

**SUPPLEMENTAL DIRECTOR'S REPORT REGARDING
SUBCASE NOS. 1-217, 1-218, 1-2064, 1-2068, 1-4024, 1-4025, and 1-4054**

In Re SRBA
Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
David R. Tuthill, Jr. Director

April 10, 2008

I. INTRODUCTION

In accordance with Idaho Code § 42-1412(4) and Administrative Order 1, the Director of the Idaho Department of Water Resources ("IDWR" or "Department") submits this Supplemental Director's Report regarding subcase numbers 1-217, 1-218, 1-2064, 1-2068, 1-4024, 1-4025, and 1-4054. This report is submitted in response to Judge Melanson's Order Setting Deadline for I.R.E. 706 Reports / Notice of Scheduling Conference, dated January 25, 2008. The Supplemental Director's Report ("Report") sets forth the basis of IDWR's recommendation for the above-listed water rights and was prepared under the supervision of David R. Tuthill, Jr., Director, IDWR.

The following IDWR employees have knowledge of the information contained in this Report: David R. Tuthill, Jr., Director of IDWR and Lyle Swank, Manager, IDWR Eastern Regional Office.

II. SUMMARY OF THE ISSUE

The issue in these seven subcases is whether the water rights should contain the following subordination remark:

The appropriator shall exercise this right in a manner that recognizes the historic practice that the use of water for power generation is incidental to the rights of others to the use of water for other purposes. The appropriator shall not make a delivery call for hydropower generation except as against junior hydropower rights.

III. BACKGROUND

The water rights at issue here are power rights held by the United States of America at Palisades, American Falls, and Minidoka dams.¹ These dams are located along the Snake River in southeastern Idaho in what is commonly referred to as the Upper Snake River Basin. While each of these water rights were developed separately, the long and intertwined history of the dams provides the basis for the Department's inclusion of the historical practices subordination remark in the recommendations for these water rights. It is because of the intertwined history of these three dams that the Department has prepared a single report to explain why the remark is necessary for future administration of these seven water rights in the Snake River Basin.

IV. PROCEDURAL HISTORY

On December 19, 2006, the Director of the Department filed with this court, the Director's Report for Reporting Area Basin 01 Part 2. The seven water rights at issue here were included in this filing. Each of these water rights contained the following subordination provision:

The appropriator shall exercise this right in a manner that recognizes the historic practice that the use of water for power generation is incidental to the rights of others to the use of water for other purposes. The appropriator shall not make a delivery call for hydropower generation except as against junior hydropower rights.

This remark is commonly referred to as the historical subordination practices remark. Copies of the recommendations are attached to this report as Exhibit A.

¹ Water right claim nos. 1-2068 and 1-4054 are for power generation and irrigation storage use at Palisades Dam. Water right no. 1-2064 is for power generation and irrigation storage use at American Falls Dam. Water rights nos. 1-217, 1-218, 1-4024, and 1-4025 are for power generation use at Minidoka Dam.

On or about April 19, 2007, the United States of America acting through the Department of Interior, Bureau of Reclamation ("BOR"), filed objections to the Director's recommendations for these rights. The BOR objected to the historical practices subordination remark, as well as other elements. Numerous other parties filed objections and responses to the historical practices subordination condition.

On October 22, 2007, this court issued an order consolidating 29 cases involving the historical practices subordination remark based upon motions filed by the BOR and Idaho Power Company ("IPC"). (Order Separating and Consolidating Common Issue; Designating Consolidated Subcase; Notice of Hearing ETC ("Order"), (Oct. 22, 2007), at 1-2, 4.) The court withdrew its order of reference to the special masters as to the issue of the historical practices subordination remark and ordered that the issue proceed before the presiding judge. (Order, at 4-5.) The court ordered that all objections pertaining to other contested elements remain with the respective special masters to proceed on a separate track. (Id. at 5.)

On January 25, 2008, the court issued an order asking IDWR to provide the basis for IDWR's inclusion of the historical practices subordination remark in its recommendations for these seven water rights. In response to this request, IDWR submits this Supplemental Director's Report.

V. AUTHORITY

Under Idaho Code § 42-1411(2), the Director is required to determine the elements of a water right including determination of remarks necessary for the definition, clarification or administration of the water right. Generally, the goal of the Department in the adjudication is to ensure that the significant historical practices of a basin are

reflected either in the elements of water rights or in a general provision for that basin. This ensures that administration in the basin will continue to operate as it has historically operated. Where changes in the long term historical practice of a basin would negatively effect other water rights in the basin, it is necessary for the proper administration of the water rights in that basin for the practice to be reflected in the water rights or a general provision so that administration in the basin can continue to operate as it has historically operated. The historical subordination practices remark is included in the recommendations for these seven water rights because the remark is necessary for the clarification and future administration of the water rights in Basin 01.

VI. ANALYSIS

The first large dam in the Upper Snake River Basin was put in place in 1906 at the outlet of Jackson Lake. This dam provided much needed storage water in the basin to meet the constantly increasing irrigation development needs of the basin's water users. However, the introduction of the dam (and the dams that followed) complicated the delivery of water. In order to deliver the storage water to the downstream water users, it was necessary to utilize the natural channel of the Snake River. This created a struggle between senior surface water users that used natural flow from the Snake River and the junior storage water users that relied upon the water stored behind the dams. The two groups fought over how best to move and segregate stored water through the Snake River system while still ensuring that the senior surface water users from the Snake River received their correct allotment of water. Water District #1, originally designated Water District #36, was created in 1919 to administer the water rights in the Upper Snake River

Basin. The Water District tracked the flow of storage water and ensured the correct delivery of the preexisting natural flow water rights.

Tony Olenichak is the Program Manager for Water District #1 and oversees the day-to-day operations of the water district. (Aff. Tony Olenichak, Ex. B at ¶¶1, 6.) Mr. Olenichak is also a Deputy Water Master for Water District #1. (Id. at ¶ 6.) Mr. Olenichak has worked for Water District #1 for over 17 years and is personally familiar with the administration of water rights in Water District #1. (Id. at ¶¶ 4,7.) Historically, Water District #1 has administered the power elements of the BOR's water right nos. 1-217, 1-218, 1-2064, 1-2068, 1-4024, 1-4025, and 1-4054 as subordinate to irrigation and all other junior water uses except hydropower. (Id. at ¶ 8.) Despite numerous opportunities to make a call against junior water users, Mr. Olenichak is not aware of a single instance when the BOR has made a call for water under these power rights against junior water right holders. (Id. at ¶ 9.) Changing the operation of the water system to allow these power water rights to be able to make calls on junior irrigators would be a change from how the Basin 01 water system has historically operated. (Id. at ¶ 10.) This change would have a significant negative impact on the junior upstream water users. (Id.)

The Department included the subordination remark in the recommendations for these water rights because of the past historical practice of treating BOR's power water rights as subordinate to junior upstream non-hydropower rights. This remark makes it clear that the system is operated with a preference for irrigation and other non-hydropower water rights. The Department also included the historical subordination remark in the recommendations for these water rights because of the significant negative

impact it would have on irrigation in Idaho if this practice were to change. It is the determination of the Director that the remark is necessary for the clarification and administration of these seven water rights.

In its objections to six of these water rights, the BOR suggests that it has not been the historical practice in Water District #1 to treat these power rights as subordinate to other water rights in Basin 01. The BOR states:

The remark under the priority date seeks to subordinate this water right to all past, present, and future non-hydropower water rights on the basis of historical practice. Because this water right has never been historically used or administered under such a limitation, the remark is without factual or legal basis

See Standard Form 1 Objections, filed by BOR in subcase Nos. 1-217, 1-218, 1-2068, 1-4024, 1-4025, and 1-4054.²

The BOR's statement is simply incorrect. As the affidavit of Mr. Olenichak explains, it has been the long-term practice in Water District #1 to treat these seven water rights as subordinate to junior non-hydropower water uses. However, the Department does not rely solely upon the affidavit of Mr. Olenichak for support. Beyond Mr. Olenichak's statements, numerous historical documents that have been identified after the Department's recommendation confirm the Department's understanding. These documents show that it has long been BOR's practice to treat these power water rights as subordinate to junior non-hydropower water rights.

² BOR's objection to the historical practices language in subcase no. 1-2064 was different from the other six rights. BOR suggests that reference in the Director's recommendation to contracts between the BOR and Idaho Power under the purpose of use element makes the historical subordination remark unnecessary. Even if the BOR has contractually agreed to subordinate its water right through a contract, the Department believes that this remark is still necessary to protect junior non-hydropower water uses.

As discussed above, Water District #1 was created out of a struggle between storage water users and natural flow water users. However, this was not the only issue confronting the water users in the Upper Snake River Basin. With the development of dams in the Upper Snake River Basin, came the realization that development of power water rights in the basin could negatively impact future irrigation development. The United States Reclamation Service (now known as the Bureau of Reclamation) recognized this issue early in the development of the Upper Snake River Basin. It clearly voiced concerns about power development interfering with irrigation and the need to treat the hydropower water rights as subordinate. In a memorandum dated May 28, 1912, Morris Bean, Supervising Engineer of the United States Reclamation Service, discussed this concern. In his memorandum, Mr. Bean discusses a request to the Reclamation Service to grant a permit for power purposes. (Memorandum from Morris Bean to Cobb ("Bean Memorandum") (May 28, 1912), Ex. C at 1.) The questioner sought a permit to generate power from storage water flowing down the Snake River from the storage reservoirs built by the Reclamation Service at Jackson Lake and elsewhere on the Snake River above American Falls. (Id.)

The memorandum provides:

The Service would, of course, be very glad to make a contract for the use of this power water, but could not bind itself very closely as to the quantities to be made available because the flow of the river must be controlled principally for irrigation purposes and any power contract must be subordinate to the needs of water for irrigation.

Bean Memorandum, Ex. C at 2.

This 1912 statement is an early example of BOR's policy of recognizing the preference for irrigation over power use and subordinating power water rights to protect

irrigation uses in the Upper Snake River Basin. This position is clearly echoed in other documents, contracts and statutes that relate to the three dams.

PALISADES DAM

For the Palisades Dam, the policy of protecting irrigators by subordinating power water rights started with the dam's authorizing legislation. Public Law No. 864 authorized the BOR to build the Palisades Dam. A copy of this public law is attached hereto as Exhibit D. It provides, in relevant part:

That the Palisades Dam and Reservoir project, Idaho, heretofore authorized under the provisions of the Federal reclamation laws ... is hereby reauthorized under the Federal reclamation laws for construction and operation and maintenance substantially in accordance with that report as supplemented and modified by the Commissioner's supplemental report and the recommendations incorporated by reference therein, as approved and adopted by the Secretary on July 1, 1949... .

Pub. L. No. 864, 64 Stat. 1083 (1950), Ex. D at 1.

Thus, under this federal law, the BOR is required to operate Palisades Dam consistent with the Commissioner's supplemental report and recommendations as approved and adopted by the Secretary on July 1, 1949. A copy of the supplemental report referenced in the authorization legislation was included in a letter from the Secretary of the Interior to Congress. (Letter from the Secretary of the Interior Transmitting a Supplemental Report on the Allocation and Repayment of the Palisades Dam and Reservoir project in Idaho, Pursuant to Public Law 864, 81st Congress ("Secretary of Interior Letter"), (November 27, 1950) Ex. E.) The supplemental report discusses how power production at Palisades Dam shall be controlled and makes clear that the subordination of hydropower activities is a limitation on BOR's operations of the dam. It states, in no uncertain terms, that:

The production of power at Palisades Dam will be entirely incidental to the operation of the reservoir for irrigation and flood control. The production of firm power is possible only because a certain amount of water must be passed through the reservoir during the winter to fill the prior storage right of American Falls Reservoir. During the spring and summer months, the releases for flood control and for irrigation will be utilized for production of secondary commercial power and irrigation pumping power to the extent of the turbine capacities.

Secretary of Interior Letter, Ex. E at 25 (emphasis added).

The authorization act for Palisades and the supplemental report show that there is a basis for subordination of BOR's power rights at Palisades Dam. Public Law No. 864 requires that the BOR operate the dam consistent with the supplemental report. The supplemental report provides that power will be "entirely incidental to the operation of the reservoir for irrigation and flood control." Thus, BOR must operate the dam with power as subordinated to irrigation and flood control. To do otherwise would be in contravention of federal law.

AMERICAN FALLS DAM

Documents regarding the construction of American Falls Dam discuss the logic behind a preference of irrigation and provide support for the subordination Water Right No. 1-2064 at American Falls Dam. For example, a 1956 document titled American Falls Powerplant Definite Plan Report appears in the Department's files.³ A copy of this report is attached hereto as Exhibit F. The report confirms the Department's understanding as to the subordination of the power rights at American Falls. This report states:

The need for conserving water for irrigation use has required the limiting of the water supply for power generation, particularly the supply for the proposed American Falls powerplant, to those flows that are incidental to the operation of the Snake River reservoir system for existing and

³ While the Department is not certain of the original source of this document, it appears to be a history of the American Falls Powerplant project by the BOR.

proposed irrigation development and for satisfying domestic water rights.”

American Falls Powerplant Definite Plan Report (“Report”), Ex. F, at 13.

The report continues with a discussion of a study of water moving through of American Falls Reservoir. The report discusses the parameters used in the study and states, “The only set power requirement included in the study is that at Milner Dam for downstream Idaho Power Company plants. Power production at Palisades, American Falls, and Minidoka was considered as incidental to the operation for irrigation and domestic water.” (Report, Ex. F at 22 (emphasis added).)

This view was further reflected by other individuals of the time. In 1954, A.C. Inman, Secretary of the Idaho Power Company, forwarded a letter to the Honorable Hamer Budge, a member of the U.S. House of Representatives, regarding American Falls Dam. (Letter from A.C. Inman, Secretary, Idaho Power Company to the Honorable Hamer Budge, House of Representatives (“Inman Letter”), (June 14, 1954) Ex. G.) Attached to Mr. Inman’s letter is a document Mr. Inman credits to Mr. G.H.R. Taylor, the Director of the National Hells Canyon Association. The document discusses the history of the American Falls Dam. The very first paragraph of the letter states:

The American Falls reservoir, constructed by the U.S. Bureau of Reclamation, was planned, financed, and is operated primarily as an irrigation reservoir. Use of the water for power purposes has always been incidental and secondary.

Inman Letter, Ex. G, at 2.

It is notable that in his letter, Mr. Inman took the time to correct statements that he believed were incorrect but did not disagree with the first paragraph of the letter.

Documents that are more recent support this position as well. In 1972, the BOR issued an emergency order reducing the amount of water that could be stored at American Falls Dam by one-third due to structural problems with the dam. When faced with this significant reduction of storage space, the spaceholders in American Falls Dam decided that a new dam must be built. Instead of waiting for the BOR to build a new dam, the spaceholders approached Idaho Power to help pay for the new dam. To build the new dam, however, the spaceholders and Idaho Power needed federal approval of the project.

Senate Bill 1529 was introduced into the United States Congress seeking authorization for construction of the new dam. At a committee meeting on the bill, John M. Barker (an Idaho State Senator, farmer, and president of American Falls Reservoir District) provided a written statement regarding the project. (Before the Water and Power Resources Subcommittee Interior and Insular Affairs Committee United States House of Representatives Statement of John M. Barker, President American Falls Reservoir District “Baker Testimony”, (Oct. 6, 1973) Ex. H.) In his statement, Mr. Barker explained that American Falls Reservoir District represented five irrigation companies: Twin Falls Canal Company, North Side Canal Company, Aberdeen-Springfield Canal Company, Martin Canal Company, and Woodville Canal Company. (Barker Testimony, Ex. H at 1.) From his statement, it is clear that it was Mr. Barker’s understanding that American Falls Dam had always been operated with power as a secondary purpose to irrigation. When discussing how the new dam would be operated, he stated, “[t]he reservoir would be operated in the same manner in which it is now operated, observing the preference for irrigation.” (Id.)

Mr. Barker also discussed repayment of the bonds that were going to be issued for payment of the dam and whether repayment of the bonds would be entitled to tax exempt status. He stated:

With the passage of S. 1529, it would be the hope of the Spaceholders that the Idaho Power Company would be successful in obtaining a Federal Power Commission license, so that construction could proceed simultaneously on the dam and power house, and that a savings would result by utilizing the same contractor. The Idaho Power Company would then agree to pay 19 million dollars, plus tax exempt interest, over a period of forty years.

...

We are advised that it is not timely to file with the Internal Revenue Service for a tax exempt ruling until such time as the Congressional bill has passed, the State legislation obtained and the contracts are in a form which might be presented to the Internal Revenue Service. We are encouraged at the possibility of obtaining tax exempt interest for our bonds.

Barker Testimony, Ex. H at 2-3 (emphasis added).

American Falls Reservoir District and Idaho Power did eventually seek a ruling of tax exempt status of the bonds before the Internal Revenue Service. However, the request was not approved because of questions about power generation at the new dam. In 1975, a bill to the federal Internal Revenue Code was submitted to the United States Congress to address the questions raised before the Internal Revenue Service. (H.R. Rep. No. 94-531, Tax Exempt Status of Obligations Used to Provide Certain Irrigation Facilities ("House Report"), Ex. I at 2.) The change proposed by H.R. 9968 was directly related to tax exempt status of the bonds for the American Falls Dam. (Id. at 2-3.) This change is relevant to the subordination issue because the congressional reports regarding H. R. 9968 discuss the subordination of water rights at American Falls Dam and made the tax-exempt status of the bonds issued for the project contingent upon the subordination of

power rights except Idaho Power's 45,000 acre foot water right. The House Report states:

The bill, H.R. 9968, deals with the tax-exempt status of obligations the proceeds of which are to be used to reconstruct the American Falls Dam in Idaho. The dam is used for irrigation purposes but the water also has a subordinate use in generating electric energy.

House Report, Ex. I at 1 (emphasis added)

There has been no intention to release water specifically for use by the Idaho Power Company to generate electricity, except for 45,000 acre-feet (2.65 percent of the storage capacity) whose release the power company can schedule for the purpose of generating electric energy. Thus, the use of water for electric energy would be subordinated to the use of the water for irrigation.

...

Your committee's bill adds a new exception to industrial development bond treatment to specifically allow tax-exempt status for the bonds issued to reconstruct the American Falls Dam. This exception is to apply to obligations for a dam which furnishes water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water if substantially all of the stored water is contractually available for release from the dam for irrigation purposes and if the water released is available on reasonable demand for members of the general public.

House Report, Ex. I at 3-4 (emphasis added).

The report identifies a maximum limit of 10 percent of normal supply available for unsubordinated hydropower rights at the dam to be able to be entitled to the tax exempt status. (House Report, Ex. I at 4.) This limit was set high enough to make sure that the generation of power by Idaho Power, with its estimated 2.65 percent of supply, would qualify for this test. The report concludes that the project is entitled to tax free status on its bonds "[w]hen substantially all of the stored water (under normal weather and climatic conditions) is available for release to be used for irrigation in the American Falls Reservoir District." (Id.) Similar language appears in the Senate Report for H.R.

9967. (S. Rep. No. 94-570, Ex. J.) H.R. 9967 was ultimately passed by the House and Senate and became effective December 23, 1975. (PL 94-164, 89 Stat 970, Ex. K.)

The historical documents cited above show that it was the intent of BOR to subordinate its water right at the American Falls dam. The House and Senate reports for H.R. 9968 confirm the historical practice at American Falls Dam to subordinate all hydropower rights except for Idaho Power's 45,000 acre foot right. This limitation was written into federal law, whereby it specifically allows the project to claim tax-free bond status only if 90 percent or more of the stored water behind the American Falls Dam is protected for irrigation.

MINIDOKA DAM

As discussed on page 9 of this Supplemental Director's Report, the 1956 document titled *American Falls Powerplant Definite Plan Report* indicates that it was the historical practice to treat the power water rights at Minidoka as subordinate. Another BOR document sheds additional light upon this issue. In a memorandum dated March 12, 1940, B. E. Stoutemyer, District Counsel for BOR to the Commissioner of BOR outlined the history of a number of the contracts with Idaho Power. (Memorandum for the Commissioner by B.E. Stoutemyer ("Stoutemyer Memoradum"), (Mar. 12, 1940) Ex. L.) The memorandum states in part:

The Government has three power plants in connection with its reclamation projects in Idaho. All of the power plants were constructed for reclamation purposes, and in so far as there has been any power production for commercial purposes it has been merely incidental to the main purpose of reclaiming the arid lands under the reclamation act.

Stoutemyer Memorandum, Ex L at 1 (emphasis added.)

The Minidoka Dam was one of the three dams that Mr. Stoutemyer goes on to discuss in his memorandum. (Id.)

The Department is aware of other documents that shed additional light on the historical practices as Minidoka Dam. Attached hereto as Exhibit M is a copy of a letter from Chris Ketchum, Assistant Area Manager for the BOR to Lyle Swank, Watermaster for Water District #1. The BOR maintains records each year on the amount of power that could have been generated at the Minidoka power plant during the storage season, but was forgone because of the subordination of the water rights at American Falls and Minidoka Dams. Attached to the BOR letter is a document titled Determination of Net Power Loss Due to Restriction on Use of Minidoka Water Rights. (Letter from Chris Ketchum, Assistant Area Manager, BOR to Lyle Swank, Watermaster, Water District #1 ("Ketchum Letter"), Ex. M. at 3) This document contains a chart showing the 20-year average of the of the power lost because of the subordination of the Minidoka power water rights, suggesting that this subordination practice has been going on at least 20 years. The document reflects that it has been the historic practice of the BOR to subordinate its power water rights at Minidoka Dam.

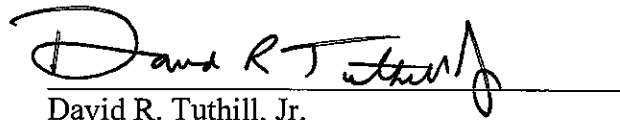
Viewed in total, these documents show that it has been the historical practice of the BOR to operate its power rights at Minidoka as subordinate to non-hydropower water rights. This practice continues to this day.

VII. CONCLUSION

It has always been BOR's practice and intent to operate its power water rights at Palisades, American Falls, and Minidoka dams as subordinate to junior non-hydropower water rights. The historical practice of subordination is supported by the Affidavit of

Tony Olenichak and the historical documents discussed in this report. The intent to subordinate the rights is supported by historical documents discussed in this report. Moreover, given the clear statements in the federal legislation regarding subordination of hydropower rights, the BOR has little room to argue that it is not legally bound to operate the power rights at Palisades and American Falls dams as subordinate. Changing the operation of the Upper Snake River Basin to allow these water rights to make calls on junior water right holders would have a significant negative impact on current water uses as well as on future development in Idaho. The fact that BOR has claimed that these rights have not historically been treated as subordinated underscores the importance of making sure that it is clear in these water rights that they are subordinated to junior non-hydropower water rights, to enable the historic practices of the Upper Snake River Basin to be maintained.

Submitted this 10th day of April, 2008.

A handwritten signature in black ink, reading "David R. Tuthill, Jr.", written over a horizontal line.

David R. Tuthill, Jr.
Director, Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a true and correct copy of the following described document on the persons listed below by United States mail with the correct postage affixed thereto on this 11 day of April 2008.

Document Served: SUPPLEMENTAL DIRECTOR'S REPORT
REGARDING SUBCASE NOS. 1-217, 1-218, 1-2064, 1-2068, 1-4024, 1-4025, and 1-4054.

Persons Served:
Original to:

1. Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Copies to:

2. Idaho Power Company
Represented by:
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City of Pocatello
Gary DeMoss
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Represented by:
Josephine P. Beeman
409 W. Jefferson St.
Boise, ID 83702

King Hill Irrigation District
Represented by:
Daniel V. Steenson
455 S. Third St.
Boise, ID 83701-2773

State of Idaho
Represented by:
Natural Resources Division Chief
State of Idaho
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Idaho Power Company
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Idaho Power Co.
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IGWA Inc.
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Pocatello, ID 83204-1391

Idaho Power Company
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Brownstein Hyatt et al
410 17th Street, Suite 2200
Denver, CO 80202

A & B Irrigation District
Burley Irrigation District
Falls Irrigation District
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Rupert, ID 83350-0396

Idaho Power Company
Represented by:
John K. Simpson
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P.O. Box 2139
Boise, ID 83701-2139

Milner Irrigation District
North Side Canal Company
Twin Falls Canal Company
Represented by:
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USDI Bureau of Reclamation
Represented by
US Department of Justice
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Burley, ID 83318

Aldrich Bowler Living Trust
C/O Peter A. Bowler
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Bliss, ID 83314

Aldrich Bowler
HC 60 Box 1110
Bliss, ID 83314

United States of America
Regional Director PN Region
Bureau of Reclamation PN-3100
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Boise, ID 83706-1234

James S. Lochhead
Michael A. Gheleta
Adam T. Devoe
410 17th St., Ste 2200
Denver, CO 80202

Remark regarding subordination
Of hydropower rights based on
"historical practices"


Signature of person delivering form

Exhibit A

Recommendations for
1-217, 1-218, 1-2064,
1-2068, 1-4024, 1-4025,
and 1-4054

12/16/2006

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 1-217

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION PN-3100
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 2,500.000 CFS

PRIORITY DATE: 06/15/1909

The appropriator shall exercise this right in a manner that recognizes the historic practice that the use of water for power generation is incidental to the rights of others to the use of water for other purposes. The appropriator shall not make a delivery call for hydropower generation except as against junior hydropower rights.

