Huntington-Cleveland water in the PacifiCorp Lease Pool. As available pursuant to naturally available water in Huntington Creek and the normal and regular operation of Huntington-Cleveland's reservoirs to provide storage water to all shareholders.
 - (c) Release of PacifiCorp's own storage water in Electric Lake.
8. If PacifiCorp does not use all of the Lease Pool by February 28, 2023, PacifiCorp's right to use said remaining Lease Pool water shall terminate and any said remaining water shall be accounted for as Huntington-Cleveland's storage water for delivery during the 2023 irrigation season. However, in no event shall PacifiCorp be entitled to any refund of the payments made under this Agreement.
9. In the event that Huntington-Cleveland uses its best efforts to deliver the Lease Pool water but is unable to do so due to circumstances beyond its control, PacifiCorp waives any and all damages, claims, losses, liabilities, costs and expenses against Huntington-Cleveland. As used herein, the term "circumstances beyond its control" means the lack of water in the Huntington Creek drainage, an order by, or under the direction of, the State Engineer of Utah, natural disaster, such as weather, an earthquake, fire, storm, flood, an act of God; a war, insurrection, or labor dispute; an order, requisition or necessity of any governmental authority; or a result of any cause beyond the control and not a result of any negligence of Huntington-Cleveland. If Huntington-Cleveland ceases delivery of the Lease Pool water pursuant to this paragraph, it shall nonetheless have an obligation to use its best efforts to resume delivery of said Lease Pool water as quickly as possible, and to allow PacifiCorp to aid in such restoration of delivery. Notwithstanding the foregoing, Huntington-Cleveland, by reason of this Agreement, shall not incur additional liability beyond any liability it may have for non-delivery of water to the Shareholders leasing water in the Lease Pool, nor shall it be liable for incidental or consequential damages for non-delivery of the Lease Pool water.
10. Any notice given under this Agreement shall be deemed sufficient if in writing and delivered by hand or deposited in the United States mail, postage prepaid, and addressed as follows, or to such other addressee as either Party may, from time to time, designate in writing:

To Huntington-Cleveland:
Vickie Tucker
HCIC Secretary
P.O. Box 327
Huntington, UT 84528

To PacifiCorp:
To PacifiCorp: Cody Allred
Water Resource Manager
P.O. Box 680
Huntington, UT 84528

with a copy to:
J. Craig Smith
Smith Hartvigsen, PLLC
257 East 200 South, #500
Salt Lake City, UT 84111

with a copy to:
Buffi Morris
Water Rights Administrator
1407 W. North Temple #110
Salt Lake City, UT 84116

11. This Agreement shall be construed in accordance with the laws of the State of Utah. All legal actions between the Parties, arising under this Agreement, shall be conducted exclusively in the Seventh District Court for the State of Utah located in Emery County, Utah, unless they involve a case with exclusive federal jurisdiction, in which case they shall be conducted exclusively in the Federal District Court for the District of Utah. Each Party hereby waives any objection based on *forum nonconveniens* or any objection to venue of any such action. **To the fullest extent permitted by law, each of the Parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this Agreement. Each Party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.**
12. This Agreement constitutes the entire agreement and understanding of the Parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be in writing and executed by the Parties.
13. If either Party to this Agreement is required to initiate or defend litigation to secure performance of this Agreement, the prevailing party in such litigation, in addition to any other relief that may be granted, whether legal or equitable, shall be entitled to reasonable attorney fees.
14. PacifiCorp, at its sole expense, shall obtain any necessary approvals from the Utah Division of Water Rights and/or the Utah State Engineer to use water as anticipated in this Agreement. Huntington-Cleveland shall reasonably cooperate with PacifiCorp in obtaining any such approvals.
15. PacifiCorp, agrees to and shall indemnify, defend, and hold Huntington-

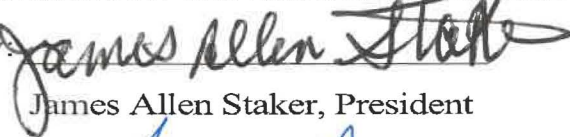
Cleveland and its directors, officers, agents, employees, and representatives harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorney fees and court costs) arising from or as a result of this Agreement or the use of water by PacifiCorp under this Agreement. This indemnification shall not apply to losses, damages, claims, expenses and other liabilities to the extent caused by the negligence of Huntington-Cleveland or its employees, guests, invitees, contractors, or agents.

16. The Parties waive any right to claim consequential damages. Neither Party, nor any shareholder, officer, or director of a Party, shall be liable for any consequential, incidental, or indirect, damages. Any claim of damages shall be limited to the total amount paid by or payable to a Party.
17. Time is of the essence in performing all duties and obligations in this Agreement.
18. Neither this Agreement nor any right or obligation hereunder may be assigned in whole or part without the express written and executed consent of both Parties.

EXECUTED on the date written above.

HUNTINGTON-CLEVELAND IRRIGATION COMPANY

By:


James Allen Staker, President

Attest:




Vickie Tucker, Secretary

PACIFICORP

By:

Its:


MANAGING DIR