

LETTER OF UNDERSTANDING

TO WHOM IT MAY CONCERN:

This is a joint Letter of Understanding, dated 2/8/85, among UTAH POWER & LIGHT COMPANY, hereinafter referred to as "Power Company", UNITED STATES BUREAU OF RECLAMATION, hereinafter referred to as "Reclamation", EMERY WATER CONSERVANCY DISTRICT, hereinafter referred to as "District", and HUNTINGTON-CLEVELAND IRRIGATION COMPANY, hereinafter referred to as "Huntington-Cleveland".

The Huntington-Cleveland has approved water right change applications a-7941 (93-219) and a-7940 (93-928) changing the point of diversion and place, nature and period of use of water represented by Class "A" Primary Water Stock. Said approved change applications are made a part of this Letter of Understanding. The Power Company contemplates the use of said Class A primary water acquired by it for industrial and other uses at its steam-electric generating plant located in Huntington Canyon, known as the Huntington Plant and the Hunter Plant located near Castle Dale, Emery County, Utah, by exchange applications which will be filed from time to time with the Utah State Engineer. The parties wish to continue to cooperate and not interfere with their respective rights to

the use of the water, and it appears that any conflicts may be clarified by the agreement and intention as set forth in this Letter of Understanding.

The intention and understanding of the parties hereto is expressed as follows:

1. Each share of Primary Class A stock in Huntington-Cleveland represents 1/157000 of the annual supply available to Huntington--Cleveland under its rights to the flow of Huntington Creek and its tributaries. Water represented by the Primary Class A stock owned in Huntington-Cleveland by the Power Company will supplement other water owned by the Power Company, and will be used in accordance with the Operating Criteria dated 10-2-84, the provisions of which are attached hereto and made part of this agreement, to supply the Power Company's needs at its steam-electric power plants. In order to correlate the annual anticipated industrial use with other uses of the water represented by primary Class A shares of Huntington-Cleveland stock, the Power Company shall report in writing to the Huntington River Commissioner, Reclamation and the District by April 1 of each year the number of shares of primary Class "A" Stock owned by the Power Company and the anticipated demand for water for that calendar year. All uses of primary water for power purposes shall be coordinated

through and delivered by the Huntington River Commissioner, who is appointed by the State Engineer.

2. Under future operation and within the limits of the decreed, perfected and pending water rights of Huntington-Cleveland in Huntington Creek, the parties hereto recognize the provisions contained in Contract Number 14-06-400-2523, dated June 27, 1962, relating to exchange and adjustment of water rights, and by reference herein, the provisions of such contract are made a part of this agreement.

3. In said contract No. 14-06-400-2523 relating to exchange and adjustment of water rights referred to in paragraph 2 herein, the period of use is defined as being from March 1 to October 31 of each year. As it relates to Primary Class A water stock owned by Power Company, the period of use will be changed, provided the total water available to other users, including Reclamation and District, is not adversely affected in keeping with the conditions defined in said contract No. 14-06-400-2523. Reclamation and District hereby grant Power Company the right to use water that would normally accrue to the Emery County Project to the extent Power Company water of comparable quality and equal quantity to that so used will be available for replacement thereof. If Power Company diverts for storage or direct use for industrial purposes

any water to which they are not entitled, a credit will accrue to the Emery County Project in Electric Lake or in Miller Flat Reservoir to the party who is the owner by right to said water.

The water so held for credit in said reservoirs shall continue to be held subject to call until October 31 of each year. For example, if Power Company diverts water for industrial use during the period from March 1 to October 31 which by reason of right or contract belongs to Reclamation and District for storage in Huntington North or Joes Valley Reservoirs; then a credit for like amount will accrue in Electric Lake or other facilities to which the company has a right to store water, and will be subject to call as Emery County Project water. The credit could also be replaced by an equal reduction in Power Company's allocation of Emery County Project water from Joes Valley or Huntington North Reservoirs.

4. Power Company hereby agrees that any exchange of water will not interfere with presently existing requirements for recreation and fish and wildlife provisions under the Emery County Project.

5. Power Company agrees to render Reclamation, the District and Huntington-Cleveland, harmless from liability that may result from claims by downstream water users as a result of the Power Company converting the uses of this water from irrigation to

industrial purposes and also to indemnify the United States, the District and Huntington-Cleveland for any claims filed against it resulting from Power Company's operation set out in this agreement.

6. Power Company hereby agrees that all purchases of Class A primary water stock will be subject to this agreement.

7. The parties hereto agree to operate in accordance with the attached operating criteria which may be supplemented or amended from time to time by an exchange of letters from all concerned parties.