POINT OF

DIVERSION: T09S R25E S1 NENESW Lot 3 Within MINIDOKA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
POWER	1/01 12/31	2,500.000 CFS

PLACE OF USE: POWER in MINIDOKA County

T09S R25E S01 Lot 3 NESW

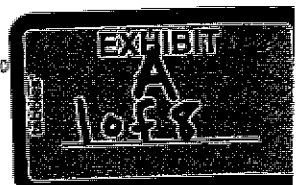
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The Director of the Idaho Department of Water Resources shall determine what part of the water flowing in the Snake River at the Minidoka and Milner Dams is storage waters and what part is natural flow. The amount of natural flow shall be determined as such natural flow would be, if unaffected by the diversions or acts of the parties to Twin Falls Canal Co v Foster, Decree (4th Jud. Dist., Twin Falls Co., June 20, 1913). The natural flow to which the Twin Falls Canal Company and the Northside Canal Company are entitled shall be measured at the Milner Dam.

The delivery of water to this right may be subject to the provisions for winter power operation at the Minidoka power plant as recognized in the Burley Irrigation Dist. v. Eagle, Supplemental Decree (Idaho 5th Jud. Dist., July 10, 1968) and Aberdeen-Springfield Canal Co. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., March 12, 1969).

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed



12/16/2006

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 1-218

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION PN-3100
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 200.000 CFS

PRIORITY DATE: 07/01/1912

The appropriator shall exercise this right in a manner that recognizes the historic practice that the use of water for power generation is incidental to the rights of others to the use of water for other purposes. The appropriator shall not make a delivery call for hydropower generation except as against junior hydropower rights.

POINT OF
DIVERSION:

T09S R25E S1 NENESW Lot 3 Within MINIDOKA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

POWER

1/01 12/31

200.000 CFS

PLACE OF USE:

POWER in MINIDOKA County

T09S R25E S01 Lot 3 NESW

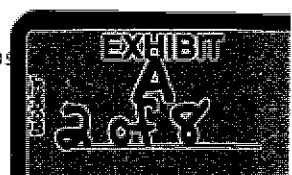
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The delivery of water to this right may be subject to the provisions for winter power operation at the Minidoka power plant as recognized in the Burley Irrigation Dist. v. Eagle, Supplemental Decree (Idaho 5th Jud. Dist., July 10, 1968) and Aberdeen-Springfield Canal Co. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., March 12, 1969).

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The Director of the Idaho Department of Water Resources shall determine what part of the water flowing in the Snake River at the Minidoka and Milner Dams is storage waters and what part is natural flow. The amount of natural flow shall be determined as such natural flow would be, if unaffected by the diversions or acts of the parties to Twin Falls Canal Co v Foster, Decree (4th Jud. Dist., Twin Falls Co., June 20, 1913). The natural flow to which the Twin Falls Canal Company and the Northside Canal Company are entitled shall be measured at the Milner Dam.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed



12/16/2006

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 1-2064

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION PN-3100
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1,672,590.00 AFY

Total reservoir capacity is 1,672,590 acre feet when filled to elevation 4354.5 and measured at the upstream face of the dam.

PRIORITY DATE: 03/30/1921

The appropriator shall exercise this right in a manner that recognizes the historic practice that the use of water for power generation is incidental to the rights of others to the use of water for other purposes. The appropriator shall not make a delivery call for hydropower generation except as against junior hydropower rights.

POINT OF

DIVERSION:

T07S R31E S30 SWSE Within POWER County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION STORAGE	01/01 12/31	1,628,316.00 AFY
IRRIGATION FROM STORAGE	03/15 11/15	1,628,316.00 AFY
POWER STORAGE	01/01 12/31	295,163.00 AFY
POWER FROM STORAGE	01/01 12/31	295,163.00 AFY

The diversion and release of storage for power purposes under this water right is subject to those conditions contained in contract nos. I1r-733 and I1r-801 between the United State Bureau of Reclamation and Idaho Power Company.

PLACE OF USE:

Place of use for irrigation storage and power storage is American Falls Reservoir, provided, however, that water under this right may be temporarily held in the unoccupied space of any of the reservoirs upstream of Milner Dam, located at township 10S, range, 21E, sections 28 and 29, when determined by the Department of Water Resources, the Water District advisory committee, and the United States Bureau of Reclamation that such temporary storage will maximize the storage of water upstream of Milner Dam.

Place of use for irrigation from storage is within the following counties: Fremont, Madison, Jefferson, Bonneville, Bingham, Bannock, Power, Minidoka, Cassia, Lincoln, Jerome, Twin Falls, Gooding, and Elmore.



OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Although the name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address section of this partial decree, the ownership of this water right is divided. The United States Bureau of Reclamation holds nominal legal title. Beneficial or equitable title to this water right is held in trust by the irrigation organizations, in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations, for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations pursuant to Idaho law. As a matter of law, this interest is appurtenant to the lands within the boundaries of or served by such irrigation organization. The ownership of this water right is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

A portion of this right is designated as the first to fill for the benefit of the contract holders as provided in the provisions for saving winter water as recognized in the Burley Irrigation Dist. v. Eagle, Supplemental Decree (Idaho 5th Jud. Dist., July 10, 1968) and Aberdeen-Springfield Canal Co. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., March 12, 1969).

The delivery of water to this right may be subject to procedures described in the United States Bureau of Reclamation "space holder" contracts and the Burley Irrigation Dist. v. Eagle, Supplemental Decree (Idaho 5th Jud. Dist., July 10, 1968) and Aberdeen-Springfield Canal Co. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., March 12, 1969) together with the natural-flow and storage deliveries as calculated by the Idaho Department of Water Resources.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.



12/16/2006

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 1-4025

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION PN-3100
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1,510.000 CFS

PRIORITY DATE: 05/07/1942

The appropriator shall exercise this right in a manner that recognizes the historic practice that the use of water for power generation is incidental to the rights of others to the use of water for other purposes. The appropriator shall not make a delivery call for hydropower generation except as against junior hydropower rights.

POINT OF

DIVERSION: T09S R25E S1 NENESW Lot 3 Within MINIDOKA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

POWER

01/01 12/31

1,510.000 CFS

PLACE OF USE: POWER in MINIDOKA County

T09S R25E S01 Lot 3 NESW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The delivery of water to this right may be subject to the provisions for winter power operation at the Minidoka power plant as recognized in the Burley Irrigation Dist. v. Eagle, Supplemental Decree (Idaho 5th Jud. Dist., July 10, 1968) and Aberdeen-Springfield Canal Co. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., March 12, 1969).

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use



12/16/2006

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 1-4054

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION PN-3100
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 8,560.000 CFS

PRIORITY DATE: 05/06/1958

The appropriator shall exercise this right in a manner that recognizes the historic practice that the use of water for power generation is incidental to the rights of others to the use of water for other purposes. The appropriator shall not make a delivery call for hydropower generation except as against junior hydropower rights.

POINT OF

DIVERSION: T01S R45E S17 NWNE Lot 2 Within BONNEVILLE County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

POWER

01/01 12/31

8,560.000 CFS

PLACE OF USE: POWER in BONNEVILLE County

T01S R45E S17 Lot 2 NWNE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use



12/16/2006

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 1-2068

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION PN-3100
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1,200,000.00 AFY

Total reservoir active capacity is 1,200,000 acre feet when filled to elevation 5620 and measured at the upstream face of the dam.

PRIORITY DATE: 07/28/1939

The appropriator shall exercise this right in a manner that recognizes the historic practice that the use of water for power generation is incidental to the rights of others to the use of water for other purposes. The appropriator shall not make a delivery call for hydropower generation except as against junior hydropower rights.

POINT OF
DIVERSION:

T01S R45E S17 NENE Lot 1 Within BONNEVILLE County
T01S R45E S17 NWNE Lot 2 Within BONNEVILLE County
T01S R45E S17 SWNE Lot 3 Within BONNEVILLE County
T01S R45E S17 SENE Lot 4 Within BONNEVILLE County

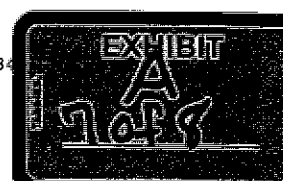
PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
POWER FROM STORAGE	01/01 12/31	1,200,000.00 AFY
POWER STORAGE	01/01 12/31	1,200,000.00 AFY
IRRIGATION STORAGE	01/01 12/31	1,200,000.00 AFY
IRRIGATION FROM STORAGE	03/15 11/15	1,200,000.00 AFY

PLACE OF USE:

Place of use for irrigation storage and power storage is Palisades Reservoir, provided, however, that water under this right may be temporarily held in the unoccupied space of any of the reservoirs upstream of Milner Dam, located at township 10S, range, 21E, sections 28 and 29, when determined by the Department of Water Resources, the Water District advisory committee, and the United States Bureau of Reclamation that such temporary storage will maximize the storage of water upstream of Milner Dam.

Place of use for irrigation from storage is within the following counties: Fremont, Madison, Jefferson, Bonneville, Bingham, Bannock, Power, Minidoka, Cassia, Lincoln, Jerome, Twin Falls, Gooding, and Elmore.



OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The delivery of water to this right may be subject to procedures described in the United States Bureau of Reclamation "space holder" contracts and the Burley Irrigation Dist. v. Eagle, Supplemental Decree (Idaho 5th Jud. Dist., July 10, 1968) and Aberdeen-Springfield Canal Co. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., March 12, 1969) together with the natural-flow and storage deliveries as calculated by the Idaho Department of Water Resources.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Although the name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address section of this partial decree, the ownership of this water right is divided. The United States Bureau of Reclamation holds nominal legal title. Beneficial or equitable title to this water right is held in trust by the irrigation organizations, in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations, for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations pursuant to Idaho law. As a matter of law, this interest is appurtenant to the lands within the boundaries of or served by such irrigation organization. The ownership of this water right is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

A portion of this right is designated as the first to fill for the benefit of the contract holders as provided in the provisions for saving winter water as recognized in the Burley Irrigation Dist. v. Eagle, Supplemental Decree (Idaho 5th Jud. Dist., July 10, 1968) and Aberdeen-Springfield Canal Co. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., March 12, 1969).

EXPLANATORY MATERIAL: BASIS OF CLAIM - License



Exhibit B

Affidavit of Tony Olenichak

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Chief, Natural Resources Division
Deputy Attorney General

GARRICK L. BAXTER, ISB #6301
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
Telephone: (208) 287-4811
Fax: (208) 287-6700
Email: garrick.baxter@idwr.idaho.gov

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase 92-26
	)	
	)	AFFIDAVIT OF
	)	TONY OLENICHAK
	)	
Case No. 39576	)	
_____	)	

STATE OF IDAHO)
) ss.
County of Ada)

I, Tony Olenichak, being duly sworn, depose and state:

1. My name is Tony Olenichak and I am employed by Water District #1 as the Program Manager. I am also a Deputy Water Master for Water District #1.
2. My work address is 900 N. Skyline Dr., Ste A, Idaho Falls, Idaho 83402-1718.



3. I was hired as a Senior Water Right Agent at the Eastern Regional office of the Idaho Department of Water Resources ("Department") in 1988.

4. In 1990, I changed positions and began working for Water District #1 as a Hydrologist.

5. In 2006, I was promoted and became the Water District #1 Program Manager. I continue to hold this position.

6. As Program Manager for Water District #1, I oversee the day-to-day operations of the water district. As Program Manager, I am also deputized each year to serve as a Deputy Water Master for Water District # 1.

7. I am personally familiar with the administration of water rights in Water District #1.

8. Historically, Water District #1 has administered the power elements of the Bureau of Reclamation's water right nos. 1-217, 1-218, 1-2064, 1-2068, 1-4024, 1-4025, and 1-4054 as subordinate to irrigation and all other junior water uses except hydropower.

9. I am not aware of a single instance when the Bureau of Reclamation has made a call for water under these seven power rights against junior water right holders.

10. Changing the operation of the Upper Snake River Basin water system to allow these seven power water rights to make calls on junior irrigators would be a change from how the water system has historically operated and would have a significant negative impact on the junior upstream storage water users.

Further this Affiant sayeth not.



DATED and SIGNED this 6 day of April, 2008.

Tony Olenichak
Tony Olenichak

SUBSCRIBED AND SWORN TO before me this 6 day of April,
2008.



Renée Ridgeway
Notary Public for Idaho
Residing at: Boise, ID.
My Commission Expires: 11-20-09



Exhibit C

Memorandum from Morris
Bean to Cobb

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

WASHINGTON, D. C. May 28, 1912

OFFICE OF THE DIRECTOR

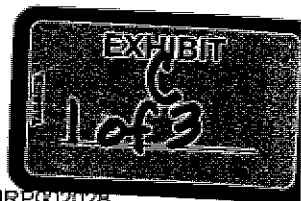
Memorandum for Mr. Cobb:

By your informal reference I have copy of a letter from Mr. L. L. Nunn, by Jess Hawley, Attorney, of Boise, Idaho, asking whether the Department would grant a permit for the use for power purposes of the storage water flowing down the Snake River from the storage reservoirs built by the Reclamation Service at Jackson Lake and elsewhere on the Snake River above American Falls, Idaho.

He states that he would like to take the water from the Snake above American Falls and return it to the River a short distance below the Falls.

As to the legal questions involved, it appears to me that the Department would have full power to make contract therefor as a power development possibility under the terms of the Act of February 24, 1911 (36 Stat., 930) which authorizes the Secretary to make a lease when "an opportunity is afforded for the development of power under any project".

The United States being in position to fully regulate the flow of water in Snake River may make contract to do so subject to certain limitations which would make power development possible. On the other hand, in the absence of such concessions it might in some cases be considered advantageous to adopt a different regulation of the flow which would prevent



JRP002028

-2-

any commercial development of power.

Whether the use of this water would interfere with the use at Minidoka and elsewhere for irrigation purposes would depend largely upon the conditions under which the water is used for power.

During the irrigation season there would probably be a large amount of stored water passing over American Falls and which might be used for power purposes without interfering with irrigation uses, if the water is returned above the Minidoka Dam. During the non-irrigation season, however, practically all the water that can be held in storage must be retained in the reservoirs so that a much smaller amount will be available for power purposes. It is probable, however, that the natural flow in the non-irrigation season at American Falls will be sufficient to make it practicable to install a power plant.

The Service would, of course, be very glad to make a contract for the use of this power water, but could not bind itself very closely as to the quantities to be made available because the flow of the river must be controlled principally for irrigation purposes and any power contract must be subordinate to the needs of water for irrigation.

The proposed contract for the use of stored water from Jackson Lake with the Twin Falls North Side Canal Company would also be a factor in working out the details of any contract for power purposes.



-3-

I may also state that there is at this time a power plant at American Falls whose claims to the use of water must necessarily be considered in any such proposition, as this plant has been established a good many years and I understand is controlled by ex-Governor Brady of Idaho.

Morris Allen

Supervising Engineer.

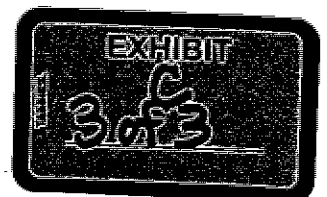


Exhibit D

Public Law No. 864 (1950)

An Act to Reauthorize the
Palisades Dam and
Reservoir

Sec. 2. Section 402 of such Act, as amended (50 U. S. C., sec. 352), is hereby amended by striking out the following: "Provided, That in order to be entitled to free air-mail postage under this Act, a State balloting unit, composed of ballot, voting instructions, and envelope or envelopes, must not exceed in weight the total of one ounce".

Approved September 29, 1950.

60 Stat. 102.

[CHAPTER 1114]

AN ACT

To authorize the Palisades Dam and Reservoir project, to authorize the north side pumping division and related works, to provide for the disposition of reserved space in American Falls Reservoir, and for other purposes.

September 30, 1950
(S. 2195)
[Public Law 564]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Palisades Dam and Reservoir project, Idaho, heretofore authorized under the provisions of the Federal reclamation laws by the presentation to the President and the Congress of the report of December 9, 1941 (House Document Numbered 457, Seventy-seventh Congress, first session), by the Secretary of the Interior (herein called the Secretary), is hereby reauthorized under the Federal reclamation laws for construction and operation and maintenance substantially in accordance with that report as supplemented and modified by the Commissioner's supplemental report and the recommendations incorporated by reference therein, as approved and adopted by the Secretary on July 1, 1949, and as including, upon approval by the President of a suitable plan therefor, facilities for the improvement of fish and wildlife along the headwaters of the Snake River, such facilities to be administered by the Fish and Wildlife Service: *Provided*, That, notwithstanding recommendations to the contrary contained in said report (a) the Secretary shall reserve not to exceed fifty-five thousand acre-feet of active capacity in Palisades Reservoir for a period ending December 31, 1952, for replacement of Grays Lake storage, but no facilities in connection with the proposed wildlife management area at Grays Lake shall be built and no allocation of construction costs of the Palisades Dam and Reservoir by reason of providing replacement storage to that area shall be made until the development and operation and maintenance of the wildlife management area has been authorized by Act of Congress, and (b) the nonreimbursable allocation on account of recreation shall be limited to the costs of specific recreation facilities in an amount not to exceed \$148,000.

Palisades Dam and
Reservoir project,
Idaho.
Reauthorization.

Sec. 2. There are hereby authorized for construction and operation and maintenance under the Federal reclamation laws: (a) the north side pumping division of the Minidoka project, this to be substantially in accordance with the Commissioner's report and the recommendations incorporated by reference therein, as approved and adopted by the Secretary on July 1, 1949: *Provided*, That, notwithstanding recommendations to the contrary contained in said report, (1) lease or sale of that portion of the power service system extending from the substations to the pumping plants may be made to any entity on terms and conditions that will permit the United States to continue to provide power and energy to the pumping facilities of the division, and, in the event of lease or sale to a body not entitled to preference in the purchase of power under the Federal reclamation laws, will preserve a reasonable opportunity for subsequent lease or sale to a body that is entitled to such privilege, (2) no allocation of construction costs of the division shall be made on a nonreimbursable basis by reason of wildlife benefits, and (3) there shall be, in lieu of a forty-year period, a basic repayment period of fifty years for repayment,

Construction and
operation.
North side pumping
division, Minidoka
project.



American Falls
Dam power facilities.

43 U. S. C. § 801.

Contract authoriza-
tions.

Repayment of con-
struction charges.

43 U. S. C. § 803.

Continuation of
construction.

in the manner provided in the recommendations, of the irrigation costs assigned for repayment by the water users; and (b) for the furnishing of electric power for irrigation pumping to that division and for other purposes, power generating and related facilities at American Falls Dam. These generating and related facilities, to the extent the Secretary finds to be proper for pay-out and rate-making purposes, may be accounted for together with other power facilities operated by the Secretary that are interconnected with the American Falls Dam power facilities, excluding any power facilities the net profits of which are governed by subsection 1 of section 4 of the Act of December 5, 1924 (43 Stat. 708). The authorizations set forth in the preceding sections 1 and 2 shall not extend to the construction of transmission lines, substations, or distribution lines unless such facilities are for the purposes of interconnecting the power plants herein authorized, or for the delivery of power and energy for use in connection with the construction, operation, and maintenance of the projects herein authorized.

SEC. 3. The Secretary is hereby authorized to contract, under the Federal reclamation laws, with water users and water users' organizations as to the use for their benefit of the heretofore reserved storage capacity in American Falls Reservoir. Not to exceed three hundred and fifteen thousand acre-feet of that capacity shall be made available to those who have heretofore had the use of reserved capacity under lease arrangements between the United States and the American Falls Reservoir district of Idaho, the distribution of this capacity among contractors to be determined by the Secretary after consultation with the interested water users' organizations or their representatives. Of the balance of the reserved capacity, forty-seven thousand five hundred and ninety-three acre-feet are hereby set aside for use under contract for the benefit of the lands comprising unit A of the north side pumping division of the Minidoka project, and seventy-one thousand acre-feet are hereby set aside for use under contract for the benefit of those lands in the Michaud area which may hereafter be found to be feasible of development under irrigation. Contracts for the repayment of construction charges in connection with reserved capacity shall be made without regard to the second proviso of the tenth paragraph (Minidoka project, Idaho) under the heading "Bureau of Reclamation" of the Act of June 5, 1924 (43 Stat. 390, 417). Such contracts shall require the repayment of all costs determined by the Secretary to be allocable to the reserved capacity, less, in the case of the three hundred and fifteen thousand acre-feet of capacity above described, three hundred and eighty-six four-hundred-and-thirty-fourths of the revenues realized, after deduction of what the Secretary determines to be an appropriate share for operation, maintenance, and replacements, from the leasing of that capacity for irrigation purposes up to the time water first becomes available in Palisades Reservoir and, in the case of the capacity set aside for the north side pumping division, all other revenues realized from or connected with the reserved capacity and which the Secretary determines to be available as a credit against the cost allocable to that division.

SEC. 4. (a) The continuation of construction of Palisades Dam beyond December 31, 1951, or such later controlling date fixed by the Secretary as herein provided, is hereby made contingent on there being a finding by the Secretary by the controlling date that contracts have been entered with various water users' organizations of the Upper Snake River Valley in Idaho that, in his opinion, will provide for an average annual savings of one hundred and thirty-five thousand acre-feet of winter water. If in the Secretary's judgment the failure



of the requisite organizations so to contract by the controlling date at any time is for reasons beyond the control of those organizations, he may set a new controlling date but not beyond December 31, 1952.

(b) Repayment contracts made in connection with the use of capacity in either American Falls or Palisades Reservoir may include, among other things, such provisions as the Secretary determines to be proper to give effect to recommendations referred to in section 1 of this Act, and particularly those concerning the continued effectiveness of the arrangements as to the minimum average annual water savings.

Repayment contracts.

SEC. 5. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sums of not to exceed \$76,601,000 for the Palisades Dam and Reservoir project, Idaho, \$11,395,000 for the Minidoka project north side pumping division, Idaho, and \$6,600,000 for the American Falls power plant.

Appropriation authorized.

Approved September 30, 1950.

[CHAPTER 1115]

AN ACT

To provide a system for the treatment and rehabilitation of youth offenders, to improve the administration of criminal justice, and for other purposes.

September 30, 1950
[S. 3009]
[Public Law 564]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4201 of title 18 of the United States Code is amended to read as follows:

Title 18, U. S. Code,
amendments.
62 Stat. 854.
18 U. S. C., Sup. III,
§ 4201.

"Sec. 4201. Board of Parole; members; salaries.

"There is hereby created in the Department of Justice a Board of Parole to consist of eight members to be appointed by the President, by and with the advice and consent of the Senate. The salary of each member of the Board shall be fixed in accordance with the Classification Act of 1923, as amended, and any Acts supplementary thereto or in substitution therefor. The members of the Board first appointed under this section shall be appointed for terms as follows: Two for two years, two for three years, two for four years, and two for six years, respectively, from the effective date of this section. The term of office of a successor to any member shall expire six years from the date of the expiration of the term for which his predecessor was appointed, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office, a member of the Board shall continue to act until his successor shall have been appointed and qualified. The Attorney General shall from time to time designate one of its members to serve as Chairman of said Board and delegate to him the necessary administrative duties and responsibilities."

62 Stat. 973, 954.
5 U. S. C., Sup. III,
§§ 1071-1153.
Anst., pp. 222, 262;
post, p. 1100.

SEC. 2. Part IV of title 18 of the United States Code is hereby amended by inserting therein a new chapter immediately after chapter 401 thereof, as follows:

Federal Youth Corrections Act.
62 Stat. 856.
18 U. S. C., Sup. III,
§ 5001 et seq.

"CHAPTER 402—FEDERAL YOUTH CORRECTIONS ACT

"Sec.

"5005. Youth Correction Division.

"5006. Definitions.

"5007. Duties of members: meetings.

"5008. Officers and employees.

"5009. Rules of Division.

"5010. Sentence.

"5011. Treatment.

"5012. Certificate as to availability of facilities.



Exhibit E

Letter from the Secretary
of the Interior Transmitting
a Supplemental Report on
the Allocation and
Repayment of Costs of the
Palisades Dam and
Reservoir Project in Idaho,
Pursuant to Public Law
864, 81st Congress

PALISADES DAM AND RESERVOIR PROJECT
IN IDAHO

LETTER

FROM THE

SECRETARY OF THE INTERIOR

TRANSMITTING

A SUPPLEMENTAL REPORT ON THE ALLOCATION
AND REPAYMENT OF COSTS OF THE PALISADES
DAM AND RESERVOIR PROJECT IN IDAHO, PUR-
SUANT TO PUBLIC LAW 864, 81ST CONGRESS



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PALISADES DAM AND RESERVOIR PROJECT, IDAHO

LETTER OF TRANSMITTAL

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., November 9, 1950.

HON. SAM RAYBURN,
Speaker of the House of Representatives.

MY DEAR MR. SPEAKER: Transmitted herewith is a supplemental report on the allocation and repayment of costs of the Palisades Dam and Reservoir project in Idaho.

This project was authorized initially by a report and findings of the Secretary of the Interior, dated December 9, 1941 (H. Doc. 457, 77th Cong., 1st sess.), under the provisions of section 9 (a) of the Reclamation Project Act of 1939.

The dam and related works, as contemplated in the attached report, vary in certain respects from those originally authorized. The reservoir will have a total active storage capacity of 1,200,000 acre-feet. This capacity will be used jointly for irrigation and flood control under a plan of operation worked out by the Bureau of Reclamation and the Corps of Engineers, Department of the Army. The reservoir will supply supplemental irrigation water for about 650,000 acres of land in the Upper Snake River Valley. A power plant having an installed capacity of approximately 142,500 kilowatts will be installed at the dam. The estimated cost of construction of the project is \$76,601,000.

Copies of the report were sent to officials of the States of Idaho and Wyoming and to the Secretary of the Army, Secretary of Agriculture, Chairman of the Federal Power Commission, and the Director of the Office of Domestic Commerce, Department of Commerce, for their information and such comments as they wish to make. Copies of all the comments received are enclosed, together with our response to the Chairman of the Federal Power Commission.

The report was submitted to the President, and the Director of the Bureau of the Budget, by letter dated July 17, 1950, advised that, while there would be no objection to the submission of the report to the Congress, authorization of the project would be without objection, only if certain changes were made. A copy of this letter is enclosed.

Under the terms of Public Law 564, approved by the President on September 30, 1950, the Palisades project has now been reauthorized essentially in accordance with the enclosed report but with certain modifications suggested, in part, by the comments of the Director of the Bureau of the Budget. It would be appropriate for the enclosed report and the accompanying comments to be printed as a public document.

Sincerely yours,

OSCAR L. CHAPMAN,
Secretary of the Interior.

LETTER FROM THE BUREAU OF THE BUDGET
TO THE SECRETARY OF THE INTERIOR

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET,
Washington 25, D. C., July 17, 1950.

The honorable the SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: This will acknowledge receipt of your letter dated March 4, 1950, requesting advice as to the relationship to the President's program of the proposals contained in your Department's accompanying supplemental report entitled "Palisades Dam and Reservoir Project, Idaho, Allocation and Repayment of Costs," prepared by the regional director, region 1, and dated June 1949. Enclosed with your letter were copies of the comments on the report received from the State governments and interested Federal agencies to whom the report was submitted for review. It is understood that the report is to provide the basis for amendatory legislation which would authorize an increase in the scope of the project by enlarging and adding to the purposes which it would serve.

The Palisades project, as initially authorized by the Secretary of the Interior's report and findings dated December 9, 1941 (H. Doc. 457, 77th Cong., 1st sess.), would be a multiple-purpose development providing for a dam and reservoir on the main stem of the Snake river in eastern Idaho, for conservation of supplemental irrigation water supply, flood control, and for hydroelectric power generation and transmission. As revised, the present plan provides for expansion of the power installation from 30,000 kilowatts to 112,500 kilowatts, increase in the capacity of the outlet works of the dam and, in addition, the installation of fish and wildlife facilities at Grays Lake, Idaho, and of recreation facilities at the Palisades Reservoir. The estimated cost of the proposed project as authorized in 1941 was \$24,092,000, while the total estimated cost of the development, as presently proposed, is \$75,601,000 based on January 1, 1949, price levels. This increase is attributed to higher costs of construction, the expansion of facilities, and the addition of fish and wildlife and recreational facilities.

The report states that the only water which would be stored in the Palisades Reservoir is the above-average stream flow which could be carried over to years of below-average stream flow together with whatever water is saved by the proposed elimination of present wasteful winter diversions. Existing reservoirs in the Upper Snake River Valley are considered to have capacities sufficient to hold all the presently storable water in years of average or less than average stream flow. The operation plan proposed for Palisades Reservoir is expected to result in providing supplemental irrigation water for about 650,000 acres of land in the Upper Snake River Valley and thus eliminate all shortages on existing projects except during extremely dry years. In this connection, it is noted that an average of 216,000 acre-feet of additional water is proposed to be made available annually by the project which would amount to only approximately 4 inches per acre per year for the 650,000 acres assuming that 100 percent of the water would reach the land. Average annual irrigation benefits are estimated to be \$1,981,000.

In his letter dated June 17, 1949, the Commissioner of Reclamation states that the success of the project is dependent on having continued

assurances that average annual water savings of 125,000 acre-feet will be realized, which is expected to be accomplished by means of contractual arrangements with the water users of the Snake River Valley above American Falls Reservoir, whereby they will agree to curtail certain wasteful winter water diversions. While tentative commitments on this matter have been given by resolutions of the governing bodies of interested water users' organizations, which the Commissioner regards as sufficient to justify initiation and continuation of construction he points out that it may be desirable to have some additional means of bringing about the translation of these commitments into contractual assurances before the project is completed. The Commissioner also states that of the reimbursable construction costs allocated to irrigation, a maximum of \$10,905,000 can and should be repaid by the water users in a repayment period of 40 years and that a higher amount should be required to be repaid if that period is lengthened. He proposes that the balance of the costs allocated to irrigation amounting to \$11,419,000, be repaid out of power revenues by application of the interest component on the commercial power investment and of such additional power revenues as may be required.

The report states that the production of power at the Palisades Dam will be entirely incidental to the operation of the reservoir for irrigation and flood control and that the production of firm power is possible only because a certain amount of water must be passed through the reservoir during the winter to fill the prior storage right of the American Falls Reservoir. During spring and summer months the releases for flood control and for irrigation will be utilized for production of secondary commercial power and irrigation pumping power to the extent of turbine capacities. Total annual power benefits are estimated to be \$1,921,000.

The report states that additional detailed studies, made by the Bureau of Reclamation and the Corps of Engineers since the project was authorized, show that Palisades Reservoir can provide greater control of major floods than was originally contemplated without adversely affecting the value of the reservoir for irrigation purposes. These studies have resulted in agreement by both agencies on an operating plan on a forecast basis whereby the entire active space in the reservoir (1,200,000 acre-feet) will be used jointly for flood control and irrigation purposes under regulations to be prescribed by the Secretary of the Army for use of storage space allocated to flood control, in accordance with section 7 of the Flood Control Act of 1944. It is estimated that average annual flood control benefits would amount to \$889,330.

It is proposed that the yield of irrigation water from 55,000 acre-feet of storage space in Palisades Reservoir be substituted for the water supply now drawn from Grays Lake for the Fort Hall Indian Reservation, in order to restore Grays Lake to its natural state and to control its level to create optimum wildlife environment. It is also proposed to develop a wildlife management area at Grays Lake at a total estimated cost of \$850,000, nonreimbursable, for construction of buildings and other facilities and the acquisition of approximately 9,300 acres of private land. An additional 3,500 acres of public land would also be set aside for this purpose. The annual cost of operation and maintenance of these and other proposed facilities is estimated to be \$15,000. It is explained that studies by the Fish and

EXHIBIT

30-198

Wildlife Service have shown that such a development in connection with the Palisades project would produce fish and wildlife benefits of substantial value which are estimated to be \$1,540.15 annually.

The report proposes construction of public recreation facilities at the Palisades Dam and Reservoir at an estimated cost of \$16,000. It is noted that the National Park Service considers that the total allocation of acres to recreational purposes would be equivalent to twice the cost of the facilities constructed solely for recreation, or \$240,000 as a nonreimbursable expense although the basis for this conclusion is not explained.

In addition to the recreation facilities at Palisades Reservoir, the report states that, by coordinating the operation of Palisades Reservoir with that of Jackson Lake Reservoir in Jackson Hole, Wyo., it will be possible to stabilize the level of Jackson Lake at full level throughout the tourist season except for very dry years and thereby will create substantial recreation benefits at Jackson Lake Reservoir. The report estimates that the benefit would justify a nonreimbursable allocation to recreation purposes in the amount of \$6,000,000 because of increased tourist use and because of the beauty of the foreground of the Grand Teton. While no other basis is given for this estimated benefit, information furnished informally to the Bureau of the Budget by representatives of the Bureau of Reclamation indicates that it represents the estimated cost of building the existing dam at Jackson Lake at January 1949 prices. In this connection, the report of the National Park Service stated that they had no means of making a conclusive estimate to the value of present recreational use of Jackson Lake since no records are kept as to the number of visitors but that such use is known to be small compared to what it would be if conditions were more attractive. The annual benefit to recreation is estimated to be \$244,915.

As set forth in the regional director's report, \$61,864,368 of the total construction cost of this project would be nonreimbursable with allocations of \$2,745,300 to flood control, \$6,296,000 to recreation, and \$2,505,000 to the preservation and propagation of fish and wildlife. The balance of the estimated construction cost, amounting to \$44,767,000, is estimated to be reimbursable with allocation of \$21,724,000 to irrigation, \$8,088,500 to irrigation pumping power, and \$14,955,500 to commercial power. Incidentally, it is noted that the allocation to irrigation as given in the Reclamation Commission's letter dated June 17, 1949 is \$108,300 less than in the report of the regional director, and correspondingly greater to power. The report recommends that the portions of the annual costs of operation, maintenance, and replacement properly allocable to the nonreimbursable purposes, including costs related to the hydrologic network, also be on a nonreimbursable basis.

As explained in the regional director's report, the proposed winter water-saving program involves elimination of a long-standing practice of supplying domestic and stock water to farmsteads by operating the irrigation canal system throughout the year. A substantial portion of this water diverted into the canals during the winter seeps into the underlying ground water reservoir which is not tributary to the Snake River above Milner Dam. The report points out that elimination of these winter seepage losses from the canals will increase the amount of water available for storage. The report estimates

that an average of 15,000 acre-feet annually would be saved by eliminating winter diversions in the area above American Falls under the water-saving program and would provide sufficient water for storage in dry years to make the constructing of Palisades Reservoir feasible from the standpoint of yield of irrigation water. It is stated that the plan on which there is tentative agreement provides that the water users in this area will eliminate the winter diversions by drilling wells at their own expense.

The regional director also makes reference to the results of the investigation of water use and requirements in the Upper Snake River Valley set forth in his project planning report No. 1-5-17-1 entitled "Water Supply for Palisades Reservoir Project," dated October 1949. In that report the regional director recommends that arrangements be secured with water users to eliminate the winter diversion of water with the objectives of achieving ultimately an annual saving of 465,000 acre-feet and as a condition precedent to a commencement of construction of the Palisades project, an annual saving of 255,000 acre-feet. A total of 135,000 acre-feet would be saved by shutting off, during the nonirrigation season, all canals in the area above the American Falls Reservoir where water tables are not tributary to the Snake River above Milner Dam. It is noted in the report that 50 percent of the farmsteads in this area now obtain domestic water from wells which indicates the desirability of well water for domestic use and it would be necessary under the proposed program for the remaining 20 percent of the farmsteads to install wells at their own expense when the winter water-saving agreements become effective. It is stated that an additional saving of 145,000 acre-feet would result from elimination of winter operation of canals for domestic and stock watering purposes in the Minidoka and North Side Twin Falls projects below American Falls Reservoir. All of the farmsteads in the Minidoka project and 60 percent or more of the farmsteads in the North Side Twin Falls project are now fully equipped with wells. Therefore, the remaining farmsteads in this latter project would have to be equipped with wells before the benefit could be shut off during the winter. The remaining recommended saving of 132,000 acre-feet could be realized by eliminating the winter operation of canals to the South Side Twin Falls project when a satisfactory supply of water for domestic and stock use has been provided. Inasmuch as the water available from the wells in the South Side Twin Falls project is unsuitable for domestic use, a well program cannot be recommended for this project and a satisfactory supply of water must be supplied by some other means before the Twin Falls canal can be shut off during the winter. The 1949 report recommended (as a supplement to the Palisades report of 1937) the construction of a domestic water distribution system and central treating plant to serve this project providing for payment of construction costs without interest within a period of 40 years. The report stated that because the operation of such a domestic water system would result in the saving of a large quantity of water for irrigation use, the Government would be justified in financing the construction cost without interest under the reclamation laws. Such works which are required to effect the ultimate water savings are not a part of the plan of improvement recommended for immediate authorization.

The Acting Chief of Engineers, United States Army, concurs in the estimate of flood-control benefit which was arrived at in consultation between representatives of the Bureau of Reclamation and the Corps of Engineers. He states, however, that this concurrence should not be construed as concurrence in the allocation of construction costs proposed in your Department's report. He questions the practice of allocating to flood control and certain other purposes, amounts equal to the capitalized value of the benefits to those purposes as not consistent with the desirable objective of making allocations in which each purpose shares equitably in the economies effected by combining the several functions in a multiple-purpose project. He directs attention to the fact that current studies of the Federal Interagency River Basin Committee are expected to lead to adoption of mutually acceptable principles for benefit-cost determination and cost allocation.

In his comments on the report, the Chairman of the Federal Power Commission states that, upon the basis of the regional director's estimates of benefits and costs, the project is well justified. He makes the further comment that the estimated aggregate power revenues and the repayment to be made by the water users would be adequate to cover the total reimbursable costs of power and irrigation and operation, maintenance and replacements, provided the interest on investment allocated to commercial power is not returned as interest to the United States but is applied toward repayment of irrigation costs. As noted in your letter, however, the Commission expresses the view that the use of power revenues and the treatment of the interest in connection therewith for assistance to irrigation, as proposed in your report, is not in the long-range public interest. Noting that the report recommends allocation of not to exceed 85,000 acre-feet of active capacity of the reservoir to municipal and other miscellaneous purposes, in addition to that set aside for the Grays Lake replacement, the Commission points out that encroachment on the dead storage to provide any part of this water supply would impair the values assigned to power in the report. The Chairman of the Federal Power Commission suggests that, prior to the time the project reaches the construction stage, consideration be given to the possible construction of a regulating reservoir downstream from the site of the Palisades project. He states that such a reservoir would permit greater flexibility in operation of the Palisades power plant and larger releases from the Palisades Reservoir during winter months in the interest of power and further, that power might also be produced in connection therewith.

As on numerous other occasions in commenting on proposed reclamation projects, the Secretary of Agriculture questions the so-called national income approach in evaluating both direct and indirect irrigation benefits, which results in a material overstatement in the amount of these benefits because of the inclusion of certain labor and capital costs as benefits. With respect to the winter water savings, he directs attention to the fact that data on estimated cost to private water users for drilling wells at their own expense, are not given in the report or considered as part of the construction cost of the project and, therefore, do not enter into the calculations showing the economic justification of the project, although they are real costs which must be incurred if the proposed project is to be feasible. He states that it is not possible to determine from the information in the report what cost correction of procedural errors in computing benefits and costs

would have with respect to the conclusion as to the economic justification of the project as a whole or its irrigation component. The Secretary of Agriculture also expresses the view that further expenditure of Federal funds on this project should be made conditional upon execution of water-saving contracts satisfactory to the Secretary of the Interior and that the Federal Government should not be put in a position of having to negotiate such contracts after it has committed itself to major project expenditures. He further suggests that the proposed water-savings contracts might well go beyond the elimination of water diversions and, at least in some cases, include provisions for increasing farm irrigation efficiencies.

With respect to the proposed allocation of \$2,805,000 of the project cost to fish and wildlife, the President in his veto message on the Vermejo project dated August 23, 1949, stated his policy on non-reimbursable allocations for the preservation and conservation of fish and wildlife in connection with water resources development projects. In that message he pointed out that, where such nonreimbursable allocations are permitted by law, the practice has been to restrict them in scope to the prevention of loss of and damage to wildlife. He further stated that the creation of new wildlife areas is normally a part of the regular program of the Fish and Wildlife Service.

As you know, the President fully endorses the principle that each such Federal improvement should provide, wherever possible, for the coordinated development of all aspects of our natural resources. Certainly the preservation and propagation of fish and wildlife is an important aspect of such developments.

It is recognized that the proposed construction of Palisades Reservoir affords an opportunity to permit the stabilization of Grays Lake through provision of substitute storage for irrigation water for the Fort Hall Indian irrigation project thereby promoting the development of the wildlife potentialities of the Grays Lake area. While such a facility might be a desirable improvement, the project report shows that the construction of the Palisades Reservoir would not result in any net loss or damage to fish and wildlife at Grays Lake, but would actually constitute the establishment of a new wildlife area. The allocation proposed for fish and wildlife in the Palisades project would, therefore, represent a departure from the President's policy as expressed in the Vermejo veto message. The need for such a development should be presented, justified, authorized and financed as a separate feature and not treated as a nonreimbursable allocation at the expense of the Palisades project. You are advised, therefore, that the allocation to fish and wildlife of any part of the cost of the Palisades project beyond that required for the prevention of loss or damage to fish and wildlife on the Snake River due to this project would not be in accord with the program of the President at this time. This statement is not intended to indicate in any way the relationship to the President's program of the provision of a fish and wildlife management area if authorized and financed as part of the activities and programs of the Fish and Wildlife Service. It is intended only to point out that until the issue regarding the relationship of such a purpose to water resources development projects is settled nonreimbursable allocations to fish and wildlife should not be used as a method to reduce the financial responsibilities of the beneficiaries of a reclamation project.

EXHIBIT

50438

In his radio message on the Vernuejo project, the President also made the observation that recreation is not currently authorized as a purpose of water resources development against which nonreimbursable allocations of cost may be made. This subject was also discussed in Director Face's letters dated January 27 and February 1, 1950, regarding H. R. 1770 and the Columbia River Basin report, respectively, in which it was pointed out that many broad and controversial issues are involved in developing a uniform policy respecting recreation and that the matter is to be fully studied by the Water Resources Policy Commission. The former letter also outlined an interim policy on recreation. On the basis of the information available to the Bureau of the Budget, the proposal to charge off as a nonreimbursable expense \$6,000,000 of the cost of the Palisades Reservoir as the recreational benefit to the Jackson Lake Reservoir does not seem to be justified or to conform with the interim policy. While it would appear that the recreation value of Jackson Lake Reservoir would be enhanced by the stabilization of its level made possible by construction and operation of the proposed Palisades Reservoir, it seems to me that this result is entirely aside from the need and justification for the construction of the Palisades project as a reclamation project. This view is supported by information furnished informally to the Bureau of the Budget by representatives of the Department of Interior indicating that Palisades Dam will be built to the same capacity regardless of its effect upon the recreational value of Jackson Lake. Accordingly, the provision of recreational facilities and the allocation of construction costs thereto would be considered without objection only if limited to the scope and repayment provisions set forth in the interim recreation policy contained in Director Face's letter to you dated January 27, 1950, regarding H. R. 1770.

The repayment plan proposed in the report contemplates the use of the entire amount of the interest component of the commercial power revenues for aiding repayment of irrigation costs. The President has neither approved nor disapproved such action from the standpoint of national policy. Furthermore, while it is recognized that the Solicitor of the Department of the Interior had issued an opinion that the interest component on the power investment could be so applied, the President has not indicated agreement that the present laws should be so interpreted. He is reserving judgment on the issue pending the report of the Water Resources Policy Commission. We cannot, therefore, at this time state whether such procedure would be in accord with the President's program.

It is noted in your reply to the comments of the Federal Power Commission on the Palisades report that you include a memorandum entitled "The Interest Component Feature of the Comprehensive Plan for the Columbia River Basin," which was presented in justification of the Columbia Basin account. This statement conveys the impression that the President's approval of the establishment of the Columbia Basin account as an accounting tool to record repayments of the capital investment includes approval of the basin-wide use of the interest component to assist in repaying irrigation construction costs of any project covered by the plan. This, of course, would be an erroneous interpretation of the President's position as outlined above. Regardless of the question of the use of the interest component, however, any proposal to include the Palisades project in a Columbia

Basin account would be premature since such an account has not been authorized.

In his letter of December 3, 1941, submitting to the Congress his authorizing report on the Palisades Dam project, Idaho (H. Doc. 457, 77th Cong., 1st sess.), the Secretary of the Interior referred to the advice received from the Director of the Bureau of the Budget that it would be contrary to the program of the President to submit any estimates of appropriation for construction of the project until local interests have given satisfactory assurances to the Secretary of the Interior that they will eliminate the wasteful use of water in the area to be affected by the project. It is evident from the reports before us that elimination of wasteful use of water in the area is still a critical matter upon which depends the effectiveness of the Palisades Reservoir in making available a reliable water supply for the Snake River Valley. It would appear, however, that the annual water saving of 135,000 acre-feet can be realized only if the remaining 20 percent of the water users on the farmsteads above American Falls, can be persuaded to install wells at their own expense and if the water users organizations enter into appropriate water savings contracts with the Government. There is a serious question whether accomplishment of the revised project, as contemplated in the report should not be made conditional upon execution of contracts satisfactory to the Secretary of the Interior. Unless such agreements are obtained prior to beginning of construction of the dam, there is little doubt but that it will prove difficult, if not impossible, to realize the amount of water savings upon which the success of the project depends.

I note that combinations of three different methods are used in determining cost allocations. For the nonreimbursable functions such as flood control, joint costs are assigned equal to the capitalized value of the estimated annual benefits. The balance of the joint costs for other functions—irrigation and power—is allocated on the basis of the average of the "priority of use" and "alternate justifiable expenditure" methods of allocation. On the basis of the information available to us, we are unable to determine what the effects of other methods of computation of cost allocations would be on the economic feasibility of the project. It is understood that the Federal Inter-agency River Basin Subcommittee on Benefits and Costs has recently developed a proposed manual for use by all agencies for economic analysis of river basin projects and that this manual is now being circulated for comment. The subcommittee recommendations contemplate distribution of joint costs in a manner which will provide for proportionate sharing of the savings resulting from multiple-purpose development.

In the absence of accepted methods of allocating costs, we can only question the justification for the procedure adopted in connection with the proposed Palisades project. It would appear, however, that by the very nature of multiple-purpose projects, all purposes should participate in the savings resulting from the combination of several plans. It would therefore, seem highly important that an agreement be reached at an early date on mutually acceptable methods for determination of benefits and cost allocations if confusion and misunderstandings are to be avoided.

Accordingly, you are advised that, while there would be no objection to the submission of the proposed report to the Congress authorization of the project would be without objection only if, in accordance with above comments:

(a) The allocation to fish and wildlife is limited to that part of the cost of the Palisades project required for the prevention of loss or damage to fish and wildlife on the Snake River due to the construction of this project;

(b) The provision of recreational facilities and the allocation of costs thereto are limited to the scope and repayment requirements set forth in the interim recreation policy contained in Director Face's letter to you of January 27, 1950;

(c) It is understood that the use of the interest component for aiding the return of irrigation costs in the eventual repayment plan for the Palisades project will be dependent on the policy established after the President's Water Resources Policy Commission has reported; and

(d) Accomplishment of the expanded project is made conditional upon execution of the necessary water-savings contracts to the satisfaction of the Secretary of the Interior.

Sincerely yours,

F. J. LAWTON, Director.

LETTER FROM THE SECRETARY OF THE INTERIOR
TO THE PRESIDENT OF THE UNITED STATES

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., March 4, 1950.

The President,

The White House.

(Through the Bureau of the Budget.)

MY DEAR MR. PRESIDENT: On July 10, 1949, former Secretary Krug submitted this Department's supplemental report on the Palisades Dam and Reservoir project to you for advice as to the relationship of the proposals contained therein to your program.

Copies of the report were sent also to officials of the States of Idaho, Wyoming, and to the Secretary of the Army, Secretary of Agriculture, the Chairman of the Federal Power Commission, and the Director, Bureau of Domestic Commerce, Department of Commerce for their information and such comments as they wished to make, although it was our view that clearance was not required as a matter of law in the circumstances of this case. Copies of most of these comments have heretofore been made available informally to the Bureau of the Budget, but this presentation will complete the formal presentation of all of them. The Governor of the State of Idaho did not submit comments on the report. However, at the hearings before congressional committees on H. R. 5506 and S. 2193, companion bills which among other things would reauthorize the Palisades Dam and Reservoir, a representative of the Governor testified in favor of the project.

After consideration of all the comments received, I find no need for revising this Department's report. In his comments, the Chairman of the Federal Power Commission questioned the use of the interest component of the power revenues for the purpose of assisting in the

repayment of irrigation costs. There is enclosed, also, a copy of our reply giving the justification for the position taken in the report, this being but a continuation of present practice of this Department on the basis of the present Federal reclamation laws.

H. R. 5506 and S. 2193, companion bills which would reauthorize the Palisades project in accordance with our supplemental report have been considered at hearings before subcommittees of the House Public Lands Committee and the Senate Committee on Interior and Insular Affairs and both committees have made favorable reports on the bills. The chairmen of these committees have requested this Department to submit its further views on these bills. The draft of our proposed report on those bills is now also before the Bureau of the Budget for determination of its relationship to the program of the President.

I would appreciate having your views as to the relationship of the supplemental report on the Palisades project to your program so that I can advise the Congress accordingly.

Sincerely yours,

OSCAR L. CHAPMAN,
Secretary of the Interior.

LETTER FROM THE STATE OF WYOMING

STATE OF WYOMING,
STATE ENGINEER'S OFFICE,
Cheyenne, August 6, 1949.

MR. WESLEY R. NELSON,

Acting Commissioner, United States Department of the Interior,
Bureau of Reclamation, Washington 25, D. C.

DEAR MR. NELSON: This will acknowledge receipt of your letter of July 8, 1949, including two copies of your supplemental report on the Palisades Dam and Reservoir project in Idaho. One of these copies is being mailed to Mr. Clifford Hansen at Jackson, Wyo.

Wyoming water rights, and in particular its right to the use of an equitable portion of the water of Snake River unappropriated at this time, would be seriously jeopardized by construction of this project in the absence of a compact or agreement with Idaho on division of the water.

Representatives of the two States have recently met and entered into an agreement that must be drafted into the form of a compact and approved by the representatives of the States, the legislatures and governors of the States, and consented to by the Congress of the United States before it becomes effective.

With the assistance of Mr. R. J. Newell, Federal representative on the Snake River Compact Commission, and the legal and engineering staff of the Bureau of Reclamation, I feel sure that a satisfactory compact will finally be approved.

My only further comment is to the effect that your report appears to be complete and comprehensive, and seems to be ample evidence of the necessity for construction of Palisades Reservoir in the overall development plan for the Columbia River Basin.

Yours very truly,

L. C. BISHOP, State Engineer.



LETTER FROM THE OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, November 23, 1949.

The Honorable the Secretary of the Interior.

DEAR MR. SECRETARY: Reference is made to your letter of recent date from the Acting Commissioner, Bureau of Reclamation, inclosing for my information and comment, copies of your supplemental report, Palisades Dam and Reservoir project, allocation and repayment of costs.