UTAH POWER & LIGHT COMPANY

By A. [Signature] **JW**  
Title Executive Vice President

10-2-84

Date

UNITED STATES DEPARTMENT OF THE  
INTERIOR, BUREAU OF RECLAMATION

By [Signature] **WHL**  
Title Asst. Regional Director

2/8/85

Date

EMERY WATER CONSERVANCY DISTRICT

By [Signature]  
Title President

10/2/84

Date

HUNTINGTON-CLEVELAND IRRIGATION  
COMPANY

By [Signature]  
Title President

October 2-1984

Date

OPERATING CRITERIA  
EMERY COUNTY PROJECT  
HUNTINGTON CREEK

DEFINITIONS

"Project" means the Emery County Project.

"Project Water" means all water made available by the development of the Emery County Project.

"District" means the Emery Water Conservancy District.

"Power Company" means the Utah Power & Light Company.

"Huntington Cleveland" means the Huntington-Cleveland Irrigation Company.

"Power Company Plants" means the Utah Power & Light Company Huntington Plant located in Huntington Canyon and the Hunter plant located near Castle Dale, Utah.

"Project Irrigation Water" is that portion of the Project Water allotted to the Cottonwood Creek Consolidated Irrigation Company and the Huntington-Cleveland Irrigation Company for irrigation of Project lands. This amounts to 22,100/28,100ths, or 78.65%, of the annual Project Water supply declared available by the Emery Water Conservancy District by reason of Project Water rights and Project construction, also called Class B water.

"Project Power Water" is the allotment of the Project municipal and industrial water acquired by the Power Company from the District. This amounts to 6,000/28,100ths, or 21.35%, of the annual Project supply declared available by the District.

"Power Pool" means that portion of the unused reservoir capacity which may be used by the Power Company to carry over Project Power Water from one year to the next and said portion amounts to 6,000/28,100ths, or 21.35%, of the unused reservoir capacity to a maximum of 11,730 acre-feet in Joe's Valley and 830 acre-feet in Huntington North Reservoir.

"Irrigation Pool" means that portion of the unused reservoir capacity which may be used to carry over Project Irrigation Water from one year to the next. Said portion amounts to 22,100/28,100ths, or 78.65%, of the unused reservoir capacity up to a maximum of 43,190 acre-feet in Joe's Valley Reservoir and 3,050 acre-feet in Huntington North Reservoir.

"Non-Project Primary Water" means all water made available for use by the stockholders of Huntington-Cleveland from water rights owned by Huntington-Cleveland, also referred to as Class A Water.

"Non-Project Power Primary Water" is water acquired by the Power Company by virtue of stock purchases from the stockholders of Huntington-Cleveland, also referred to as Class A Water.

"Non-Project Irrigation Primary Water" is water held by stockholders of Huntington-Cleveland used for irrigation purposes, also referred to as Class A Water.

"River Commissioner" means an individual appointed by the Utah State Engineer to administer the waters of Huntington Creek.

#### OPERATIONS

1. It is assumed that Power Company requirements for water will be satisfied from available water sources in the following order:
  - a. Power Company privately-owned direct flow water rights, represented by Application 39151 (93-1115), Certificate #12310.
  - b. Non-Project Power Primary Water from Cottonwood and Huntington Creeks.
  - c. Project Power Water.
  - d. Power Company privately-owned storage rights in Electric Lake represented by Application 39152 (93-1116), Certificate #12215.

However, this assumption will not bind the Power Company to that pattern of use per consultation and agreement with the River Commissioner.

2. Project Power Water stored in Project reservoirs will be released as requested by the Power Company. Water will be delivered within the operating capability of the Project and in accordance with management criteria established by the District. Project Power Water released from Joe's Valley Reservoir will be charged conveyance and operation losses in Cottonwood Creek and the Cottonwood Creek-Huntington Canal as determined by the District. Such losses for Project Power Water will be equal to Project Irrigation losses. Conveyance and operation losses for Project Power Water acquired from the Cleveland Canal, Huntington Canal and North Ditch will be determined by the River Commissioner and will be equal to conveyance losses charged against Project Irrigation Water delivered through the said three canals. Each remaining Project Irrigation user will be delivered Project Irrigation Water on the same basis as was delivered prior to acquisition of Project Water by the Power Company.
3. Non-Project Power Primary Water from Cottonwood Creek will be delivered as requested by the Power Company if such delivery is not adverse to Project operation and is not in excess of the Power Company's proportionate share of the stream flow, based on stock ownership. This Non-Project Power Primary Water, if diverted and carried in the Cottonwood Creek-Huntington Canal, will also be charged conveyance and operation losses as determined by the District, and will be equal to losses charged against Project Irrigation Water delivered through the Cottonwood Creek-Huntington Canal. Diversion of Non-Project Power Primary Water from Cottonwood Creek through the Cottonwood Creek-Huntington Canal may be

made only upon specific authorization of the Board of Directors of the Cottonwood Creek Consolidated Irrigation Company.