The Palisades project, as initially authorized in 1941, provides for a multiple-purpose reservoir on Snake River in eastern Idaho and western Wyoming for conservation of supplemental irrigation water supply, hydroelectric power generation and distribution, and flood control. An earth-fill dam 260 feet high would create a total storage capacity of 1,400,000 acre-feet of which 1,200,000 acre-feet would be used jointly for flood control and irrigation purposes in coordination with other reservoirs on this stream and 200,000 acre-feet would be dead storage. Power would be dependent upon water releases for irrigation and downstream rights. Provisions are also included for installation of recreational facilities and improvements for fish and wildlife. The cost of the project as now planned is estimated at \$76,601,000 of which \$54,637,409 is for the dam and reservoir, \$21,585,800 is for power generation and transmission, \$350,000 is for fish and wildlife, and \$18,000 is for recreation. The corresponding annual cost is estimated at \$3,548,355 and annual benefits at \$4,871,215 which results in a ratio of benefits to cost of 1:37.

Among the benefits estimated to accrue as a result of the project are \$399,330 in the interests of flood control. The amount of \$399,330 was arrived at in consultation between representatives of the Bureau of Reclamation and the Corps of Engineers, and I am pleased to advise you that I concur in that estimate as the amount of flood-control benefit to be expected if the project is operated in accordance with the plan outlined in appendix A of your report. I am also able to advise that the Palisades project as planned fits in with the comprehensive plan for the Columbia River Basin recently reported on by the Department of the Army.

My concurrence in the estimate of flood-control benefits and in the suitability and desirability of the project should not be construed, however, as concurrence in the allocation of costs proposed in your report. The practice of allocating to flood control and certain other purposes amounts equal to the capitalized value of the benefits to those purposes is not consistent with the desirable objective of making allocations in which each purpose shares equitably in the economies effected by combining the several functions in a multiple-purpose project. The Corps of Engineers and your Department are now participating, through the Federal Inter-Agency River Basin Committee, in studies which are expected to lead to adoption of mutually acceptable principle for benefit-cost determination and cost allocation. Opportunity to review this report is appreciated.

Sincerely yours,

R. C. CRAWFORD,
Major General, Acting Chief of Engineers.

LETTER FROM THE DEPARTMENT OF AGRICULTURE

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, November 21, 1949.

The Honorable the Secretary of the Interior.

DEAR MR. SECRETARY: This is in reply to your request of July 8, 1949, for the views of this Department on the Bureau of Reclamation's supplemental report on Palisades Dam and Reservoir project, Idaho.

This supplemental report for the most part contains a revision of the estimates of costs and benefits for the Palisades project originally authorized in December 1941. The present proposal calls for enlarging and adding to the purposes which the project will serve. Apparently the benefits to irrigation water users under the revised plan are about the same as under the original proposal. Due largely to increased construction costs the allocation of costs to irrigation is now \$21,724,000 as compared with \$10,210,000 in the 1941 proposal. However, the plan calls for only \$10,305,000 of the present irrigation cost allocation to be repaid by water users. The remainder is to be repaid out of power revenues. This results in proposed repayments by water users that do not appear excessive in relation to their prospective financial ability.

The use of the so-called national income approach in evaluating both direct and indirect irrigation benefits results on a material overstatement in the amount of these benefits because of the inclusion of certain labor and capital costs as benefits. Although the amount of these costs is not given, it is noted that an acre-foot of water was valued at \$9.17 in estimating irrigation benefits (p. 18) and at only \$2 in determining project financial feasibility (p. 30).

We note that in order to make the Palisades project feasible from the standpoint of yield of irrigation water, it is necessary to eliminate winter diversions in the upper part of the valley. The present practice is for water users to divert water in the winter for domestic and livestock use. If farm operators are to stop this practice they must drill deep wells at considerable expense to obtain needed water. The Bureau of Reclamation plan requires that the water users will eliminate winter diversions at their own expense. No data are given on the cost to private water users except that it will be considerable. Such costs are not considered as a part of the construction cost of the project and therefore do not enter into the calculations showing economic justification of the project. Yet these are real costs which must be incurred if the proposed project is to be feasible.

It is not possible to determine from the information in the report what effect correction of these procedural errors in computing benefits and costs would have with respect to the conclusion as to the economic justification of the project as a whole or its irrigation component.

The water conservation aspect of the Palisades proposal is highly complex. Cyclic storage and integrated operation of Palisades, Jackson Lake, and American Falls are involved. The conservation of water through the elimination of winter diversions for stock water seems to be a step in the right direction. Our experience in soil conservation districts in the upper Snake River Basin indicates that further very significant water savings could be accomplished through

increasing the farm water application efficiencies. It seems that the proposed water-saving contracts with irrigation enterprises in the upper basin might well go beyond the elimination of winter diversions, and, at least in some cases, include provision for increasing farm irrigation efficiencies.

Further expenditure of Federal funds on this project should be made conditional upon the execution of contracts satisfactory to the Secretary of the Interior to assure the saving of 135,000 acre-feet of water which is essential to the success of the project. The Federal Government should not be put into the position of having to negotiate such contracts after it has committed itself to major project expenditures.

The reservoir to be created by a dam some 260 feet high will be about 20 miles long, average $1\frac{1}{2}$ miles in width, and submerge about 19,000 acres at full capacity. The land in the reservoir site consists of a narrow valley used for agricultural purposes together with fairly steep adjacent slopes which are wooded. The slopes on both sides of the bottomlands are largely within national forests. The Caribou National Forest lies west of the Snake River, the river being the national forest boundary for nearly the entire length of the reservoir site. The reservoir site would include a small strip of hilly national forest land varying in width, but perhaps averaging about three-eighths of a mile along the west side of the reservoir. An existing Forest Service road would be submerged for almost the entire length of the reservoir site. Hoffman recreation area, a small development in the reservoir site, will be dismantled when the reservoir is developed.

The western boundary of the Targhee National Forest follows roughly the eastern boundary of the reservoir, usually just above the reservoir line but occasionally below it to include a few acres of the reservoir site.

The Forest Service has been in touch regularly with the regional office of the Bureau of Reclamation concerning Forest Service interests connected with development of the reservoir. Plans of the Bureau include relocation of the Forest Service road on the west side of the reservoir. The tentative location and standards of construction are satisfactory to the Forest Service. Accessibility to land on the east side of the reservoir in the Targhee National Forest will be adequately provided by the proposed reestablishment of State Highway No. 28 presently in the valley to a new location above high water line.

The reports by the Fish and Wildlife Service and National Park Service are considered adequate. The National Park Service recommends one major recreational development and several possible minor developments along the reservoir site. The major development near the west end of the dam would be within the Caribou National Forest. The minor areas would be within or adjacent to the national forest. The estimated cost of recreational facilities is \$145,000. The Forest Service and Bureau of Reclamation have entered into a general memorandum of understanding which provides a policy guide pertaining to the development and administration of recreational facilities at Bureau of Reclamation reservoirs that are wholly or substantially within the boundaries of national forests. Recreational developments at Palisades Reservoir will be within this category.

The relationships between the regional offices of the Forest Service and Bureau of Reclamation have been close and are believed to be mutually satisfactory in the development of plans for the Palisades Reservoir.

We have a few comments on the report of the Fish and Wildlife Service, which is appended to the report of the Bureau of Reclamation.

Recommendation No. 9 of this report states, "Management of the fish and wildlife resources on the Palisades Reservoir area be vested in the States of Idaho and Wyoming." Since some national forest lands will be included in the reservoir "area" with respect to these lands, we believe the policy should be modified to indicate that the Forest Service should still have primary responsibility for production the respective States for protection, and the States and Forest Service joint responsibility for harvesting the resources.

Because of the close association of recreational values which will exist between the reservoir and the adjoining national forest lands and the general responsibility of the Forest Service for management of habitat for production of fish and game in the national forests, we also suggest the inclusion in recommendation No. 7 of the Forest Service in the list of represented agencies.

We appreciate the opportunity afforded us of reviewing this report.

Sincerely,

K. T. Hutchinson, Assistant Secretary.

LETTER FROM THE DEPARTMENT OF COMMERCE

DEPARTMENT OF COMMERCE,
OFFICE OF DOMESTIC COMMERCE,
Washington, D. C., December 16, 1939.

Hon. Wesley R. Nelson,
Acting Commissioner, United States Department of Interior,
Bureau of Reclamation, Washington, D. C.

DEAR MR. NELSON: I must apologize for our tardiness in submitting our comments on the supplemental report entitled "Palisades Dam and Reservoir Project, Idaho—Allocation and Reapportionment of Costs."

Our field offices have received this report and to our knowledge have no objections.

The United States Coast and Geodetic Survey have noted the statement on pages 483-487 concerning the need of quadrangle topographic surveys, river, dam site, and reservoir surveys. They comment further:

The maps submitted with the report on the Palisades Dam do not indicate that geographic positions (that is latitude and longitude) or elevations above sea level on which to base contours, were used. The coordination of this project with others proposed for the Columbia Basin is not evident because of lack of these fundamental data.

The United States Coast and Geodetic Survey is prepared to extend control surveys to unmapped areas within the limits of appropriations available to us. Such needs should be made known to us so that the necessary field surveys and processing of field notes can be accomplished. When the data resulting from these accurate control surveys are available their use for topographic mapping.

and the meaning of river, dam, levee, and reservoir also makes for a coordination which facilitates analysis and study of large scale engineering projects such as those proposed for the Columbia Basin.

Sincerely yours,

H. B. McCoy, Director

LETTER FROM THE SECRETARY OF THE INTERIOR
TO THE FEDERAL POWER COMMISSION

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Washington, D. C., March 6, 1960

Hon. Nelson Lee Smith,

Chairman, Federal Power Commission

Washington, D. C.

My Dear Mr. Smith: Thank you for your letter of January 17, 1960, to Commissioner Seamus, in which you comment on our report on the Palisades Dam and Reservoir project in Idaho.

I note that in your letter you express your view that the use of power revenues and the treatment of the interest in connection therewith for assistance to irrigation, as proposed in the report, is not in the long-range public interest.

In this connection, I have attached for your consideration a statement recently prepared on the subject of the application of the interest component in assistance to irrigation. My thought in doing so is that perhaps, in your consideration of the matter, you may not have taken fully into account some of the aspects of this practice as they pertain specifically to the Department of the Interior, or the fact that the administration on more than one occasion, as shown in the statement, has sanctioned this procedure which, as you know, is provided for in reclamation law.

Most recently, in his letter dated February 1, 1960, the Director of the Bureau of the Budget stated that the President approves the establishment of a Columbia Basin account including provision for the application of the interest component to irrigation projects in the same extent that it can be applied under reclamation law. There is no question that the use of the interest component thus applied is appropriate under existing law. Director Pace points out that the underlying policy is one of the nature on which recommendations are expected from the President's Water Resources Policy Commission. Director Pace recommends enactment of authorization of the Basin account by the Congress in an amendment to H. R. 4472. The draft of the proposed amendment approved by the Bureau of the Budget, which provides for authorization of the Columbia Basin account, includes the following language:

"... In setting rates for the sale of power and energy, the Secretary of the Interior may take into consideration (1) all properties covered by the Columbia Basin account, the application of interest on the power investment to the return of costs properly allocable to purposes other than power, but assigned for return from power revenues, to the extent that such application of interest, or power investment, to the return of such costs may be shown to be consistent under the Federal Reclamation Law.

It will be noted that under the language approved by the Executive Office, any future change in reclamation law on this point would be applicable automatically to the Pacific Northwest project.

Sincerely yours,

Oscar L. Chapman,
Secretary of the Interior

THE INTEREST COMPONENT FEATURE OF THE COMPREHENSIVE PLAN
FOR THE COLUMBIA RIVER BASIN

The comprehensive plan for the Columbia River Basin provides for the pooling of power revenues and charges in a Columbia Basin account. One purpose of this account is to make possible the establishment of uniform power rates on a basin-wide basis. Another purpose is to make possible the uniform application of the interest component feature of the Federal reclamation laws on a basin-wide basis. The account would be credited with all power revenues from the projects covered by the plan, and charged with all costs of the project covered by the plan that are repayable from power revenues. The costs, actual or estimated, charged to the account would be used to determine the rates payable by the power users. The power revenues, actual or estimated, credited to the account would, after deducting the cost of the power facilities, be used in determining the extent to which financial aid could be extended to irrigation developments from power sources.

Under the comprehensive plan the costs chargeable to the Columbia Basin account would comprise: (1) the cost of the power facilities of the projects covered by the plan, and (2) so much of the cost of the irrigation facilities of the projects covered by the plan as exceeds the repayment ability of the water users. Interest on the cost of the power facilities would also be computed at prescribed rates and would be applied to the extent necessary against the excess of irrigation costs referred to in item (1) above. Since the plan contemplates that there is no excess cost will be substantially less than the interest component, the latter would be the controlling feature in practice. The net result is that the power users would be required to pay the cost of all power facilities plus interest on that cost.

Application of the interest component on a basin-wide basis would mean that interest revenues from any power development covered by the plan would be used to offset reasonable deficiencies in the repayment ability of the water users on any irrigation development covered by the plan. This would make it possible to undertake a number of economically justifiable projects which otherwise could not be initiated because the cost of the needed irrigation facilities is beyond the capacity of the water users to repay within a reasonable period of time. Since power potentialities on these projects are either limited or entirely absent, the interest component from other projects within the Basin must be looked to for the purpose of making good the difference between repayment capacity and irrigation costs.

The principle of applying the interest component of power costs to offset irrigation costs that cannot be repaid by the water users is well established under the Federal reclamation laws. Its legal basis

is expounded in an opinion of the Solicitor of the Department of the Interior, dated September 24, 1942 (M. 3473), and a supplemental opinion dated September 10, 1945 (M. 3473, supplement). These opinions have been consistently adhered to by the Department, and have stood the test of searching scrutiny from the Congress and the public.

Following the issuance of the foregoing opinions, the enemies of public power development unleashed a concerted attack upon the principle of using the interest component to aid irrigation development. This attack resulted in the introduction of several bills designed to repeal this feature of the Federal reclamation laws, the most notable of which was the Rockwell bill (H. R. 1839) in the Eightieth Congress. Extensive consideration by the Congress led, first, to the watering down, and second to the precluding, of the Rockwell bill and all similar measures. In view of the very careful study given this matter on both sides of the Congress, the defeat of the Rockwell bill may very appropriately be considered as evidencing congressional reaffirmation of the interest component principle.

The soundness of that principle has also been recognized by the President. On February 19, 1947, he expressly approved its use in the Central Valley project, where reclamation analogous to that within the Columbia Basin made by a father to the Secretary of the Interior reading as follows:

"I have read your report of December 3, 1946, on the situation of credit and financial facilities, Central Valley project, California, in which it is proposed that the Government should offer to pay for repayment of irrigation loans beyond the ability of reclamation to repay. I have an objection to your submitting the report to Congress for its consideration (H. Doc. 145, 80th Cong.)."

In addition, the President recommended to the Congress, in a message of January 19, 1948, that Tolman Dam be made a part of the Central Valley project for the very purpose, among others, of permitting the application of the interest revenues from the power plant at that dam to the major costs of irrigation facilities within the Central Valley area. The President stated:

"The transfer by the Bureau of Reclamation within its law that Tolman Dam and its immediate related development is to be operated in connection with the Federal reclamation project in the Central Valley to yield the greatest possible economic benefit to the project is a commendable one. It is a sound principle. The project from the dam site, under Federal reclamation law, is the power plant and power plant, but also in paying an appropriate share of the cost of irrigation facilities and other works needed to distribute water from Tolman Dam to irrigated districts, cities, and suburban areas. These facilities from power revenue is provided for in Reclamation law, and it is a sound principle to maintain the law, which the President proposed in the Central Valley project, in the American River Basin and nearby areas of California, will not be financially feasible (H. Doc. 496, 80th Cong.)."

Speaking at Tulsa, Oklahoma, on September 20, 1948, the President discussed the Rockwell bill in the following terms:

"The Republican Eightieth Congress attacked our irrevocational public power policy. The Republican House passed a bill which would have cut out six of the interest reclamation projects and would have forced Federal power rates up as much as 35 percent."

The interest component principle is now in wide use by the Department of the Interior. It is being applied to the pay-out requirements

of more than a dozen irrigation projects and on several recently authorized projects. Moreover, in the Mosquito Basin and the Central Valley of California, it is already being employed in a basin-wide basis.

The principle has also won wide public acceptance. The struggle over the Rockwell bill served to give it broadspread publicity. Most of the influential people who were then in opposition to it now realize that earlier misjudgment and are in full support of the principle. For example, at a meeting of the Northwest Deltaic group held in Tacoma, Washington, on January 10, 1949, there was outspoken support for the Columbia Basin account, including the interest component feature.

The broad recognition created the practice of using the interest component on power to offset deficiencies in repayment capacity on irrigation must be attributed to the inherent soundness of that practice. It relieves the power users from the obligation of bearing a double burden, since otherwise they would be required to pay both the interest on their power and the interest on the power investment and leaving them in effect only with the equitable obligation of paying the interest on the interest, whichever is the greater. At the same time, it provides effective aid to irrigation from power revenue by making the interest on the power investment available to supply deficiencies in the repayment ability of the water user.

Continuance of the reclamation program depends upon the bridging of the gap between high construction costs and low return farm returns. If the interest component is not used for this purpose, some alternative must be found for agricultural development in the West will grind to a halt. One possible alternative would be to increase Government to a level that would cover the payment of interest in addition to and not as a substitute for the interest on the investment. Not only would this be unfair to the power users, but also it would hamper the development of public power and thereby play into the hands of the private utilities. The cost would be particularly bad in other areas of the West where, though needed, there is still opposition to public power. In some cases public power rates would have to be increased to a point above the competitive level of the interest component principle were to be abandoned. A second alternative would be further to lengthen the repayment period, extended the water users by the term of years necessary to provide for the liquidation of all irrigation costs. That alternative has been generally opposed by the Bureau of the Budget, and would tend to have the same net effect as continuing to load the interest component for aid to irrigation.

The United States has consistently recognized, ever since the passage of the Reclamation Act in 1902, that the need of the West for agricultural development justified the Government in providing interest-free money for irrigation, on repayment terms calculated to reimburse the establishment of economic farm homes. The interest component, principally means that the interest which the United States is willing to forego qualified interest on investments in power facilities in those areas where and only to the extent that the plan to build of founding self-supporting farm communities cannot be achieved unless the power revenues are applied against a portion of the cost of the irrigation facilities created by the same project or basin program.

In this connection it should be borne in mind that the provision of subsidies by the general government for the preservation of flood control, navigation, soil conservation, and various other conservation programs

is an established national policy. Compared with these 100-percent subsidies, the financial aid given to irrigation under existing reclamation law is a modest indeed. From such a perspective, the interest component principle is a very small price to pay for continuance of the reclamation program.

The propriety of applying this principle to the Columbia Basin is recognized in the Columbia Valley Administration bill (S. 1645) introduced by the President. Subsection 12 (c) of that bill provides that—

Interest paid on advances used to pay cost allocated to revenue-producing purposes other than irrigation may be applied to revenue-entailing advances used for any cost allocated to irrigation and assigned for repayment from other sources. It is the policy of the United States to encourage the construction of irrigation projects in the Columbia Valley which will be self-sustaining and which will be able to pay for repayment to power having in mind the Federal reclamation law (act of June 17, 1903, 32 Stat. 388) and with amendments thereto or supplementary thereto.

This formula is identical with what would be accomplished under the Columbia Basin account.

The interest component principle relates, and is understood by the Department of the Interior, as relating solely to the problems of financial feasibility which arise from the requirement of the Federal reclamation law that irrigation and power costs shall be reimbursed in full to the United States. This principle is not, and is not intended by the Department to be, a substitute for the economic justification of Federal reclamation projects.

The foregoing statements are endorsed by the Columbia Basin comprehensive plan itself, which recognizes in several places that individual projects are to be eligible for entering into the Columbia Basin account only if they meet proven public needs in a reasonable and feasible way. For example, the letter of transmittal from the Secretary of the Interior to the President, dated July 29, 1949, states that "through the medium of such a basin account irrigation projects which would be beyond the ability of the water users to repay in full but which are needed for a fully rounded basin economy could be undertaken without adverse effect upon power rates." Again, recommendation (6) of the plan declares that the Secretary of the Interior, in reporting on projects proposed for inclusion in the basin account, shall make findings, not merely with respect to engineering and fiscal feasibility, but also upon "the benefits to be realized from the construction of the project that are considered to justify its continuation." This recommendation further provides that no project shall be covered into the basin account unless its inclusion is authorized by act of Congress. Such an arrangement would afford a practical procedure whereby the Bureau of the Budget, the President, and the Congress could check the economic justification for each individual project with respect to what irrigation assistance from power revenues was proposed.

In short, the Department of the Interior would expect any project covered into the Columbia Basin account to conform to reasonable standards of economic feasibility, which would take into account such matters as the ratio of benefits to costs, the optimum use of the water and land resources involved, and the public need for the project.

LETTER FROM THE FEDERAL POWER COMMISSION
TO THE BUREAU OF RECLAMATION

Reclamation Power Commission,
Washington 25, D. C., January 17, 1950.

Mr. Milton W. Seaton,

Commissioner, Bureau of Reclamation,

Department of the Interior, Washington 25, D. C.

Subject: Palisades Dam and Reservoir Project, Idaho.

Dear Mr. Seaton: The comments herein with respect to your supplemental report entitled "Palisades Dam and Reservoir Project, Idaho—Allocation and Repayment of Costs," dated June 17, 1949, and approved by the Secretary of the Interior on July 1, 1949, are transmitted in response to the letter from Mr. Wesley R. Nelson, Acting Commissioner, dated July 8, 1949, in which the Commission's comments were requested. Transmitted with Mr. Nelson's letter were copies of your report and copies of the report of the regional director, dated June 1949. The transmittal of these comments by the Commission is in accordance with the established procedures of the Federal Interagency River Basin Committee.

The Bureau's report presents a plan of construction primarily for supplemental irrigation water supply and flood control in the Upper Snake River Valley in Idaho, but the generation of hydroelectric power incidental thereto, and for benefits to fish and wildlife and to recreation. The plan of development is recommended in your report would consist of the construction of the Palisades Dam and Reservoir, a power plant at the dam, and transmission facilities and provision of fish and wildlife facilities, including installation at Grays Lake, and recreation facilities at the Palisades Reservoir.

The Palisades Reservoir would store water available for carry-over from years of above-average stream flow to years of below-average flow together with hydroelectric power may be saved by proposed elimination of present waste of water diversions. Your report states that the operation of the Palisades Reservoir would result in providing supplemental irrigation water for about 130,000 acres of land in the Upper Snake River Valley, in Idaho, and that the reservoir is expected to contribute substantially to the solution of an extremely complicated water-right problem and difficult water-use problems in that area. With Palisades Reservoir in operation it would become possible and desirable to maintain Jackson Lake Reservoir in the Jackson Hole area substantially at full level throughout the winter season except during very dry years. Fifty-five thousand acre-feet of storage capacity in the Palisades Reservoir would be made available to the Fort Hall Indian Reservation as replacement storage for that now received from Grays Lake, which could then be established as a wildlife management area.

The Palisades Dam could be constructed at a site on the Snake River about 8 miles west of the Idaho-Wyoming boundary. The dam would be an arch and roller-fill structure with a maximum height above stream bed of 262 feet and crest length of 2,200 feet and would create a reservoir with gross storage capacity of 1,400,000 acre-feet of which 1,240,000 acre-feet would be active capacity used

jointly for irrigation and flood control on the basis of runoff forecasts, and 200,000 acre-feet would be reserved as dead storage for power head. Tunnels in the left abutment of the dam would provide flood control outlet capacity and serve for penstock purposes for a power plant to be constructed at the site with an ultimate installed generating capacity of 112,500 kilowatts, operating under heads varying between 245 and 122 feet.

The production of hydroelectric power at Palisades Dam would be entirely incidental to the operation of the reservoir for irrigation and flood control. However, the production of firm power would be possible because a certain amount of water would have to be passed through the reservoir during the winter to satisfy the prior storage right at American Falls Reservoir downstream. The regional director's report indicates that, when operated in conjunction with the proposed power plant at the American Falls Dam, the Palisades power plant would have an average annual output of 521,400,000 kilowatt-hours, of which 411,800,000 kilowatt-hours would be salable, including 164,400,000 kilowatt-hours of firm energy. The annual revenue from the sale of firm and secondary energy is estimated in the report to be \$1,175,400. The rates assumed in the report as a basis for this estimate are: 4 mills per kilowatt-hour for firm energy; 3 mills for irrigation pumping energy; and 2 mills for nonfirm energy. The corresponding over-all average revenue would be 2.85 mills per kilowatt-hour.

The above estimates of power, and of revenue from its sale, have been based upon the maintenance of 200,000 acre-feet of dead storage to assure the assumed minimum power head. The reports make reference to a possible future demand for water for miscellaneous purposes, including municipal, and in this connection consider a maximum utilization of 85,000 acre-feet of storage space. The reports do not attempt to give the answer at this time to that possible future problem. The Commission staff points out that encroachment on the dead storage to provide any part of this water supply would impair the values assigned to power in the report.

The Commission staff has not undertaken to comment on the methods used for the allocation of costs to the several purposes of the project. It has, however, necessarily considered costs in relation to power which is the principal revenue-producing project function. The estimated total cost of construction of the project given in your report and in the report of the regional director is \$76,601,000. The allocations to flood control, recreation, and fish and wildlife are the same in the two reports. The allocation in your report to irrigation is \$198,400 less than in the report of the regional director, and correspondingly greater to power. This amount is relatively inconsequential and since his report is in greater detail, the figures of the regional director are used in the discussion which follows.

The costs as shown in the regional director's report may be segregated as follows:

LETTER OF TRANSMITTAL

Function	Direct cost	Cost allocated to function
Considered as nonreimbursable:		
Flood control.....		\$2,733,200
Irrigation.....	\$145,000	6,200,000
Fish and wildlife.....		2,800,000
Subtotal.....	145,000	11,733,200
Reimbursable:		
Irrigation:		
From water users.....		10,200,000
From power.....		14,418,400
Irrigation pumping power.....		8,290,500
Commercial power.....	21,565,000	14,564,800
Subtotal.....	21,565,000	44,764,700
Total.....	21,710,000	76,601,000

The importance of power to the project is evidenced by the fact that it carries the largest allocation of the three principal functions and would be responsible for 77 percent of the reimbursable costs.

Upon the basis of the regional director's estimates of benefits and costs, summarized as follows in table 9, page 28, of his report, the Palisades project is well justified.

Function	Annual costs	Annual benefits	Ratio of benefits to costs
Irrigation.....	\$841,035	41,531,000	2.35-1.00
Power.....	1,864,733	1,021,000	1.13-1.00
Flood control.....	864,733	174,000	1.00-1.00
Fish and wildlife.....	124,015	124,015	1.00-1.00
Recreation.....	244,815	244,815	1.00-1.00
Total.....	8,540,233	4,871,215	1.37-1.00

The annual costs in this table are computed upon the basis of amortization of the construction cost in 50 years at 3 percent interest, and include operation, maintenance, and replacements. The Commission staff advises that, for purposes of benefit-cost analysis of the power function, it has utilized as a basis the power value, for the Pacific Northwest, arrived at cooperatively in the field by representatives of the Bonneville Power Administration, the Corps of Engineers, and the Commission. On this basis the staff computes the value of the power benefits at Palisades, with 112,500 kilowatts installed as proposed, to be \$1,564,500 or \$129,850 in excess of the annual costs shown. The actual revenues, however, which are shown as \$1,175,400 in the reports, are substantially less than these estimates of benefits.

The report shows that the estimated power revenues are sufficient to meet the costs to be paid out of power revenues on the basis of payout proposed. The Commission staff understands that this basis includes as costs, operation, maintenance, and replacements of power facilities; the payment of \$8,980,500 allocated to irrigation pumping power in equal installments over a 50-year period, without interest; and interest on and amortization of the \$14,055,800 allocated to commercial power over a 50-year period, with the interest element being utilized in the repayment of the \$11,419,400 irrigation costs allocated to be paid from power revenues.

The tabulations and discussion on pages 31 and 32 of the report indicate that the estimated aggregate power revenues over the assumed 56-year repayment period and the repayment to be made by the water users would be adequate to cover the total reimbursable costs of power and irrigation, amounting to \$44,788,700, and operation, maintenance, and replacements, provided that the interest on investment allocated to power is not returned as interest to the United States.

The Commission, in letter dated May 29, 1947, to the Bureau of the Budget in response to request for its views relative to H. R. 1836 and H. R. 1977, Eightieth Congress, bills to amend the Reclamation Act of 1939, said:

The Commission is of the opinion that the public interest will best be served if the rates are fixed so as to produce revenues sufficient to cover the costs contemplated by H. R. 1977, except that the interest element in the power rate should not be used to amortize irrigation features until after the allocated cost and interest applicable to power have been recovered.

The Commission understands that there is a demand in the area for the beneficial services that the Palisades project would provide. The Commission doubts, however, that the use of power revenues and the treatment of interest in connection therewith, as proposed in your report, is in the long-range public interest.

With regard to the power features of the project the Commission staff reports that it is in substantial agreement with the regional director's estimate of the amount of energy available at the Palisades power plant on the basis of the proposed schedule of reservoir operation for the primary purposes of irrigation and flood control. The staff also advises that its studies show the initial installation should be of the order of 112,800 kilowatts proposed. The staff believes that there would be several advantages in an installation consisting of three 37,600-kilowatt units as compared with five 22,600-kilowatt units. It suggests that consideration be given to the larger capacity units and to the desirability of making provisions for the subsequent addition of a fourth power unit.

The staff also suggests that, prior to the time that the project reaches the construction stage, consideration be given to the possible construction of a regulating reservoir downstream from the site of the Palisades project. Such a development downstream would permit greater flexibility in the operation of the Palisades power plant and larger release from the Palisades reservoir during winter months in the interest of power. Power might also be produced in connection with the regulating reservoir. The Commission would be glad to have its staff confer with representatives of the Bureau of Reclamation in order to consider these suggestions in greater detail.

The opportunity to review the report of your Department on the Palisades Dam and Reservoir project is appreciated.

Sincerely yours,

NELSON LEE SMITH,
Chairman.

LETTER FROM THE SECRETARY OF THE INTERIOR TO THE PRESIDENT OF THE UNITED STATES

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., July 19, 1949.

The President,
The White House

(Through the Bureau of the Budget).

MY DEAR MR. PRESIDENT: Enclosed is a supplemental report prepared by the Bureau of Reclamation on the Palisades Dam and Reservoir project, which I approved and adopted as my report on July 1, 1949.

The report deals with the allocation and repayment of costs of the authorized multiple-purpose Palisades Reservoir which is to be built on the Snake River in southeastern Idaho. The estimated cost of the project at price levels prevalent in January of this year is \$76,601,000. Having regard for the benefits accruing to the various purposes, I find that, of the total cost of the project, \$22,733,800 should be allocated to flood control, \$6,286,000 should be allocated to recreation, and \$2,805,000 should be allocated to the preservation and propagation of fish and wildlife, all of which should be non-reimbursable. The balance of the construction costs can be repaid by the water and power users and should properly be allocated as follows: to irrigation \$21,526,000; to irrigation pumping power, \$9,063,900; and to commercial power, \$14,179,800. I find that the irrigation water users can and should repay a maximum of \$10,350,000, over a 40-year repayment period, and that the balance of the reimbursable costs can be repaid, under the reclamation laws, out of power revenues.

The allocation to flood control has been made following consultation with the Chief of Engineers, Department of the Army, and the operation of the reservoir for flood control will be in accordance with regulations prescribed by the Secretary of the Army.

Unless you have objection, the enclosed report on the Palisades Dam and Reservoir will be transmitted to the Congress for appropriate action.

Sincerely yours,

J. A. KAGO,
Secretary of the Interior.

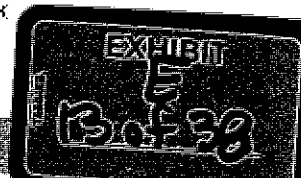
LETTER FROM THE BUREAU OF RECLAMATION TO THE SECRETARY OF THE INTERIOR

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington 25, D. C., June 17, 1949.

The Secretary of the Interior.

SIR: This is my supplemental report, findings, and recommendations under the Federal reclamation laws with respect to the Palisades Dam and Reservoir project, Idaho. My report is based on the accompanying report of the regional director, dated June 1949.

The project was authorized initially in 1941 by the Secretary's report and findings dated December 8, 1941 (H. Doc. 457, 77th Cong.,



1st sess.), under the provisions of section 9 of the Reclamation Project Act of 1939 (53 Stat. 1187).

The dam and related works as now proposed are essentially the same as those initially authorized. The reservoir will have a total active capacity of 1,200,000 acre-feet. The active capacity will be used jointly for irrigation and flood control under a plan of operation worked out by the Bureau with the Corps of Engineers. Its use for irrigation purposes will result in providing supplemental irrigation water for about 650,000 acres of land in the upper Snake River Valley. Having regard for the present plan with respect to flood-control operations, it is proposed to increase the capacity of the outlet works of the dam to permit greater flexibility in operations. It is proposed, also, to increase the minimum power head and, also, the maximum power installation, the latter to be approximately 112,500 kilowatts. In addition, it is proposed, by using Palisades capacity, to replace Grays Lake irrigation storage to permit the restoration of Grays Lake to its natural state, thereby increasing its usefulness as a wildlife management area. Through coordination of the irrigation operation of Palisades Reservoir with that of the existing Jackson Lake Reservoir in Jackson Hole, Wyo., it will be possible to stabilize the level of Jackson Lake and thereby greatly to enhance the recreational value of that famous scenic area in the foreground of the Grand Teton. The total cost of construction of the project estimated as of January 1949 is \$70,001,000.

Of these estimated costs, it is proposed that, having regard for the benefits to accrue to these various purposes, there be allocated on a nonreimbursable basis the following amounts:

To flood control.....	\$23,733,300
To recreation.....	6,290,000
To fish and wildlife.....	2,505,000
The balance of the estimated construction costs will be reimbursable and is proposed to be allocated as follows:	
To irrigation.....	\$21,526,000
To irrigation pumping power.....	9,063,000
To commercial power.....	14,176,800

There is expected to be some demand for water for miscellaneous purposes but no present space allocation is proposed for such purposes, though it is proposed there be recognition that a maximum of 85,000 acre-feet of space may be used. There is recognition, also, of the fact that an increased allocation to flood control may be found later to be justified, and of the need for adjusting the allocations to reimbursable costs when the actual reimbursable costs are determined.

It is now estimated that of the reimbursable construction costs allocated to irrigation a maximum of \$10,305,000 can and should be repaid by the water users if the repayment period remains at 40 years. A higher amount should be required to be repaid if that period is lengthened. The balance of the costs allocated to irrigation is expected to be repaid out of power revenues. Power revenues will be sufficient to return all costs properly allocated to commercial power with interest and to meet the irrigation costs assigned for repayment through power revenues, the latter to be met by the application of the interest component and of such additional power revenues as may be required.

EXHIBIT

14638

LETTER OF TRANSMITTAL

XXIX

The success of the project is dependent on having continued assurances that an average annual water savings of 135,000 acre-feet will be realized. This is expected to be accomplished by means of contractual arrangements with the water users of the upper Snake River Valley whereby they will agree to curtail certain wasteful winter water diversions. Tentative commitments on this matter have been given by resolutions of the governing bodies of the interested water users' organizations. These are regarded as sufficient to justify initiation and continuation of construction, but it may be desirable to have some additional means of bringing about the translation of these commitments into contractual assurances before the project is completed.

I concur in and adopt the recommendations of the regional director, and in particular, the recommendations set out in part V of his report.

I recommend that you approve and adopt this as your proposed supplemental report for presentation to the President and the Congress for appropriate action. Since the report is supplemental to the report of December 9, 1941, by which the project was initially authorized and since the irrigation aspects of the major structure will not be changed by this supplemental report, it is concluded that the procedure of section 1 of the 1944 Flood Control Act (58 Stat. 387) is inapplicable.

Respectfully,

MICHAEL W. STRAUS,
Commissioner.

Approved and adopted July 1, 1949.

J. A. KAGO,
Secretary of the Interior.

UNITED STATES DEPARTMENT OF THE INTERIOR
JULIUS A. KRUG, *Secretary*

SUPPLEMENTAL REPORT
PALISADES DAM AND RESERVOIR PROJECT
IDAHO

BUREAU OF RECLAMATION
MICHAEL W. SMITH, *Commissioner*

REGION I
R. J. NEWELL, *Regional Director*

Boise, Idaho, June 1949

XXXI



CONTENTS

I. Description	Page
Legislative history	1
Original plan of project and estimated cost	2
Present plan and estimated cost	3
Land areas required for various project features	3
II. Operation plan and benefits	5
Irrigation	6
Power	6
Flood control	10
Fish and wildlife	12
Recreation	14
Summary of benefits	15
III. Allocation of costs	16
Nonreimbursable allocation	16
Reimbursable allocation	17
IV. Economic justification and feasibility	18
Economic justification	20
Financial feasibility	20
V. Recommendations	22
	26

LIST OF PRINCIPAL TABLES

1. Construction cost estimate	5
2. Irrigation shortages in the Snake River Valley	9
3. Pallasdes power plant production	11
4. Estimated total annual operation and maintenance and replacement costs	17
5. Estimated net annual benefits	18
6. Allocation of estimated remaining joint costs to irrigation and power	19
7. Allocation of total costs	19
8. Annual costs for benefit-cost comparison	20
9. Benefit-cost ratios	21
10. Summary of cost allocation and repayment of reimbursable costs	25

LIST OF MAPS

General map—Pallasdes Reservoir project, Idaho	Facing xxxiv
Area required for construction and administration of dam and reservoir and related features	Facing 6
Grays Lake wildlife management area, Idaho	Facing 6

APPENDIX

Flood control:

Letter from Commissioner Straus to Lt. Gen. R. A. Wheeler, of December 31, 1947, transmitting for approval the operating plan and the estimates of flood-control benefits to Pallasdes Reservoir under the plan.

Letter from Lt. Gen. R. A. Wheeler to Commissioner Straus, approving the operating plan and the resulting flood-control benefits	28
The approved operating plan for Pallasdes Reservoir	29
Fish and wildlife: A report on fish and wildlife resources in relation to the proposed Pallasdes Reservoir project, Snake River, Idaho and Wyo., by the Fish and Wildlife Service, January 2, 1948	30
	32

xxxiii

Recreation:	Page
Falladaes Reservoir project, Snake River Valley, Idaho, preliminary report, on recreational potentialities, prepared by the National Park Service, April 1947	41
Introduction	41
Summary	42
Palisades Reservoir:	
General description	43
Climate	44
Geology	44
Historical and archeological aspects	45
Present recreational development and use	45
Estimate of recreational use	46
Recreational development	46
Land-acquisition	48
Further study and planning	48
Jackson Lake Reservoir:	
General description	49
Present use and development	50
Estimate of recreational benefit	51
Palisades Reservoir project, Snake River Valley, Idaho, supplement to preliminary report on recreational potentialities, prepared by the National Park Service, October 1947	51

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PALISADES DAM AND RESERVOIR PROJECTS, IDAHO

I. DESCRIPTION

The Palisades Dam and Reservoir project is a multiple-purpose development, involving irrigation, power, flood control, recreation, and fish and wildlife. Palisades Dam will be located on the main stem of the Snake River at Celamity Point in eastern Idaho, about 8 miles west of the Idaho-Wyoming boundary, and about 50 miles east of Idaho Falls, Idaho. The General Map, following this page, shows the location of the Palisades Dam and Reservoir.

The project will provide supplementary irrigation water for about 650,000 acres in the upper Snake River Valley, defined herein as the watershed of the Snake River above Milner Dam, together with the irrigated area served by canals diverting at that dam. Flood protection for several thousand acres of irrigated land on the Snake River Plain above Idaho Falls also will be provided by the project, as will hydroelectric power badly needed in the upper valley to serve irrigation pumping loads, municipalities, rural cooperatives, and others.

Construction and operation of Palisades Reservoir will greatly enhance the recreational value of Jackson Lake Reservoir and surrounding area, in Wyoming, because the proposed operating plan for Palisades Reservoir will greatly decrease the fluctuations now necessary in the level of Jackson Lake.

The Palisades project will also produce fish and wildlife benefits of substantial value. Water from the reservoir can be used on irrigated lands of the Fort Hall Indian Reservation in lieu of water from the Grays Lake area. Retention of water in that area, one of the leading waterfowl refuges of the Nation, will greatly enhance the area's value for that purpose.

The Palisades project will include the dam, reservoir, powerhouse, transmission facilities, improvement of the Grays Lake area for wild-life purposes, and the construction of necessary recreation facilities on the banks of the reservoir. Related to the project is the construction of downstream flood-control facilities which will supplement the primary flood control afforded by storage in the Palisades Reservoir. The Palisades Reservoir will store only water available for carry-over from years of above-average stream flow to years of below-average stream flow together with whatever water is saved by proposed elimination of present wasteful winter diversions. Existing reservoirs in the upper Snake River Valley have capacity sufficient to hold all of the presently storable water in years of average or less than average stream flow.

LEGISLATIVE HISTORY

The project was initially authorized in 1941 as the Palisades Dam project by the presentation to the President and the Congress of a report and findings by the Secretary of the Interior on December 9, 1941 (H. Doc. No. 457, 77th Cong., 1st sess.), under the provisions of section 9 of the Reclamation Project Act of 1939 (58 Stat. 1187). That finding incorporated the report of the Commissioner of Reclamation to the Secretary of the Interior, dated November 1, 1941. The supporting engineering and economic report of the Bureau of Reclamation was the product of investigations begun by the Bureau in 1932 to study means of providing urgently needed supplemental storage in the upper Snake River Valley.

A system of levees for flood-control purposes, which will serve in conjunction with Palisades Reservoir, was authorized by the act of December 22, 1944 (58 Stat. 902), on the basis of recommendations of the Chief of Engineers set forth in House Document No. 452, Seventy-seventh Congress, first session.

The report of the Commissioner of Reclamation to the Secretary of the Interior, noted above, stated that the success of the Palisades Reservoir would depend on the conservation of 135,000 acre-feet of water annually then and now being wastefully used, and also on the willingness of the water users to pay for stored water that would be available from the project. The Bureau of the Budget, speaking for the President, approved the project with the reservation that submission of estimates of appropriations needed for construction be withheld until—

local interests have given satisfactory assurance to the Secretary of the Interior that they will eliminate the wasteful use of water in the area to be affected by the project.

Although appropriations for the project were made for the fiscal years 1945 through 1948, and a contracting authority was granted for the fiscal year 1949, no construction contracts were awarded until late in fiscal year 1949 because of the conditions specified in the original authorization.

Final assurances as to adoption of water-saving methods will be covered by contracts yet to be made with the interested organizations of water users. Until this report has been approved and until legislation covering the sale of reserved space in American Falls Reservoir and related matters has been enacted, however, such contracts cannot be prepared. Nevertheless, resolutions giving assurance that the water users will agree to water-saving provisions which will satisfy the condition of the authorizing document have been obtained from the governing bodies of the interested water users groups. On the basis of these resolutions, some preliminary construction contracts were executed late in fiscal year 1949. Continuation of construction activities, however, will depend on the present water-saving assurances given by resolution being implemented within a reasonable time by contracts satisfactory to the Secretary. Such contractual assurances are essential to success of the project, as indicated in the report on the project by the Commissioner of Reclamation, noted earlier.

PALISADES DAM AND RESERVOIR PROJECT

ORIGINAL PLAN OF PROJECT AND ESTIMATED COST

At the time of the original authorization of the project in December 1941, the report recognized benefits only to irrigation, flood control, and power. The plan included as its principal features an earth-fill dam 260 feet high and 2,200 feet long at the crest, a concrete spillway with a capacity of 61,000 cubic feet per second, a reservoir with an estimated total storage capacity of 1,420,000 acre-feet, and a power installation of 30,000 kilowatts with a minimum power head of 104 feet. Of the active storage space (1,306,000 acre-feet), 500,000 acre-feet were to have been used primarily for flood control, and 800,000 acre-feet for irrigation. When needed, a total of 900,000 acre-feet of space, however, would have been available, through joint operation, for flood control.

The estimated cost of construction at the time of authorization (1941) was \$24,092,000. This cost included the following items:

Palisades Dam and Reservoir	\$18,125,000
Powerhouse and machinery	2,200,000
Transmission lines, etc.	611,000
Water-conservation program	2,422,000
Channel improvements	734,000
Total	24,092,000

* While the cost of this program was included in the estimate of the cost of the project, the plan was that the individual water users were to finance their own water necessary to the accomplishment of the water-saving program.

† The Corps of Engineers has undertaken this work.

It was proposed that these costs be allocated in the following manner:

Irrigation	\$10,210,000
Flood control	8,165,000
Power	5,717,000

The total annual benefits were estimated at \$1,327,000. They included \$510,000 for irrigation, \$410,000 for power, and \$407,000 for flood control.

The total annual costs were estimated at \$989,000. They included the annual component of the construction costs (\$850,000) and operation, maintenance, and replacement costs of \$119,000 annually.

The ratio of benefits (\$1,327,000) to costs (\$989,000) was given as 1.37 to 1.00.

PRESENT PLAN AND ESTIMATED COST

During the 7 years since the project was authorized, intensive investigations and studies conducted by the Bureau of Reclamation and several other Federal agencies have resulted in enlarging and adding to the purposes which the project will serve.

Recent estimates of present and prospective power requirements in eastern Idaho show that there will be an increasingly critical shortage of commercial and irrigation pumping power in that area. Operation studies of Palisades Reservoir and design studies of the power plant show that the efficiency of the power plant can be increased appreciably by raising the dead storage pool and that the originally planned capacity of the power plant (30,000 kilowatts) should be increased to avoid waste of potential energy in irrigation.

EXHIBIT

19 5339

season water releases. Such increased capacity is needed for generation of irrigation pumping power and for other purposes. Provisions for this expanded capacity involve (1) increase of the dead storage pool from 120,000 to 200,000 acre-feet (providing a minimum power head of 122 feet), and (2) enlargement of the power installation from 30,000 to approximately 112,500 kilowatts. In order to deliver the power to load centers, it is planned to construct initially two transmission lines from the Palisades Dam to substations near the cities of Idaho Falls and Pocatello and a single line from Pocatello to terminal facilities in the vicinity of the proposed power plant at the American Falls Dam. These transmission facilities, planned tentatively to be of 115-kilovolt capacity, together with transmission facilities associated with that plant and the proposed north side pumping division of the Minidoka project, would complete the high-voltage facilities necessary for service to the irrigation pumps on that division and other irrigation pumping loads.

Studies by the Fish and Wildlife Service and by the National Park Service have shown that substantial fish and wildlife and recreational benefits will result from the project when operated under an integrated plan with existing reservoirs. In order to realize the maximum wildlife and recreational benefits from the reservoir, it will be necessary to construct certain facilities for those purposes in connection with the project. The justification for such facilities is explained in the appended reports by those agencies.

The basic plan for Palisades Dam has not been changed, except that the outlet capacity would be increased from 20,000 to about 30,000 cubic feet per second in order to provide more flexibility in the operation of the reservoir for flood control. A more detailed topographic survey of the reservoir area in 1942 showed that the total storage capacity below the originally fixed flow-line elevation of 5,620 feet above sea level is 1,400,000 acre-feet instead of 1,420,000 acre-feet as computed from the earlier survey. With 200,000 acre-feet of the capacity reserved in a dead-storage pool to maintain a minimum powerhead, there would remain 1,200,000 acre-feet of active storage space in the reservoir.

The current estimated cost based on January 1, 1949, price levels is \$76,601,000. The increase over the estimated cost of the project initially proposed is attributable to increases in the costs of construction, which have more than doubled, the expansion of the power facilities, the increase in outlet capacity, and the addition of fish and wildlife and recreational facilities.

Detailed cost estimates for the Palisades Dam and Reservoir project are presented in table 1 on the following page.

TABLE 1.—Construction cost estimate, Palisades Dam and Reservoir project, Idaho

Joint facilities:	
Storage system:	
Right-of-way.....	\$1,102,000
Clearing reservoir.....	1,502,000
Dam, spillway, and outlet works.....	43,045,000
Rehabilitated highways and utilities.....	5,783,000
Perennial improvements.....	1,310,000
Examinations and surveys.....	111,800
Temporary construction property.....	767,000
Operation and maintenance during construction.....	10,500
Subtotal.....	\$51,537,400
Power facilities:	
Hydraulic production plant.....	\$14,382,000
Communications.....	143,000
Examinations and surveys.....	40,000
Subtotal.....	14,565,000
Transmission facilities:	
Power plant switchyard.....	1,078,000
Lines and substations.....	5,022,000
Subtotal.....	7,000,000
Fish and wildlife facilities:	
Right-of-way.....	\$300,000
Improvements.....	50,000
Subtotal.....	350,000
Recreation facilities: Buildings, roads, and sanitation.....	148,000
Grand total.....	\$76,601,000

¹ Flood control measures, downstream from Palisades Dam, under construction at supplemental facilities of the project will have a cost estimated at \$1,200,000, in addition to the total shown above.

LAND AREAS REQUIRED FOR VARIOUS PROJECT FEATURES

On the two maps following are shown the locations and extent of areas which, under present plans, are expected to be acquired for the principal project features, excluding the transmission lines.

The first map, entitled "Area Required for Construction and Administration of Dam and Reservoir and Related Features," shows the dam site (Palisades Dam), the area intended to be acquired for use in construction and the administration of the dam and power plant (shown on the map as enclosed by the hatched "acquisition line"), and the flow line in the vicinity of the dam, the reservoir area, and, in part, the tentative locations of the relocated State Highway No. 29 and the Forest Service road.

The reservoir area is that considered to be needed for reservoir construction and operation and maintenance, according to good engineering, administration, and management practices, including the incidental use for public recreational purposes. The intended land acquisitions for the reservoir area are as follows:

1. In Idaho, to acquire all north of the center line of the river and east of the "acquisition line" to the southerly line of the relocated highway, excepting areas where the reservoir flow line extends north of the relocated highway.

2. In Idaho, between the "acquisition line" near the dam and the point at which the relocated Forest Service road will cross Bear Creek and between the State line and the point at which that road will cross McCoy Creek, to acquire all south of the center line of the river to the northerly line of the relocated Forest Service road.

3. In all other situations, including that covered by the exception in 1, to acquire from the center of the river to a line not less than 300 feet, measured horizontally, above the flow line.

4. In all situations described above, if the area to be acquired according to the foregoing standards would result in the taking of but part of a tract in one common ownership and it would be financially advantageous to take the whole tract to avoid excessive severance damage payments, the whole tract will be acquired.

The area to be acquired for the reservoir is predicated on the building of a dam with a maximum spillway elevation of 5,620 feet above sea level, and, of course, would need to be revised if that elevation is changed.

The acquisitions for the State highway and Forest Service road to be relocated will be governed by the areas and rights required for construction, operation, and maintenance of these roads, the location indicated on the map being tentative only.

The acquisitions for transmission lines and appurtenant facilities will also be governed by the areas and rights required for the construction, operation, and maintenance of these facilities.

The second map entitled "Grays Lake Wildlife Management Area" shows the lands expected to be acquired for the establishment and administration of the Grays Lake wildlife management area, the establishment of which will be made possible through the providing of substitute irrigation storage in Palisades Reservoir.