4. Non-Project Power Primary Water from Huntington Creek may be diverted directly to Electric Lake, to the Power Company's Huntington Plant or for exchanges. Allocations per share of Non-Project Power Primary Water will be on the same basis as allocations of Non-Project Primary Water. Such water will be delivered by the River Commissioner.
5. To obtain an average annual yield of 28,100 acre-feet of Project Water, both Project reservoirs' capacity is needed. In the event there is unused space in the Irrigation Pools of the Project reservoirs, Project Power Water may utilize such unused space until needed for Project Irrigation Water storage. Conversely, if there is unused space in the Power Pools, Project Irrigation Water may utilize such unused space until needed for storage of Project Power Water. As the Project reservoirs fill, space allocated to Project Irrigation Water in the Power Pools and space allocated to Project Power Water in the Irrigation Pools will be diminished so that Project Irrigation Water can use its space allocated in the Irrigation Pools and Project Power Water can use its space allocated in the Power Pools. When spills occur, or when releases are made in anticipation of spills, all credits for Project Irrigation Water in the Power Pools and for Project Power Water in the Irrigation Pools will be cancelled.
6. Project Power Water may be held over from year to year in the Power Pools and in the Irrigation Pools except as limited in Paragraph No. 5 above. Conversely, Project Irrigation Water may be held over in the Irrigation Pools and in the Power Pools under the same limitations covered by Paragraph No. 5.
7. Evaporation and seepage losses in the Project Reservoirs will be assessed monthly and proportionately between Project Irrigation Water and Project Power Water stored in the reservoirs by the District.
8. All deliveries of Non-Project Primary Power Water and Project Power Water, including exchanges, will be coordinated by the District and the River Commissioner.
9. The Power Company will be responsible for the construction and maintenance of any diversion structure, including measuring devices, to divert and utilize its Project Water from Project facilities and may require approval of the State Engineer. Prior approval by the Bureau of Reclamation and the District is required of any design specifications for structures to be constructed on or altering Project facilities or property.
10. During the nonirrigation season (November 1 to March 1) when the Project facilities are being used solely for the Power Company, all operational costs and all conveyance and operational water losses will be charged to the Power Company.
11. When the Power Company's water storage in Electric Lake is surplus to meeting Huntington Plant needs, the Power Company and Huntington-



Cleveland may enter into an annual letter agreement providing that the Power Company will release on demand up to 5,000 acre-feet of storage water from Electric Lake to Huntington-Cleveland Project Water users during the current irrigation season. For each acre-foot of Electric Lake storage water released for Huntington-Cleveland Project users, the Power Company will receive a credit for one acre-foot in Joe's Valley Reservoir for such Project Water which was not released to Huntington-Cleveland Project water users due to Electric Lake releases. Power Company will have the right to use such credited water at the Hunter Plant during the period of November 1 to March 1 following the season in which the Electric Lake release was made.

12. It is understood that the amount of lease-back of Non-Project Power Primary Water available to lands from which water was acquired by the Power Company as described in Paragraph 19 herein, will not be diminished due to exchange of Electric Lake water for Project Water under Paragraph No. 11 above. Such lease-back will be issued on a pro-rata basis according to the amount of shares acquired from that ground under such policy as Huntington-Cleveland may adopt.
13. If the River Commissioner determines that the Power Company's water storage in Electric Lake or diversion to the Huntington Plant reduces the ability of the Cleveland Canal to exchange Cleveland Canal Project Water for Huntington Canal and North Ditch Non-Project Primary Water, the Power Company will, at its option, provide water to the Cleveland Canal by the following methods:
  - a. Release the amount of the deficiency as determined by the River Commissioner from Electric Lake at dates and times specified by the River Commissioner.
  - b. Release the amount of the deficiency from the Power Company's share of storage in Huntington's Left Fork Reservoirs, if available, and as specified by the River Commissioner.
  - c. Pay for all costs associated with pumping Cleveland Canal Project Water from the North Ditch pumping station to the Cleveland Canal. Power Company agrees to maintain pump station in operating condition.
14. The River Commissioner shall deliver water to users for irrigation, power, mining, industrial, municipal, domestic, stockwatering or other uses which are entitled to water from the Huntington Creek drainage in accordance with water rights recognized by the State Engineer. The River Commissioner will maintain records of river flows, storage releases from reservoirs, diversion losses, return flows, evaporation losses from storage reservoirs, and other records pertinent to the administration of water from the Huntington Creek drainage. Water users will cooperate with the River Commissioner by providing records of flows, diversions and quantities of water stored. Water users will request the River Commissioner to make deliveries of water from the Huntington Creek drainage. Power Company will request water deliveries on the same basis and at the same times as other water users on the Huntington Creek system. Water deliveries to the Huntington Plant as well as Power Company storage and