II. OPERATION PLAN AND BENEFITS

The objective of obtaining the maximum multipurpose use of and benefits from the Palisades Dam and Reservoir project has been paramount throughout the study of the project by all agencies concerned with its development. All plans considered for the operation of the reservoir have been scrutinized carefully to see if each purpose might be increased without detriment to the others. The operating plans and resulting benefits, presented in this section of the report, are, on the basis of the restudies, the optimum that can be obtained from the project in the foreseeable future.

IRRIGATION

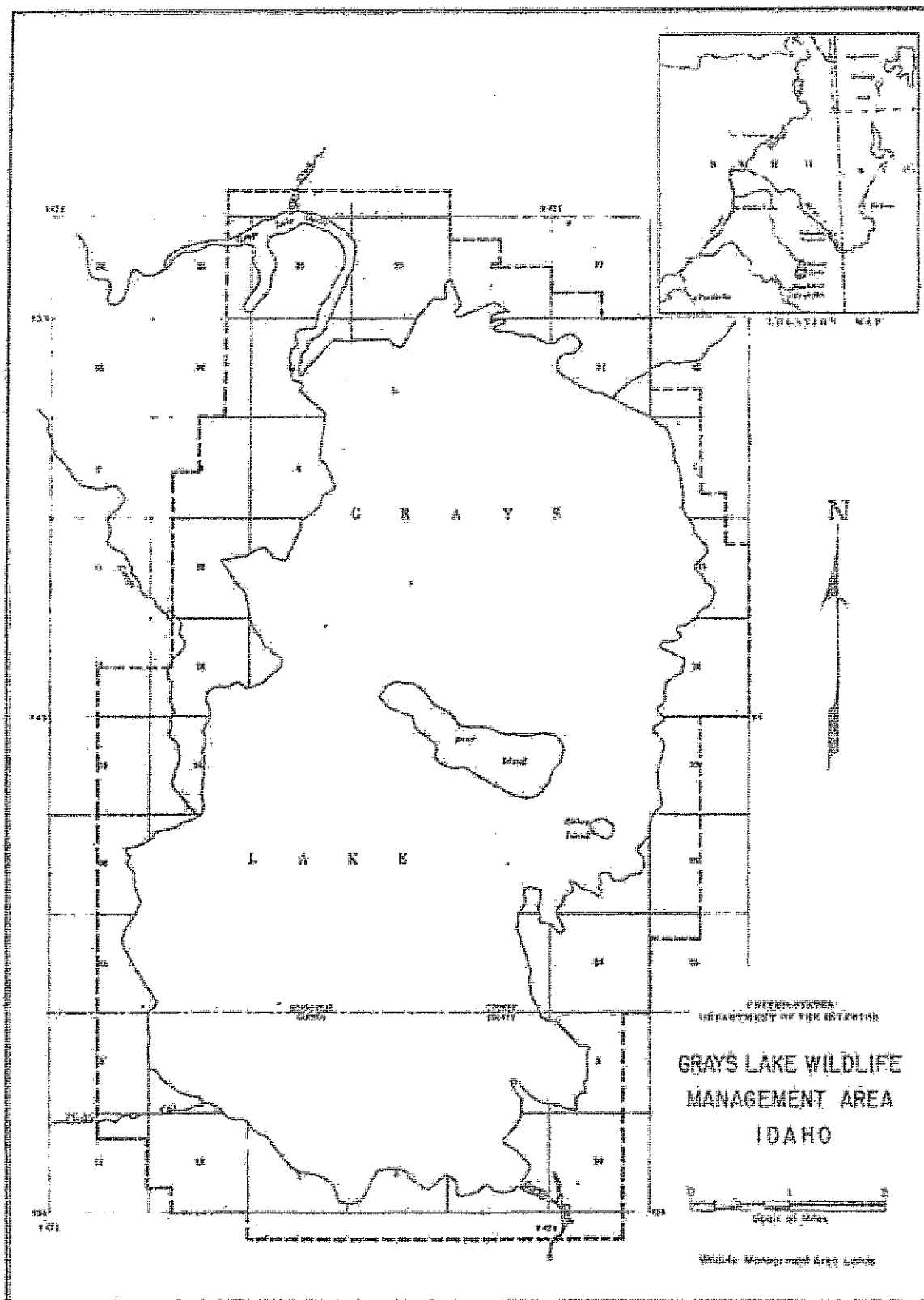
A thorough investigation of present water uses and requirements in the upper Snake River Valley has been made by the Bureau of Reclamation since the project was first authorized. The primary purpose of that investigation has been to provide factual information to serve as a basis for the negotiation of agreements with water users of the valley covering the elimination of water wastage caused principally by winter operation of canals. An associated objective was to gather factual material from which to determine a proper disposition of the 433,593 acre-feet of reserved space in American Falls Reservoir. When

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the American Falls Reservoir, 120 miles downstream from Palisades, on the main stem of the Snake, was completed in 1927, the use of that space then in contemplation was for new land developments. For a number of years shortly following completion of American Falls Dam, that reservoir failed to fill because of an unprecedented drought. The reserved space was, therefore, leased to present water users, an arrangement which in various forms has been in effect ever since.

A report covering the results of that investigation, entitled "Water Supply for Palisades Reservoir Project, Idaho" (project planning report No. 1-5.17-1), was issued by the Bureau of Reclamation in October 1946. The report presented the results of extensive water supply studies of the upper Snake River Valley together with a proposed winter water-saving program and a plan for development of new land. Since the issuance of the report, the Bureau of Reclamation has carried on lengthy negotiations with the water users in an effort to obtain the maximum possible saving of water during the winter from a conservation program and also to obtain agreement as to an equitable disposition of the reserved space in American Falls Reservoir. Various proposals were made by the United States, out of which a compromise agreement, involving these principal points: (1) the elimination by the water users in the upper half of the valley, at their own expense, of the present winter diversions in order to conserve water for storage in Palisades Reservoir; and (2) the disposition of American Falls Reservoir space as follows: 315,000 acre-feet to present lessees, 47,503 acre-feet to be set aside for the North Side pumping division of the Minidoka project, and 71,000 acre-feet to be set aside for the Michaud area. It is estimated that an average of 135,000 acre-feet annually will be saved by the proposed elimination of winter diversions in that area. This winter water-saving program will provide sufficient water for storage in dry years to make the construction of the Palisades Reservoir feasible from the standpoint of yield of irrigation water.

The winter water-saving program involves the elimination of the long-standing practice of supplying domestic and stock water to farmsteads by operating the irrigation canal system throughout the year. A substantial portion of the water diverted into the canals during the winter percolates to the underlying ground-water reservoir which is not tributary to the Snake River above Mill & Dam. Hence, the elimination of winter seepage losses from the canals in such nontributary areas will increase the amount of water available for storage. Reliance on the canals for domestic and stock water has continued through the years because of the high cost of drilling deep wells and pumping water from them and because it is more convenient to water livestock from canals than from wells. Furthermore, there has been no real incentive to save water until another reservoir is constructed on the Snake River. Since the water users involved in the winter water-saving program will incur considerable expense in equipping their farmsteads with wells and will have to forego the convenience of watering livestock from canals, it has been understood among all prospective participants in Palisades Reservoir that those water users who make possible the saving of 135,000 acre-feet of water annually would be given a special right to store that amount of water annually in Palisades Reservoir. This is in effect a bottom storage right in

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After determining the average benefits per acre-foot of additional water for the five sample areas, similar values were assigned to all other areas in the Upper Snake River Valley for which requests for storage space in Palisades Reservoir have been made. These benefits were weighted by the acre-feet of space applied for by the various areas in order to secure a weighted average benefit per acre-foot of water; the weighted average benefit amounted to \$9.17 based on farm prices of the period 1939-44. The average benefit per acre-foot multiplied by the average annual additional supply from the project (216,000 acre-feet) results in total average annual irrigation benefit of \$1,981,000. This is the monetary evaluation of the total annual irrigation benefit from the project. It includes the benefit from the yield of Palisades Reservoir as well as that from the additional water made available through the integrated operation of existing reservoirs in the valley, winter water-saving measures, and increased return flows.

The studies relating to irrigation benefits presented above and repayment ability presented in part IV were directed toward the determination of benefits and repayment ability associated with storage space. All related expenses, including estimated reservoir operation, maintenance, and costs associated with the delivery of water to the farms, were considered as costs in the farm budget analysis. Therefore, further account need not be taken of such costs in the present allocation report, except to show that such costs will exist.

NOTES

The production of power at Palisades Dam will be entirely incidental to the operation of the reservoir for irrigation and flood control. The production of firm power is possible only because a certain amount of water must be passed through the reservoir during the winter to fill the prior storage right of American Falls Reservoir. During the spring and summer months, the releases for flood control and for irrigation will be utilized for production of secondary commercial power and irrigation pumping power to the extent of the turbine capacities. Operation studies of the reservoir show that a continuous or firm output of 15,300 kilowatts could have been maintained throughout the most critical drought in the 60-year period of stream-flow records, except for a 4-month period in 1935 when firm output would have averaged 8 percent less than the above figure. During the peak of the irrigation season and at times when storage is being evacuated for flood control, the plant normally could be operated at its full capacity (412,500 kilowatts).

The average annual production of power during a representative 20-year period (1928-47) would amount to 521,336,000 kilowatt-hours. The distribution in terms of average kilowatts is shown in table 3.

TABLE 3.—Palisades power plant production, Palisades Dam and Reservoir project

Month	Critical stream flow (average of 5 lowest years)	20-year average
October	Thousand of Acre-feet 17.05	Thousand of Acre-feet 41.30
November	10.23	36.87
December	15.78	46.00
January	16.00	70.24
February	16.00	105.16
March	15.23	103.62
April	65.83	50.71
May	47.40	73.56

Power demands in eastern Idaho have shown a steady increase, particularly during the postwar period, and have now reached the point where Diesel-driven generators are being installed by some distributors to relieve power shortages. The city of Idaho Falls (a municipal system) has indicated its desire to purchase all the firm power available from Palisades, and REA cooperatives in this area have also requested power from this project. As further indication of prospective power demands, the recently announced proposal of the Atomic Energy Commission to build an atomic reactor plant west of Idaho Falls still further adds to the general demand for power, not only for the reactor plant, but also for neighboring communities where population and business will be increased by establishment of that plant. Thus, it is evident that the present demand for Palisades firm power exceeds the firm capability of the plant.

In addition to the above demands, prospective irrigation pumping will require a large amount of seasonal energy. The recommended North Side pumping division of the Minidoka project will require approximately 34,000 kilowatts of reliable seasonal pumping power, and the contemplated Michaud Flats development would require about 7,000 additional kilowatts. Other potential pumping loads in the area may require an additional 15,000 kilowatts of summer power. This large pumping load exceeds the supply that would be available from Palsades alone. However, studies of potential power production indicate that the combination of the proposed 30,000-kilowatt American Falls power plant and the Palsades power plant would furnish a reliable power supply well suited in seasonal pattern for irrigation, pumping loads.

As is characteristic of hydroelectric power plants, energy in excess of firm power production can be generated in off-peak periods and in periods of high runoff. By appropriate transmission interconnections and interchange agreements, this energy can be utilized to replace energy generated at fuel plants and to reduce storage drafts in hydroelectric power reservoirs. The proximity of Palisades to the high energy-consuming phosphate developments near Pocatello creates an ideal opportunity to utilize Palisades surplus energy in the above manner. The replacement would also reduce transmission losses.

Summarizing the above, it is estimated that Palisades energy will fall into the following classes after full development of the project:

Class of energy	Million kilowatt-hours per year	Annual revenues
Power	16.4	\$27,000
Surplus	23.0	10,000
Power for transmission	23.4	41,400
Total	62.8	\$78,400

The above \$1,175,000 is taken as a measure of the direct power benefits to be derived from the Palisades project.

The total power benefits attributable to Palisades include, in addition to the above direct benefit, those indirect benefits that would result from the portion of Palisades energy sold to municipalities, cooperatives, and others for resale to ultimate consumers. These indirect benefits (totaling \$456,000) would result from three sources: First, through savings made in the purchase of Palisades power, public, municipal and other utilities in reselling power would be able to pass on to the ultimate consumers savings estimated at \$163,000 annually. Second, indirect benefits represented by income derived by distribution agencies from the retail distribution of Palisades power purchased at wholesale amount to \$351,000 annually. Third, the estimated indirect benefits arising from the use of Palisades power sold by retailing agencies for the production of goods and services would amount to \$142,000. Total annual power benefits thus equal \$1,631,000.

FLOOD CONTROL

The additional detailed studies made by the Bureau of Reclamation and the Corps of Engineers since the project was authorized show that Palisades Reservoir can provide fuller control of major floods than was originally contemplated without adversely affecting the value of the reservoir for irrigation purposes. These studies have resulted in agreement by both agencies on an operating plan whereby the entire active space in the reservoir (1,240,000 acre-feet) will be used jointly for flood control and irrigation purposes. This operating plan, which, with the confirming correspondence, is appended hereto, will provide a basis for regulations to be prescribed by the Secretary of the Army for the use of storage space allocated to flood control, in accordance with section 7 of the Flood Control Act of 1934 (48 Stat. 887).

Studies by the Corps of Engineers have shown that the damages caused by flows up to 20,000 cubic feet per second can be eliminated more economically by levees, excavations, and other channel improvements than by storage in Palisades Reservoir. This fact was recognized in the original project plan, and construction of the works necessary to provide a permanent safe channel with a capacity of 10,000 cubic feet per second through the Hesse-Roberts area was authorized in conjunction with the Palisades Dam project. The Corps of Engineers has proceeded with the construction of these

channel improvement works. The levees are being constructed with sufficient free board to allow safe passage of 10,000 cubic feet per second during major floods, when the entire active capacity of Palisades Reservoir will not be sufficient to control the peak discharge to a lower flow.

The operating plan adopted is predicated on periodic forecasts during the period from February 1 to July 31 of each year, of the volume of run-off expected from the drainage basin of the Snake River above Hesse Island. Experience in this and other watersheds where floods result from melting snow shows that the volume of such flood run-off can be forecast with an average error of less than 10 percent by correlating data on precipitation, temperature, and snow surveys with run-off data. All of such hydrologic data have been obtained in the Snake River watershed during the past 20 years, and steps are now being taken to expand the coverage of the watershed with more survey courses and precipitation gages.

The storage space in Palisades Reservoir to be allocated to flood control each year, under the plan, is based on that space required to control the forecasted flood volume which, in no case, exceeds 20,000 cubic feet per second from the time that the reservoir inflow first exceeds 20,000 cubic feet per second until July 31, insofar as that control can be effected by a reservoir capacity not exceeding 1,240,000 acre-feet. Releases between 20,000 and 10,000 cubic feet per second would be permitted when the storage capacity required to limit the flow to 20,000 cubic feet per second exceeds the active capacity of the reservoir. Seasonal evaporation and filling of the required flood-control space will be controlled by a parametric chart which has been prepared empirically from hydrographs of recorded floods. Provision is made in the plan for adjusting the position of the parametric chart whenever, in the study or operating experience, it shows the need for such adjustment.

Studies by the Bureau of Reclamation and by the Corps of Engineers indicate that Palisades Reservoir operated on a forecast basis, as described in the appended plan, could have limited all of the known floods in the Snake River to flows of 10,000 cubic feet per second or less at Hesse Island. Assuming that the floods which occurred prior to the establishment of snow surveys could have been forecast as accurately as were the floods which have occurred since such surveys were established, all except two or three of the floods occurring since 1890 could have been reduced to 20,000 cubic feet per second at Hesse.

The Corps of Engineers in a reevaluation of flood damages on the flood plain of the Snake River below Hesse Island, under conditions of development in 1941, found that, on the basis of 1934 price levels, the flood-control benefits attributable to Palisades Reservoir for the reductions in flood flows indicated in the preceding paragraph would average \$89,300 annually. The 1934 price levels were used because they correspond closely with the price levels for the period 1937-44 which is noted, were used in determining irrigation benefits. Further, it is considered indicative of long-range future price levels. Because the channel improvement works in the Hesse-Roberts area are now being constructed by the Corps of Engineers as a separate project, data concerning those features are not presented in this report.

FISH AND WILDLIFE

The benefits of Palisades Reservoir to fish and wildlife in the Upper Snake River Valley will depend largely upon how the Reservoir is operated and also upon how its operation affects the operation of other storage reservoirs in the area. The Fish and Wildlife Service of the United States Department of the Interior has conducted a field investigation to determine, first, the net effect of the impoundment upon fish and wildlife values, and, second, whether or not the Reservoir could be used to improve fish and wildlife environments in the surrounding area. The findings of that investigation, covered in the appended report on the project by the Fish and Wildlife Service, are outlined briefly in the following paragraphs.

Flooding of 20 miles of the main stream and 18.4 miles of tributaries, which will occur with construction of Palisades Reservoir, will eliminate stream fishing now practiced in those reaches. There will be substituted, however, the fishing opportunities in the reservoir. Moreover, there will be an increase in the fishery value of the river below the dam brought about through reduction of flood flows. It is estimated that the net effect of these changed conditions on the fishery resource will be a gain of \$11,200 annually.

The wildlife resource in the reservoir basin will be adversely affected to some extent by construction of the reservoir. Some habitat for big game, upland game, and fur animals would be eliminated. Waterfowl would lose good nesting areas, but the value of the reservoir pool for resting purposes would more than compensate for this nesting loss. The net effect of reservoir construction on wildlife would be an estimated loss of \$3,280 annually.

There is, however, an opportunity to increase substantially the wildlife values in the surrounding areas through operation of Palisades Reservoir. This opportunity involves the use of irrigation storage water developed in Palisades Reservoir to replace the water now drawn for irrigation from Grays Lake, and so to permit the exclusive use of that lake as a wildlife refuge. Grays Lake, 25 miles southwest of Palisades Reservoir, in the headwaters of Willow Creek, is an area of excellent wildlife potentialities. In its natural state, the lake was one of the best marsh habitats in the western United States for waterfowl and muskrat. The wildlife value of the lake has been drastically reduced, however, since 1924, when the Indian Service, United States Department of the Interior, constructed control works at the outlet of the lake so that it could be utilized as a reservoir to supply water for irrigation of land in the Fort Hall Indian Reservation.

In order to restore Grays Lake to its natural state and to control its level to create optimum wildlife environment, it is proposed that water from Palisades Reservoir be substituted for that now supplied to the Fort Hall Indian Reservation from Grays Lake. The Bureau of Reclamation and the Bureau of Indian Affairs have agreed that the yield of irrigation water from 55,000 acre-feet of space in Palisades Reservoir would replace adequately the irrigation water supply now drawn from Grays Lake. Realization of the benefit by reason of the Grays Lake restoration is dependent on providing such replacement storage; and therefore, to assure this benefit and justify the nonreimbursable allocation based on that benefit, the indicated amount of space will be allotted to the Fort Hall Indian Reservation, and the

water will be delivered to the reservation lands through existing canals. The Fish and Wildlife Service estimates that the habitat improvement made possible by this exchange of water would increase the annual wildlife value of Grays Lake from a present appraisal of \$35,600 to \$152,400. This represents a gross annual gain of \$116,800. In order to develop a wildlife management area on Grays Lake, required in order to realize benefits of this magnitude, however, it would be necessary for the United States to acquire approximately 9,300 acres of private land and to set aside 3,500 acres of public land, and to construct buildings, outlet structures, fencing, and roads, a total estimated cost of \$350,000. The annual cost of operation and maintenance of these and other necessary facilities is estimated to be \$16,000.

In recapitulation, estimated annual fish and wildlife benefits of Palisades Reservoir derive from the increased value of the fishing resource (\$11,200) and the increased wildlife value of Grays Lake (\$116,800), minus the decreased wildlife value of the Palisades Reservoir (\$3,280). The total benefit, thus, is \$12,720.

RECREATION

It was recognized at the time of authorization that the construction of Palisades Reservoir would provide some recreational benefits, but no attempt was then made to assign them monetary values. Since that time, the National Park Service has made a field investigation to evaluate those benefits. Another objective of the investigation was to obtain data on which to base a preliminary estimate of the extent and cost of facilities which should be constructed along the shore of the reservoir to permit the fullest possible enjoyment by the public of the recreational opportunities. The findings of that investigation, presented in full in the appended report by the National Park Service, are summarized below.

The investigation disclosed that the recreational value of the reservoir area will be enhanced by the construction of Palisades Dam. By coordinating its operation with that of other existing reservoirs in the Snake River watershed, especially Jackson Lake Reservoir, other, more substantial benefits will be realized.

The reservoir basin receives little recreational use at present because there are superior attractions in the general vicinity, and the rough topography of the Palisades Reservoir basin and the fluctuation in water levels during the summer caused by withdrawals for irrigation will not promote greatly increased recreational use. A structure like Palisades Dam, together with the large body of water in the reservoir, however, will attract people to the area. The National Park Service estimates that the reservoir will have an annual attendance of about 6,250 people. In order that the recreational potentialities of the new body of water to be created by construction of Palisades Dam may be enjoyed fully by the public, it will be necessary to develop areas for parking, camping, and picnicking at three locations along the shore and to construct access roads to those areas. In addition, it will be necessary to provide potable water and to construct such facilities as shelters, toilets, boat piers, and buildings at each area. The capital cost of recreational facilities was estimated by the National Park Service at \$98,789 in 1946. Under present construction costs, however, it is estimated that these facilities would cost \$148,000.

The National Park Service considers that the total allocation of costs to recreational purposes would be equivalent to twice the cost of the facilities constructed exclusively for recreation, or \$296,000.

As stated above, operation of Palisades will create much more substantial recreational benefits at Jackson Lake Reservoir, adjacent to Grand Teton National Park. During the past 33 years, Jackson Lake Reservoir has supplied the entire irrigation storage water requirements of the irrigated land in the Upper Snake River Valley served from the South Fork of Snake River above American Falls. This has necessitated heavy drafts on Jackson Lake and wide fluctuation in its level during the height of the tourist travel season from June 15 to September 1. Lowering of the lake level exposes wide stretches of unsightly reservoir bottom and, of course, detracts greatly from the scenic beauty and use of the area.

The unsightly shore line resulting from the wide fluctuation in lake level, which has caused many complaints by thousands of tourists visiting this famous area every summer, will be largely eliminated by construction of Palisades Reservoir. The storage requirements of the lands above American Falls would be met first from Palisades Reservoir. Jackson Lake would be operated as a hold-over reservoir. The latter, therefore, could be held full, with little if any fluctuation during the summer, except during extremely dry years such as 1931, 1934, and 1935. In such years, Palisades storage would have been exhausted, and it would have been necessary then to draw irrigation storage from Jackson Lake. Such a condition would have occurred in only 3 years during the past 60 years of stream-flow records. This plan of operation would greatly increase the recreational value of Jackson Lake. The National Park Service believe that an allocation to recreation purposes in the amount of \$6,000,000 would be justified because of increased tourist use and because of enhancement to the beauty of the foreground of the Grand Teton. This figure has been adopted as the maximum amount of capital cost allocable on a non-reimbursable basis by reason of these benefits. The \$296,000 recreation benefit for Palisades Reservoir combined with the \$6,000,000 recreation benefit from Jackson Lake Reservoir results in a total recreation benefit of \$6,296,000. When reduced to a yearly equivalent, this amount results in an annual benefit of \$244,915.

SUMMARY OF BENEFITS

The total annual benefits for the various functions served by the project are summarized as follows:

Functions:	Annual benefits
Irrigation.....	\$1,981,000
Power.....	4,021,000
Flood control.....	809,330
Fish and wildlife.....	123,000
Recreation.....	244,915
Total.....	\$4,871,245

III. ALLOCATION OF COSTS

Several approaches to the allocation of costs were attempted before selection of the procedure adopted herein, which combines several methods. The allocations of joint costs to recreation, to flood con-

trol, and to fish and wildlife are based on benefits, and, as nonreimbursable allocations, are deducted from the total joint costs, to establish the reimbursable obligation. Allocation of that residual, reimbursable amount to irrigation and power is based upon an average of the priority of use and the alternative justifiable expenditure methods.

NONREIMBURSABLE ALLOCATION

The total annual benefits for the various functions served by the project, as described in part II, above, amount to \$4,871,245. These benefits were reduced to a net basis by subtracting the associated annual costs including operation, maintenance, replacements, runoff forecasting, and the annual equivalent of the direct construction costs. The annual operation, maintenance, and replacement cost, and runoff forecasting associated with the storage system is estimated at \$38,700. Of this amount, \$14,000 has been assigned to operation and maintenance, \$20,700 to replacements, and \$4,000 to runoff forecasting. The assignments to operation and maintenance and to replacements were based upon the operating history of the American Falls Reservoir. The annual cost of runoff forecasting was based upon the expected program and historical costs for carrying on such work. Subsequent assignment of appropriate parts of the annual cost of operation and maintenance and replacement to irrigation, power, and flood control was based upon the relative use of facilities for the various purposes. Subdivision of the annual cost of runoff forecasting among irrigation, power, and flood control was based upon the estimated relative use of the data collected for each of the three functions involved.

In addition to the operation and maintenance costs for the joint facilities, there are also direct annual operation and maintenance and replacement costs associated with specific functions. These are estimated at \$528,000 for the power facilities; \$15,000 for the Grays Lake wildlife area, plus \$1,000 for replacements of improvements; and \$7,600 for the recreational facilities on Palisades Reservoir. It is estimated that the income in the form of rentals and concessionaires' fees will be adequate to meet the annual costs on recreational facilities, which are not otherwise provided for in the project costs. The total annual operation and maintenance and replacement costs are presented in table 4.

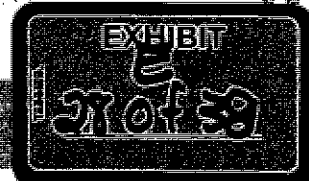
TABLE 4.—Estimated total annual operation and maintenance and replacement costs, Palisades Dam and Reservoir project, Idaho

Function	Joint facilities			Direct operation and maintenance and replacements	Total
	Operation and maintenance	Replacements	Runoff forecasting		
Irrigation.....	\$1,000	\$2,000	\$1,500	\$0	\$4,500
Power.....	1,000	1,000	1,000	\$25,000	\$29,000
Flood control.....	0	11,000	0	0	11,000
Fish and wildlife.....	0	0	0	14,000	14,000
Recreation.....	0	0	0	7,600	7,600

¹ Will be paid by licensees in addition to cost of storage space.

² Includes \$1,000 replacement.

³ Income from rentals will provide for operation, maintenance and replacement costs.



The direct construction costs associated with each function were reduced to their annual equivalents by the application of a capital-recovery factor based upon a 50-year period and 3 percent interest. The total direct annual costs, including operation and maintenance, replacements, and direct construction, were then subtracted from the total benefits to secure the net benefits associated with joint costs, as presented in table 5.

TABLE 5.—Estimated net annual benefits, Palisades Dam and Reservoir project, Idaho

Function	Gross benefits	Operation and maintenance and direct construction costs	Direct annual construction costs	Net annual benefits
Irrigation.....	\$1,081,000	0	0	\$1,081,000
Power.....	1,631,000	409,000	\$235,150	996,850
Flood control.....	690,330	14,600	0	675,730
Fish and wildlife.....	116,000	16,000	12,000	88,000
Recreation.....	241,915	0	\$,750	238,165

The annual net benefits for the various functions normally considered as nonreimbursable were then converted to their present worth by the application of the annuity factor for 50 years at 3 percent interest to determine the allocation of joint costs to each function that would be justified on the basis of such benefits. The amounts thus secured (adjusted) amounted to \$22,733,300 for flood control; \$6,148,000 for recreation; and \$2,455,000 for fish and wildlife. The full capitalized values of the net benefits to flood control, fish and wildlife, and recreation were allocated to those functions as their share of the joint costs. Combined, the allocation of joint costs to flood control, recreation, and fish and wildlife amounted to \$31,336,300.

REIMBURSABLE ALLOCATION

The balance of the joint costs of \$23,201,100 for other functions—irrigation and power—was allocated on the basis of the average of the priority of use and alternative justifiable expenditure methods of allocation. Under the priority-of-use approach, all of the remaining joint costs are assigned to irrigation, since it has prior use of the active space over power. Under the alternative justifiable expenditure approach, single-purpose developments were considered which would result in the same benefits to irrigation and to power derived from the proposed project. It was found that the cost of the alternative, hydro-power project would be greater than the capitalized value of the net power benefit. Therefore, the capitalized value of the net benefit has been taken as the alternative justifiable value of the case of irrigation, however, the cost of a single-purpose irrigation reservoir was used because it was less than the capitalized value of the irrigation benefits. These figures are as follows:

Irrigation.....	
Power.....	\$33,000,000
Total.....	\$,274,000
	49,274,000

Irrigation accounted for 87.27 percent of the total and power for the remainder, or 12.73 percent. These percents applied to the remaining joint cost of \$23,201,100 resulted in the assignment of \$20,247,600 to irrigation and \$2,953,500 to power. By averaging the results of the two approaches, the allocation of \$21,724,400 was made to irrigation and \$1,476,700 to power (table 6).

TABLE 6.—Allocation of estimated remaining joint costs to irrigation and power, Palisades Dam and Reservoir project, Idaho

Function	Priority of use	Alternative justifiable expenditure	Average	
			Amount	Percent
Irrigation.....	83,201,000	\$20,217,600	\$21,724,400	87.27
Power.....	0	2,953,500	1,476,700	12.73
Total.....			\$23,201,100	100.0

The allocation of joint costs to the various functions was then added to the direct construction costs to secure the total allocation to each function (table 7). These allocations are in terms of estimated costs.

TABLE 7.—Allocation of total costs, Palisades Dam and Reservoir project, Idaho

Function	Joint costs	Direct costs	Total allocation
Irrigation.....	\$21,724,400	0	\$21,724,400
Power.....	1,476,700	\$1,608,000	\$3,084,700
Flood control.....	\$2,333,300	0	\$2,333,300
Fish and wildlife.....	\$4,455,000	330,000	\$4,785,000
Recreation.....	\$6,148,000	125,000	\$6,273,000
Total.....	\$41,037,400	\$1,963,000	\$43,000,400

With respect to the allocation to power, a further suballocation to irrigation pumping power is justified in keeping with Reclamation policy and is requisite to the pay-out analysis presented in part IV of this report. Only the portion of the power investment allocated to commercial power is treated as interest bearing in the pay-out analysis.

As described in part II, the power facilities of the Palisades project are designed to supply a large block of seasonal irrigation pumping power through operation in coordination with the proposed American Falls power plant and other Federal plants in the area. Studies of this operation indicate that, under certain water conditions, and at full load development, the Palisades power plant will supply 21,000 kilowatts of power for pumping projects, and at the same time produce 33,000 kilowatts for commercial loads. Under these critical water supply conditions, the Palisades Reservoir would have been drawn down to the dead-storage level by drifts for irrigation purposes, and with the power-plant capability thus limited by reason of operation at minimum head, there would be no generating capacity for production of surplus power. Hence, the above loads are taken as a measure of the dependable capacity of the power plant, and provide a basis

for the suballocation of power facilities, 30 percent to irrigation pumping and 61 percent to commercial power. The suballocation thus obtained is as follows:

Commercial power.....	\$14,055,800
Irrigation pumping power.....	8,986,800
Total.....	23,042,600

The irrigation pumping power produced by the Palisades power plant will be delivered, in the main, to Federal irrigation projects, such as the North Side pumping division of the Minnesota project, which are not a part of the Palisades project. Since these projects will pay for the power at the prevailing rate, that revenue is credited to the Palisades project in the pay-out analysis. Only that revenue, however, has been used as a measure of the irrigation pumping power benefits creditable to the Palisades project. The total irrigation benefits arising from use of the irrigation pumping power should rightly be credited to the projects using the energy.

IV. ECONOMIC JUSTIFICATION AND FEASIBILITY

The Palisades Dam and Reservoir project, in terms of both economic justification and financial feasibility, appears to be a desirable development. Economic justification is shown by the favorable benefit-cost ratio of 1.37 to 1.00. Financial feasibility is indicated by the prospect of full recovery of all reimbursable costs from water users and power users.

ECONOMIC JUSTIFICATION

Upon completing the allocation, benefit-cost ratios were prepared for each function and for the over-all project to determine the project justification. To accomplish this, the total annual construction costs and the annual operation and maintenance and replacement costs were added for each function to secure the total annual costs (table 8).

TABLE 8.—Annual costs for benefit-cost comparison, Palisades Dam and Reservoir project, Idaho

Function	Construction	Operation and maintenance and replacement	Total
Initial cost.....	\$411,000	0	\$411,000
Power control.....	\$652,000	\$552,000	1,204,000
Flood control.....	\$552,000	13,400	565,400
Fish and wildlife.....	10,000	10,000	20,000
Recreation.....	211,915	0	211,915
Total.....	2,077,915	\$575,400	\$2,653,315

1 Direct and indirect costs are apportioned to 20 years at 2 percent interest.

For the purpose of allocating actual costs, when determined, the principles above discussed would be applied as follows: Not benefits to fish and wildlife and recreation purposes in the amounts shown in table 5 will continue to be the measure of the allocation of joint facility costs to these purposes. Net flood-control benefits in the amount shown in table 5, based on the 1946 evaluation, will continue to be the

measure of the allocation of joint facility cost to flood control, until such time as, under authority of law, there may be a revision upward by reason of a reevaluation of the benefits taken into account in the 1946 study or by reason of the benefits attributable to the project in connection with the authorization of a general system of flood-control reservoirs for the control of floods in the main stem of the Columbia River. Allocation of the remainder of the joint facility costs between irrigation and power will be determined by the use of the percentages shown in table 9. Direct, actual irrigation and power costs will, of course, have to be added to the apportioned remaining joint costs to arrive at the actual costs allocable to each. The suballocation of the power allocation between commercial power and power for irrigation pumping will be made on the basis of the relative demand for power for these purposes, as established from time to time by the Secretary.

Total annual costs were compared with the annual benefits (as developed in pt. II) to show the project justification for each component part and for the over-all project (table 9).

TABLE 9.—Benefit-cost ratios, Palisades Dam and Reservoir project, Idaho

Function	Annual costs	Annual benefits	Ratio of benefits to costs
Initial cost.....	\$411,000	\$1,981,000	2.35-1.00
Power control.....	1,204,000	1,734,000	1.43-1.00
Flood control.....	565,400	899,500	1.59-1.00
Fish and wildlife.....	20,000	125,000	6.25-1.00
Recreation.....	211,915	244,915	1.15-1.00
Total.....	2,653,315	4,971,215	1.87-1.00

These ratios indicate that the project is justified from the national point of view even under the present high construction costs.

The "308" Review Report on the Columbia River and Tributaries prepared by the division engineer, Corps of Engineers, Portland, Oreg., recommends the authorization of a system of reservoirs to provide flood control for the Columbia River. The report indicates that the Palisades project, in conjunction with that system of reservoirs, would contribute to the control of floods on the lower Snake and Columbia Rivers, and that the benefits resulting therefrom would warrant a substantial additional allocation to the Palisades project for flood control. This has been tentatively estimated at \$7,500,000. The additional allocation based upon the additional lower river flood-control benefits finally determined to result from the operation of Palisades Reservoir will not be available until the recommended system of reservoirs is authorized. Consequently, such additional benefits were not taken into account in the allocation presented above. Final determination of the flood-control benefits resulting from Palisades may also involve an increase in those used for establishing the allocation presented in table 7, inasmuch as the benefits used for that purpose are predicated on 1946 conditions. In the event that additional allocations to flood control in Palisades Reservoir are found justifiable by reason of the authorization by the Congress of a system of reservoirs for flood control on the Columbia

PALATKA DAM AND IRRIGATION PROJECT

Rever, or for other reasons, it is proposed that additional allocations in such amounts as may be finally agreed upon between the Secretary of the Army and the Secretary of the Interior be made to meet control when authorized on the basis of the procedure followed above.

FINANCIAL PROVISIONS

It is proposed that the allocations noted in part III to flood control, recreation, and fish and wildlife be made nonreimbursable. Allocations for flood control are nonreimbursable as provided in the Reclamation Transfer Act of 1939, and allocations to fish and wildlife are proposed to be made nonreimbursable consistent with the policy established for projects authorized after August 19, 1946, by Public Law No. 742 (74th Cong. 2d Sess.). Allocations for recreation purposes on nonreimbursable bases are proposed in recognition of recreational values and their use to maximize such values obtainable through public developments in the public interest.

The allocations to irrigation and power will be reimbursable. Under farms specified in the Federal reclamation laws the allocation to irrigation and the installation of power facilities to be utilized for irrigation pumping on Federal reclamation projects will be repayable without interest. The allocation to commercial power will be returned to the United States Treasury out of power revenues derived under rates computed in accordance with provisions of subsection (c) of the Reclamation Project Act of 1939.

The farm budget studies used in part II of this report for height determination were also used as the basis of determining farmers' repayment ability for Palatka storage space. As the storage premise it was assumed the farmer would pay no more for water than it was worth to them in the . This amount is normally called the economic value of water, and it is measured by the increase in the family farm earnings less the value of the increased amount of unpaid family labor. It does not purport to measure the total repayment ability but only that resulting from the increased supplies of irrigation water.

The economic value of supplemental water delivered at the canal headgate varies according to the productivity of the irrigated land and the amount of water required for proper irrigation. In the portion of the valley north of Idaho Falls where the soils are predominantly gravelly and have canal diversions are required (3 to 12 acre-feet per acre), the estimated value ranges from \$1.35 to \$2.25 per acre-foot and averages about \$2.25 per acre-foot and averages about \$2 per acre-foot. In the remainder of the valley where the soils are relatively productive and diversions range from 5 to 8 acre-feet per acre, the estimated value ranges from \$2.25 to \$3.75 per acre-foot and averages \$4 per acre-foot. Since it is impractical to vary the charges for storage space, however, it will not be possible to realize these values in the term of payment of the project costs. In addition to this practical consideration a portion of the value assigned to the Idaho Falls water is attributable to an insurance factor—a value dependent on the frequency of occurrence of an extremely dry cycle. It was assumed that such a cycle might occur once during the repayment period, though the available stream flow and precipitation records in that general locality tend

PALATKA DAM AND IRRIGATION PROJECT

to show that close frequent recurrence may be expected. If the latter proves to be the case, a lesser need and consequently a lesser value could be realized. When account is both of this uncertainty, which has bearing on the value, and the fact that approximately 30 percent of the project water will be used on the area (about 136,000 acres) north of Idaho Falls where it would have a value at the head end of the canal, it is concluded that a reasonable charge for storage space would be the equivalent of about \$2 per acre-foot of water delivered to the canal headgate. An higher charge would result in an excessive burden on the large area which is fully in need of supplemental water and could not have sufficient amount of the uncertainty of the value indicated on the use of an insurance supply.

The average annual delivery of water from Palatka Reservoir to the alluvial farms is expected to be 147,000 acre-feet. Records of river operation indicate that approximately 102 percent of the amount will be lost in transit to the canal. Therefore, the actual diversion to canals is expected to be about 149,000 acre-feet annually. At \$2 per acre-foot an annual revenue of \$2,980,000 would be secured, or a total of \$19,220,000 in 20 years. On this basis, the losses, less (1) \$1,455,000 (one-foot) would be valued at \$9.01 per acre-foot. It is promised that this value be returned and the rate set at 50 percent back on the basis of the presently authorized 40-year repayment period. A rate of this amount will result in a return of \$10,000,000 by irrigation and will leave \$1,455,000 of the total irrigation allocation of \$1,724,400 to be repaid by other means. It is proposed to repay this amount by application of the interest component of the combined power revenues implemented as necessary by additional power revenue.

Costs which are properly assignable for repayment out of power revenues include (1) the cost of purchase and installation of power generation, transmission and consumption equipment including necessary buildings and incidental expenses, (2) power operation and maintenance expenses, (3) power facility replacement costs, and (4) that part of the operation and maintenance properly allocable to irrigation which is in excess of the water utility ability to repay within the period provided by law.

For the purposes of this report, though not required by law, it has been assumed that repayment of these costs will be effected within 50 years from the time that the last unit of the power plant is placed in service. Furthermore, it has been assumed that there will be a development period of five years in which no revenue will be realized and that Palatka power units in service. In order that revenues may continue to be derived over the entire 50-year repayment period, all necessary replacements of power and transmission equipment must be made. The annual provision for replacements is estimated at \$260,750 with all units installed and the total for the repayment period, including the development period, would amount to \$12,774,100. Excess annual operation and maintenance expense for the power plant and transmission facilities, together with the share of the reservoir operation and maintenance costs allocated to power, are estimated to be \$283,250 annually, or \$16,835,000 during the repayment period. The total construction costs and annual expenses to be returned from power revenues during the 50-year repayment period are summarized as follows:

Construction costs:	
Commercial power facilities	\$14,055,800
Irrigation power facilities	8,936,500
Irrigation facilities	11,419,800
Annual expenses:	
Power facility replacements	13,794,100
Operation and maintenance	16,833,300
Total	64,089,100

For the purpose of determining the financial feasibility of the project, the gross annual power revenue was obtained by applying to the estimated salable energy the following average power rates which meet the rate standards of subsection 9 (c) of the Reclamation Project Act of 1939:

Class of energy:	Rate per kwh-yr
Firm	4.0
Irrigation pumping	3.0
Nonfirm	2.0

The revenues thus estimated are expected to amount to \$1,175,400 annually after the project is fully developed. The total power revenues during the repayment period would be \$84,526,000, leaving a surplus of \$436,900.

Since the operation of the Palisades power plant will be coordinated with that of the American Falls power plant, the two plants were treated as a system in the financial analysis. The repayment period for the two-plant system was taken as 57 years because the American Falls power plant will be scheduled for operation 1 year earlier than the Palisades plant. The results of the combined pay-out study show that the estimated system revenues would be sufficient to cover all Palisades and American Falls costs assignable for payment out of power revenues during the assumed repayment period. The interest on the Palisades commercial power investment, as computed in the combined pay-out study, would amount to approximately \$5,372,000. This amount, together with \$5,047,400 of additional payment out of power revenues, would be sufficient to cover the \$11,419,800 irrigation allocation which is in excess of the prospective revenue by users.

The repayment of reimbursable construction costs summarized as follows:

Irrigation allocations:	
Payment by water users	\$10,305,000
Interest earned on power investment	6,372,000
Additional payment out of power revenues	6,047,400
Power allocation paid from net power revenues	23,042,300
Total	44,766,700

If the Palisades power plant were operated independently, the return would be the same as shown above and the financial feasibility of the project would not be affected. The interest component would be somewhat greater, however, and the amount of additional power revenues required for retirement of the irrigation costs would be correspondingly less.

In order to demonstrate the feasibility of the entire project, the cost allocations and the repayment of the reimbursable costs, based on the combined pay-out study, are summarized in table 10.

TABLE 10.—Summary of cost allocation and repayment of reimbursable costs, Palisades Dam and Reservoir project, Idaho

Allocation of costs:	
Reimbursable:	
Irrigation	
Power	\$21,724,400
Commercial power	\$14,055,800
Irrigation pumping power	8,936,500
Total reimbursable	23,042,300
Nonreimbursable:	
Flood control	44,766,700
Fish and wildlife	22,732,900
Recreation	2,805,000
Total nonreimbursable	6,334,300
Total	70,801,000
Repayment of reimbursable costs:	
Irrigation:	
Payments by water users	\$10,305,000
Application of interest component earned on power investment	6,372,000
Additional payment out of power revenues	6,047,400
Power: Payments from net power revenues	21,724,400
Total reimbursable	23,042,300
Total	44,766,700

In addition to the purposes considered in the allocation and pay-out analysis, there is a possibility that other miscellaneous purposes, including particularly municipal and industrial water, will be served by the project. The extent of such use that can reasonably be justified is a matter to be worked out with the irrigation interests and no attempt has been made to allocate costs to these purposes. It is proposed, however, to set up a maximum amount of space that might be made available for these purposes. Then if requests for water for such purposes are found to be justified, allocations of space within this maximum will be made and rates therefor would be set in accordance with Federal reclamation laws and departmental policy. In no event would the price, exclusive of interest which may be required to be paid, be less than the amount charged for irrigation storage space.

The allocations and the terms for repayment of reimbursable costs shown above, it has been indicated, are based on estimated costs. The procedure to be followed in the event that increased flood-control benefits may be found and an increased allocation to that purpose may prove warranted has been presented in part III. Should actual costs incurred differ from those estimated herein, the allocation of final cost would be in accordance with the principles presented in part III.

There remain to be considered, however, procedures with respect to the repayment of the reimbursable joint-facility costs in the event these costs differ for any reason from the estimate appearing herein. Should those reimbursable joint-facility costs be greater, it would be necessary that the increase be paid out of power revenues, inasmuch

at the charge of 39 per acre-foot of space in Palisades Reservoir (used herein as substantially the maximum amount that water there could reasonably be expected to repay within a 40-year repayment period). Should the reimbursable joint-facilities costs be less than those presented above, it is proposed that half of the amount of their inclusion in the irrigation allocation be subtracted from the amount payable by water users, provided, however, that the cost of storage space in no event be reduced below 37.25 per acre-foot.

V. Recommendations

It is recommended that:

1. The following principal works and facilities incidental thereto, constituting the Palisades Dam and Reservoir project, Idaho:

Palisades Dam and Reservoir and facilities incidental thereto, Palisades Power Plant, transmission lines and facilities incidental thereto;

Fish and wildlife facilities, including the installations at Grays Lake and

Recreational facilities at Palisades Reservoir

be authorized and authorized for construction, operation, and maintenance under the Federal reclamation laws (Act of June 17, 1902, 22 Stat. 388 and any amendments thereof or supplementary thereto) substantially in accordance with the plans set forth in this report with such modifications, omissions, or additions to the works as the Secretary of the Interior may find proper for the carrying out of the project to the end of providing active storage capacity in Palisades reservoir of approximately 1,200,000 acre-feet of productive hydroelectric energy with a plant of approximately 112,500 kilowatt capacity and providing transmission facilities in the Upper Snake River Valley for connection of this plant with other Palisades power plants and pumping projects and for service to preference customers under the Federal reclamation laws, and of accomplishing the other purposes of the project.

2. The use of the active capacity in Palisades reservoir be jointly for irrigation storage and flood control; the allocation of space to flood control to be determined from time to time as provided in the operating plan set out in Appendix A of this report, as that plan may be modified as therein indicated.

3. Of the total cost of construction of the Project, there be allocated on a non-reimbursable basis the following amounts:

(a) On account of flood-control benefits, \$27,723,200, subject to revision upward if, under authority of law, there is a revaluation of the flood-control benefits attributable to Palisades Reservoir by reason of the authorization of any system for the control of floods in the main stem of the Columbia River or for any other reason.

(b) On account of benefits to fish and wildlife, \$2,800,000, on the condition that the Bureau of Reclamation make 55,000 acre-feet of Palisades capacity available as replacement storage for that now provided by Grays Lake substantially in accordance with the recommendations of the report of the Fish and Wildlife Service set out in Appendix B, and that the other recommendations of that report be carried out by the Bureau of Reclamation to the extent practicable having regard for the primary purposes of the project.

(c) On account of recreational benefits, \$6,200,000, appropriations required to construct facilities required for recreation of items (b) and (c) of this recommendation shall be made available to the Bureau of Reclamation for direct expending or for transfer to another Federal agency to construct the facilities.

4. In connection with the non-reimbursable allocation of construction costs on account of fish and wildlife, flood control and recreational benefits, portions of the annual costs of operation, maintenance and replacement properly allocable to these benefits, including those related to the hydroelectric works, to be made on a non-reimbursable basis the necessary appropriations for those purposes to be made to the Bureau of Reclamation for direct expenditure or for expenditure through the operating agencies.

5. That be adopted the formula stated in part III of this report for allocating the non-reimbursable construction costs of the joint use facilities between irrigation and power and for allocating the power costs between commercial power and power for irrigation pumping and the plan for assigning 60 per centum for irrigation pumping construction costs of not to exceed 50 per centum of capacity (this totaling \$10,302,000 for 1,145,000 acre-feet of active capacity, and an average of the 55,000 acre-feet allocated as replacement for Grays Lake storage) subject to reduction in accordance with a formula to be determined by the Secretary of the Interior when the facility costs finally determined are less than the amount used in this report, the amount to be repaid by these water users in no event to exceed to be less than 37.25 per acre-foot of capacity.

6. The Secretary directs that to exceed 35,000 acre-feet of active capacity in the reservoir in addition to that set aside for the Grays Lake replacement, 10 per centum and after miscellaneous purposes, the water users contributing to the use of such capacity to be required to repay at minimum, exclusive of an appropriate share of operation and maintenance cost and of whatever interest is required to be paid an amount per acre-foot equivalent to that required to be repaid by irrigation water users, but with authority in the Secretary to establish such higher charge as he finds to be proper.

R. V. NEWELL, Regional Director

EXHIBIT
B-310-33
23 of 39

control all of the known floods of Snake River to releases of 30,000 second-feet or less at Haiso, Idaho. Under the assumption that the floods which occurred prior to the establishment of snow surveys could have been forecasted within the same limits as developed for the later floods, all except two or three of the floods occurring since 1880 could have been reduced to 20,000 second-feet or less.

It will be appreciated if you will indicate by letter to me your approval of this plan developed by our representatives and agreed upon at field level, and your intention to recommend to the Secretary of the Army that he prescribe regulations for operation of the reservoir, in accordance with this plan.

It is my understanding that on the basis of this plan, the district engineer made a reevaluation of flood control benefits. According to flood-damage data included in his letter of November 7, 1947, to Mr. Newell annual flood-control benefits at 1943 price levels creditable to Palisades Reservoir are as follows:

Annual damages with uncontrolled natural flows	\$1,208,810
Incidental control by Jackson Lake	\$136,470
Controlled by levee system	94,820
Remaining damages with levees and reservoirs	78,100

Annual benefits creditable to Palisades Reservoir	308,480
	898,330

The 1943 price level was used as corresponding more closely with the price levels for the period 1839-44 used in determining irrigation benefits than the 1947 price level also used by the district engineer. It will be appreciated if you will in your reply, indicate whether or not you concur with the damages and benefits presented by the district engineer.

I am making these two requests at this time in order that Mr. Newell may complete those negotiations with prospective water users which must be concluded before construction of the dam is actually undertaken.

Sincerely yours,

MICHAEL W. STRAUS, Commissioner.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington 25, D. C., January 28, 1948.

MR. MICHAEL W. STRAUS,

Commissioner, Bureau of Reclamation,

Department of the Interior, Washington 25, D. C.

DEAR MR. STRAUS: Reference is made to your letter dated December 31, 1947, with which you enclosed a copy of the final draft of the plan of operation for the Palisades Reservoir prepared by a working group designated from our two agencies and requesting my approval of the plan and intention to recommend to the Secretary of the Army regulations for operation of the reservoir in accordance with the approved plan, and evaluation of benefits.

Based on the plan of operations submitted with your letter of December 31, 1947, I concur in the estimate of flood-control benefits expected to accrue from the operation of the reservoir in accordance

APPENDIXES

FLOOD CONTROL

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington 25, D. C., December 31, 1947.

LA. GEN. RAYMOND A. WHEELER,
Chief of Engineers, Department of the Army,

Washington 25, D. C.