releases from Electric Lake and the Left Fork Reservoirs will be under the direction of the River Commissioner. Irrigation, industrial and municipal and other water users will be delivered an equal amount of water per share each year as determined by the Huntington-Cleveland Board of Directors.

15. If the State Engineer and River Commissioner determine that water users below the North Ditch diversion are deprived of their entitled water due to diversions and/or storage by the Power Company, appropriate releases will be made by the Power Company, as directed by the River Commissioner up to the amount of the deficiency incurred.
16. It is understood that Power Company will be accountable for its share of canal losses in the Huntington-Cleveland system based on the amount of water acquired from the Cleveland Canal, Huntington Canal, North Ditch and Huntington Creek. The amount of loss will be determined by the River Commissioner and an amount of water to compensate for such losses will be released from Electric Lake and/or Power Company's share of Left Fork Reservoir storage and delivered to said three canals and Huntington Creek at dates and times specified by the Commissioner.
17. At certain times during spring runoff periods, Huntington-Cleveland will have the opportunity to store the Power Company's water in the Left Fork Reservoirs; likewise, at certain times the Power Company will have the opportunity to store Huntington-Cleveland water in Electric Lake. When such storage occurs, the River Commissioner shall determine the amount of water so stored and shall exchange Power Company water in Left Fork Reservoirs for Huntington-Cleveland water in Electric Lake. Each party shall have the right to release and/or exchange its water so stored, after written notice to the other, provided the rights of the other are not impaired.
18. During the non-irrigation season (November 1 to March 1) it is understood that an average flow of 17 CFS for domestic and stockwatering use and 15 CFS for storage in Huntington North Reservoir, totaling 32 CFS of natural flow is required, if available at a point in Huntington Creek immediately below Power Company's Huntington Plant diversion. It is also understood that Power Company is not obligated to furnish from its own storage supplies any of the 32 CFS required for downstream uses. Natural flows in excess of 32 CFS will be available for diversion into Power Company's Huntington Plant under Power Company's application 39151 (93-1115), Certificate 12310, described in Paragraph 1a. Flows and demands may be adjusted by the River Commissioner. The maximum beneficial use of winter flows for all users will be the basis for adjusting flows by the River Commissioner.

During the nonirrigation season, if Huntington North Reservoir does not fill due to the Power Company diversions at the Huntington Plant or storage in Electric Lake, the deficient amount shall be determined by the River Commissioner and District, and after deducting from the deficiency the amount for Electric Lake winter storage release, a credit shall accrue in Electric Lake for the storage deficiency in Huntington North Reservoir.

19. Each year, the Power Company shall lease back that portion of its Non-Project Primary Power Water which is surplus to the Power Company's needs, for the use on the lands from which the water was acquired by the Power Company under such policy as Huntington-Cleveland may adopt. The amount of lease-back water will be determined by the Power Company and will be dependent upon water supply outlook, reservoir storage, power plant demands, or other pertinent factors. The Power Company will notify Huntington-Cleveland in writing on or before March 15 of each year of the amount of water available for lease; provided that the Power Company shall, from time to time after March 15, review the water outlook and notify Huntington-Cleveland of any additional water available for lease.
20. The provisions of the Repayment Contract, as amended, between the United States and the District, the water right and adjustment contracts between the United States, Huntington-Cleveland, and the Cottonwood Creek Consolidated Irrigation Company ("Cottonwood"), and the various Project water sales agreements between the District and the Power Company and Huntington-Cleveland and Cottonwood which relate to Project operation are controlling in the event the foregoing operating criteria are inconsistent therewith.
21. These criteria shall remain effective until modified after consultation with the United States, District, Huntington-Cleveland and the Power Company. After such consultation, changes in the criteria may be made by the District, Huntington-Cleveland and the Power Company with approval of the United States.
22. Project water operation reports prepared by the District will be submitted annually to Huntington-Cleveland, the Power Company, the United States, and the State Engineer.

Dated this Second day of October, 1984.