MY DEAR GENERAL WHEELER: On September 4-5, 1947, representatives of the Portland, Oreg., district and North Pacific division offices, Department of the Army and members of your staff met with representatives of our region I office and my staff in Washington to discuss an operating plan for Palisades Reservoir satisfying the requirements of regulations to be prescribed for the use of storage allocated to flood control as provided by section 7 of the Flood Control Act of December 22, 1944. A working group designated from our two agencies at that meeting developed an operating plan which was later modified in minor degree and submitted by the regional director in draft, dated November 3, 1947, to the district engineer. The district engineer advised the regional director that with a one-word addition the operating plan would be satisfactory. That change has been made.

I am enclosing a copy of the final draft of the plan found satisfactory by the district engineer, for your consideration. This plan provides for periodic forecasts, during the period February 1 to July 31 of each year, on the basis of precipitation, temperatures, snow surveys and runoff data, of the volume of runoff expected in the drainage basin of the Snake River above Haiso, Idaho. The storage space in Palisades Reservoir allocated to flood control is defined as that space in the reservoir, using the governing forecast of flood runoff for the year according to prescribed operating parameters, required to control the forecasted flood volume from the time in that year reservoir inflow first exceeds 20,000 second-feet through the succeeding July 31, by releases not exceeding 20,000 second-feet at the Haiso gage insofar as that control can be effected by a reservoir capacity not exceeding 1,200,000 acre-feet. Tentative allocations would be made on the basis of forecasts made before the governing forecast (as of the time inflow exceeds 20,000 second-feet), to control evacuation of space prior to that time. Releases between 20,000 and 30,000 second-feet would be permitted in case the indicated capacity to control the flood exceeds the total active capacity, but would not exceed 30,000 second-feet except under the extraordinary circumstances of a full reservoir when release would equal inflow.

Studies by our Regional office indicate that Palisades Reservoir, operated on a forecast basis as described in the plan, could adequately

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with that plan. As you know, our responsibility under section 7 of the 1914 Flood Control Act is for the prescription of regulations for the use of storage allocated for flood control or navigation. The Department of the Army does not propose to issue regulations under section 7 of that act until the structure is placed in operation. I can assure you, however, that my recommendations to the Secretary of the Army for regulations under section 7 will be in accordance with the allocations for flood control as contained in the adopted plan of operation.

Sincerely yours,

R. A. WHEELER,
Lieutenant General, Chief of Engineers.

OPERATING PLAN FOR PALISADES RESERVOIR, PALISADES PROJECT

The Bureau of Reclamation plans to construct and operate Palisades Reservoir for the optimum multiple-purpose use of the entire storage of 1,400,000 acre-feet. To attain this objective, the storage below elevation, 5,497 feet mean sea level, approximating 200,000 acre-feet, will be reserved for dam storage and allocated exclusively to the production of hydroelectric power and the maintenance of a permanent pool for the preservation and propagation of fish and wildlife. The remainder of the storage capacity in the amount of 1,200,000 acre-feet will be operated in the joint interests of irrigation and flood control governed by the best available runoff forecasts.

The Bureau of Reclamation will forecast from time to time during the period from February 1 to July 31 of each year, on the basis of precipitation, temperature, snow survey, and runoff data, the volume of runoff that may be expected in the drainage area tributary to the Snake River above Heise, Idaho. To the extent that such services can be arranged for by cooperative agreements, the Bureau of Reclamation will make the forecasts hereunder after consultation with the reclamation engineer of the State of Idaho or his authorized representative, and the Chief of Engineers or his authorized representative. To facilitate the forecasting of runoff the Bureau of Reclamation will expand the existing hydrologic network and will establish and operate continuously a system for the efficient assembling and analyzing of the basic data. Until such time as a better method of forecasting be devised, the forecasts will be based upon estimates of area-elevation weighted snow water content as determined from periodic snow surveys on or about February 1, March 1, April 1, and May 1, and upon precipitation for September of the preceding year. A sample curve of the correlation between weighted snow water content on April 1 and given year plus precipitation of the preceding September and the resultant runoff from April 1 to July 31, inclusive, of the year in question, is shown on plate II.

At the end of accomplishing the optimum multiple use of the reservoir the Bureau of Reclamation, beginning with the first year the reservoir is put into operation, will operate the reservoir on the basis of the forecasted runoff as nearly as practicable in accordance with the following plan:

For the purpose of rules and regulations to be prescribed by the Secretary of the Army under section 7 of the Flood Control Act of

1914 (38 Stat. 887, 890) the storage space allocated to flood control is defined as follows:

It is the reservoir space which, using the governing forecast of flood runoff for the year, according to the curves shown on plate I is required to the end of confining the forecasted flood volume from the time in that year that reservoir inflow first exceeds 20,000 second-feet through the succeeding July 31 by releases from the reservoir during that period such that the flow at the Heise gate will not exceed 20,000 second-feet, insofar as this control can be accomplished with a reservoir capacity not exceeding 1,200,000 acre-feet. The governing forecast of flood volume for each year is the forecast made as of the day when reservoir inflow in that year first exceeds 20,000 second-feet.

The parameters shown on plate I, empirically derived from floods of record, are enveloping curves of the storage requirements for various volumes of total forecast runoff from any given date to July 31. The reservoir capacity required in control the flood to a discharge of 20,000 second-feet (or less) below the dam is indicated by the ordinate of the parameter corresponding to the forecasted runoff on the date when the inflow to the reservoir exceeds 20,000 second-feet.

2. During the period of each year from the date of the first forecast about February 1 to the date of making the governing forecast for that year (approximately the middle of May) herein designated as the evacuation period, the reservoir will be operated in such a manner that the required reservoir level as determined by the parameters on plate I at the time inflow to the reservoir exceeds 20,000 second-feet can be attained with minimum practicable runs and fluctuations of discharge. The rate of discharge during the evacuation period would be determined as follows: The reservoir level required on or about May 15 (the date on which inflows normally may be expected to exceed 20,000 second-feet) would be estimated by use of the parameters on plate I and a May 15 forecast would be derived by deducting probable minimum inflows for the intervening period from the date of periodic forecasts beginning on February 1. The reservoir levels thus estimated would comprise tentative allocations of flood control space at which to aim the evacuation procedure. The rate of discharge then would be selected as that required to release the probable maximum inflow for the period between date of forecast and May 15 plus the evacuation necessary to attain the required reservoir level indicated by the latest tentative allocation.

3. From the date of the governing forecast each year through July 31 of that year herein designated the filling period, the reservoir shall be operated in such a manner that the reservoir content shown on the chart (pl. I) will be maintained but not be exceeded except when storage above those levels is required to limit the flows to 20,000 second-feet at Heise. When the forecasted runoff indicates a required storage capacity in excess of the total active storage capacity of the reservoir, releases in excess of 20,000 second-feet will be made as required but at rates not to exceed 30,000 second-feet, except as indicated in paragraph 4 below.

4. Whenever the pool shall have risen above elevation 5,629, the full reservoir level, due to an extraordinary excess of inflow over the maximum releases permitted under paragraph 1 or is expected to rise above that level within the next 48 hours, releases may be increased temporarily above those previously specified, so as to minimize the peak rate of release and to draw the reservoir down to the full reservoir level as rapidly as possible. However, the maximum rate of such

extraordinary release shall not exceed the estimated maximum mean daily rate of inflow to the reservoir during the period when the reservoir level is above elevation 5,620.

5. All reservoir releases made as herein provided are subject to the condition that no releases shall be made at rates or in a manner that would be inconsistent with whatever operating rules and regulations are laid down by the chief engineer of the Bureau of Reclamation for the purpose of protecting the dam and reservoir from damage.

If operating experience indicates the desirability thereof, the Secretary of the Interior may, after consultation with the Secretary of the Army, modify from time to time the operating plan herein described with respect to the amount of space allocated to flood control each year on the basis of advance forecasts as to runoff, but no modification which would result in a substantial change in the control of floods herein stated to be the objective of the original operating plan shall be made without the concurrence of the Secretary of the Army. Revisions of the rules and regulations prescribed under the Flood Control Act of 1944 will be made by the Secretary of the Army if, in his judgment, these are requisite because of such modifications in flood control space allocations. Modifications in the operating plan not requiring the concurrence of the Secretary of the Army shall not be the occasion for a revision of the conclusions originally reached as to the flood-control benefits to be realized from the original operating plan or of the formula adopted for the allocation of construction costs to flood-control purposes.

A REPORT ON FISH AND WILDLIFE RESOURCES IN RELATION TO THE PROPOSED PALISADES RESERVOIR PROJECT, SNAKE RIVER, IDAHO AND WYOMING¹

Basin and location: Pacific Northwest Basin, Snake River subbasin; Bonneville County, Idaho, and Lincoln County, Wyo.

Sponsor: Bureau of Reclamation, region 1, Boise, Idaho.

Sponsor's status of project: This project has been authorized under Reclamation Project Act of 1939 (53 Stat. 1167) and construction has started.

Bureau of engineering data: Bureau of Reclamation, Region 1, Boise, Idaho.

Field investigation: August and September 1946 and May 1947.

Report prepared: December 1947.

SUMMARY

The project proposes the construction of Palisades Dam at Calamity Point, Idaho, as a means of supplementing the water supply for 650,000 acres of irrigated lands, which now receive their water supply from the Snake River and its tributaries above Milner, Idaho. The reservoir would furnish flood protection for 100,000 acres of highly developed agricultural land in the vicinity of the towns of Heise and Roberts, Idaho. Plans for the project also include power development at the dam.

The dam would be 262 feet high and would create a reservoir approximately 20 miles long and about 1.5 miles wide. The normal high pool at elevation 5,630 feet would have a capacity of 1,400,000 acre-feet, with 16,150 surface acres.

¹ Field work and report by three basin studies staff, Fish and Wildlife Service, region 1, Portland, Ore.



NOTES:

1. Parameters are anticipated flood run-off of Snake River at Halse in millions of acre-feet for the remainder of the season from any given date to July 31. The anticipated run-off is the forecasted flow at Halse less the storage capacity available in Jackson Lake. A minimum of two hundred thousand acre-feet of storage space in Jackson Lake will be held vacant until May 1 of every year unless the forecast indicates that storage should begin earlier to insure filling that space.
2. Storage reservation based upon a release which would give a maximum regulated flow at Halse of twenty thousand second-feet.

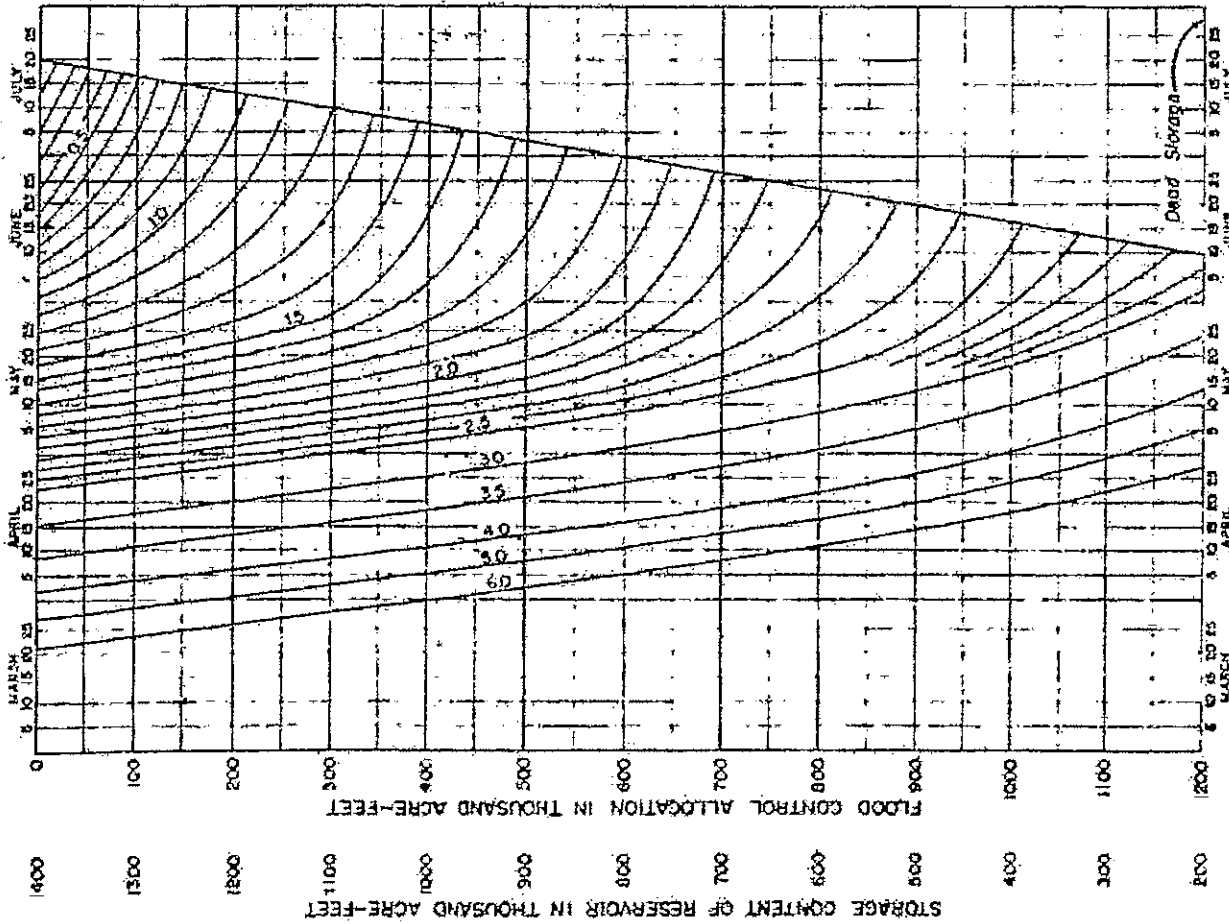
UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

PALISADES RESERVOIR PROJECT
IDAHO

ALLOCATION OF FLOOD CONTROL SPACE

BOISE, IDAHO OCTOBER 31, 1947

71597-O-51 (Page p. 32) No. 1



EXHIBIT

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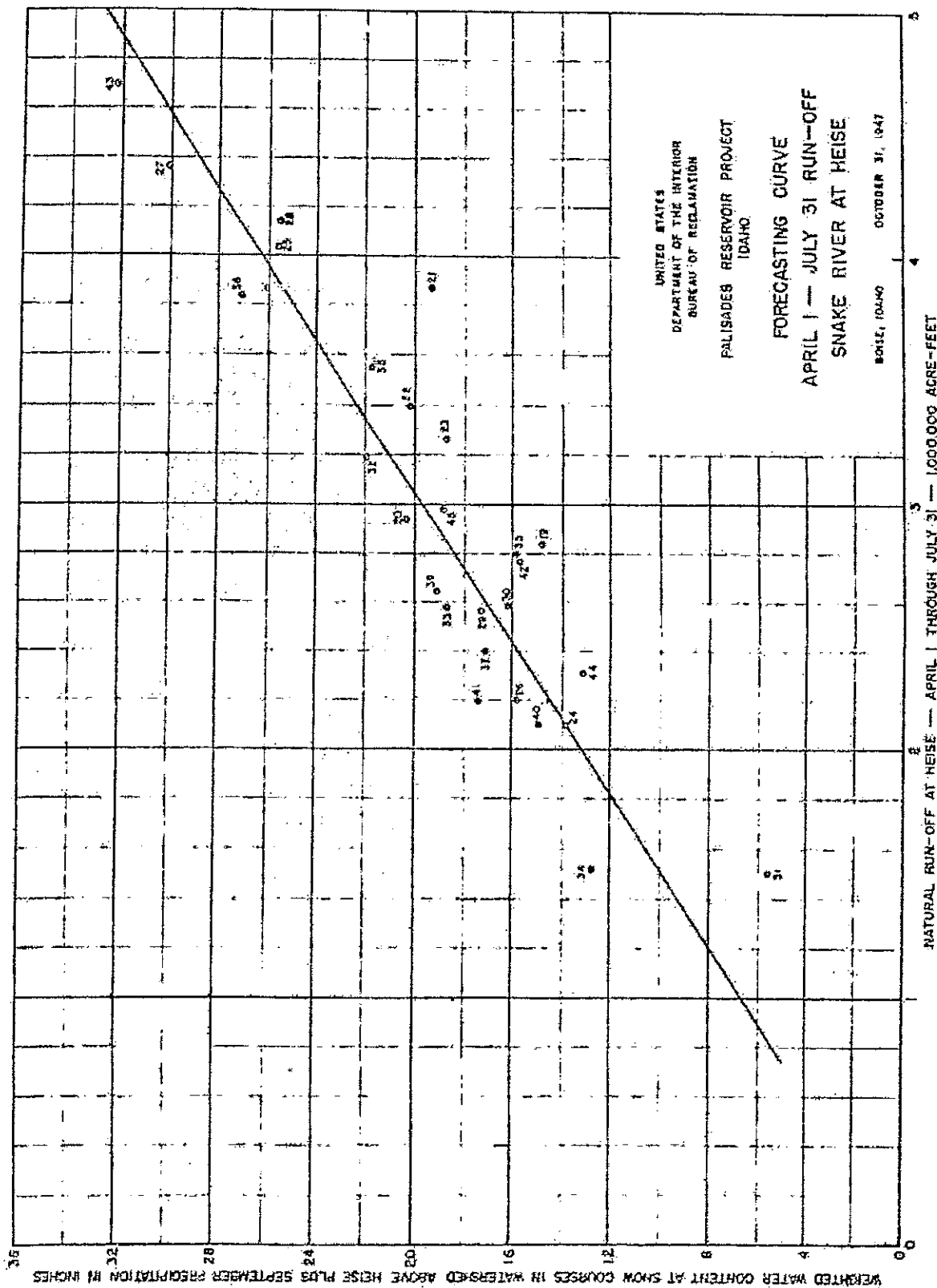


Exhibit F

American Falls PowerPlant

Definite Report

AMERICAN FALLS POWERPLANT

Minidoka Project, Idaho

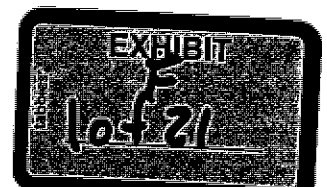
DEFINITE PLAN REPORT

VOLUME 1

GENERAL PLAN

JULY 1956

93



SUMMARY

American Falls Powerplant, Idaho

LOCATION: Idaho, in Power County at American Falls.

AUTHORIZED: Public Law 864, 81st Congress, 2nd Session; approved September 30, 1950 with an expenditure limitation of \$6,600,000.

PLAN

The selected plan of development involves construction of a powerplant consisting of three 10,000-kilowatt units on the right bank of Snake River immediately below American Falls Dam. The powerplant will utilize water released to satisfy downstream irrigation and power rights and the power produced will be used to provide pumping energy needed on the Minidoka North Side and Michaud Flats Projects. The operation of the powerplant will be coordinated with the Palisades and Minidoka powerplants.

PHYSICAL FEATURES

American Falls Powerplant

Installed capacity (3 units at 10,000 kw.) - 30,000 kw.
Powerhouse - 70 feet wide by 147 feet long
Operating head - 50 to 107 feet

HYDROLOGY

American Falls Reservoir is operated in coordination with Jackson Lake, Island Park, Palisades and Lake Walcott Reservoirs to supply irrigation water to several hundred thousand acres of land in the upper Snake River Basin. Releases from American Falls Reservoir for irrigation downstream, power requirements and waste will be passed through the American Falls powerplant up to the capacity of the plant.

COSTS (Official Estimate dated April 20, 1956)

Powerplant	\$8,291,000
Switchyard	654,000
Total construction cost	<u>\$8,945,000</u>

BENEFITS, ALLOCATIONS AND REPAYMENT

	<u>Benefits Annual</u>	<u>Cost Allocation</u>	<u>Repayment</u>
Power	\$515,910	\$8,945,000	\$8,945,000
Commercial	0	0	0
Irrigation	515,910	8,945,000	8,945,000



Summary - American Falls Powerplant, Idaho

The American Falls powerplant will be integrated financially with the Palisades powerplant for payout purposes. Under this plan all financial requirements of the two plants will be met 34 years after the installation of the last generating unit at Palisades.



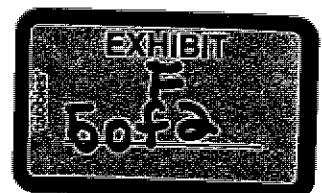
C O N T E N T S

	Page
CHAPTER I, INTRODUCTION	1
LOCATION, PURPOSE AND GENERAL PLAN	1
HISTORY	2
IDAHO POWER COMPANY PLANTS	2
PREVIOUS INVESTIGATIONS AND LEGISLATIVE AUTHORIZATIONS	2
CHAPTER II, PLAN OF DEVELOPMENT	4
GEOLOGY	4
Foundation Rock	4
Faulting	6
Ground Water	6
Construction Materials	6
POWER FACILITIES	7
Powerplant	7
Engineering Preparations	7
Design	7
Penstocks	7
Fixed-Wheel Gates	8
Electrical Features	8
Turbines	8
Generators, Generator Circuit Breakers, and Protective Equipment	9
Accessory Electrical Equipment	9
Powerplant Mechanical Equipment	10
Transformers and Switchyard	10
Transmission Line	11
ACCESS ROAD	11
GENERAL PROPERTY AND TEMPORARY CONSTRUCTION FACILITIES	11
ESTIMATED COST	12
Construction	12
Operation, Maintenance and Reserve for Replacement Costs	12
CHAPTER III, WATER SUPPLY	13
CONTRACTS WITH IDAHO POWER COMPANY	13
Contract No. Ilr-733, June 15, 1923	14
Rights Acquired by the United States	14
Rights Reserved by the Idaho Power Company	15
Storage Rights Granted the Idaho Power Company	17
Contract No. Ilr-801 - October 1, 1934	19
MINIDOKA POWER RIGHT	20
STREAM REGULATION AND STORAGE	20
River Operation Studies	21
Study Period	21
Irrigated Areas	21
Irrigation Requirements	22
Domestic Requirements	22
Power Requirements	22
Henrys Fork Operations	22



Contents

	Page
Available Water	23
Winter Water Saving	23
Jackson Lake Reservoir	23
Palisades Reservoir	24
Palisades Powerplant	24
American Falls Reservoir	24
American Falls Powerplant	24
Lake Walcott	25
Minidoka Powerplant	25
Allocation of Reserved Space, American Falls Reservoir	25
Available Water Supply, American Falls Powerplant	26
CHAPTER IV, POWER	28
POWER PRODUCTION	28
Allocation of Power to the Idaho Power Company Plant at American Falls	31
Coordination with Palisades Powerplant	31
POWER MARKET	33
CHAPTER V, FINANCIAL ANALYSIS	35
ECONOMIC JUSTIFICATION	35
Costs	35
Benefits	35
Benefit-Cost Ratio	36
Power System Financial Analysis	36
CHAPTER VI, ADDITION OF PROPOSED BURNS CREEK POWERPLANT	39
POWER PRODUCTION	39
Sales and Revenue	39
Transmission Service	40
Costs	40
FINANCIAL ANALYSIS	41
Justification	41
Repayment	41
CHAPTER VII, ALTERNATE PLAN OF DEVELOPMENT	42
PLAN OF DEVELOPMENT	42
ESTIMATED COSTS	42
POWER PRODUCTION	43
COST OF INCREMENTAL POWER	43



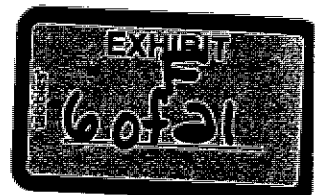
Contents

LIST OF TABLES

Table No.		Page
A	Total flow past American Falls Dam	27
B	Power generation - 30,000-kw. American Falls Federal Powerplant, Idaho	29
C	Power generation - average of 26-year period (1928-1953)	30
D	Allocation of power to the Idaho Power Company	32
E	Power system average rate and repayment study follows page	37
F	Power system average rate and repayment study follows page	41

LIST OF MAPS AND CHARTS

	Follows page
Site Plan, Proposed American Falls Powerplant	4
115Y/115A/138Y Kv. Pipe-Bus Switchyard	11
Cable Trench-Types "A" and "B", Outline and Reinforcement .	11
American Falls Powerplant, General Plan, Powerhouse and Switchyard	12
American Falls Powerplant, Preliminary General Arrangement .	12
Official Estimate, PF-1	12
Control Schedule, PF-2	12



CHAPTER III

WATER SUPPLY

The need for conserving water for irrigation use has required the limiting of the water supply for power generation, particularly the supply for the proposed American Falls powerplant, to those flows that are incidental to the operation of the Snake River reservoir system for existing and proposed irrigation development and for satisfying domestic water rights. During years of low runoff, the flow at American Falls Dam will be completely regulated.

As described elsewhere in this report, the American Falls Dam is located just above the American Falls on the Snake River. Prior to construction of the dam, the Idaho Power Company had in operation a small powerplant below the falls on the east side of the river and owned also two other small plants, one on an island below the falls and the other on the west side of the river. When the United States constructed the American Falls Dam, it acquired from the company, among other properties and rights, the Island powerplant and the West Side plant and certain power and irrigation water rights with the intention to construct a 30,000-kilowatt powerplant on the west side of the river, also below the falls. These transactions with the company are covered by contract Ilr-733, dated June 15, 1923.

CONTRACTS WITH IDAHO POWER COMPANY

Although license No. 4118 granted by the Commissioner of Reclamation, State of Idaho, with a priority date of March 30, 1921, gives the United States the right to store 1,800,000 acre-feet of water in American Falls Reservoir for domestic and irrigation purposes, the June 15, 1923 contract limits the flow available at American Falls for power production at that point by either the United States or the Idaho Power Company primarily to releases for irrigation, power, and domestic water rights downstream. The provisions of the contract dealing with division of power water rights between the company plant and the proposed United States plant are complex and guarded with many provisos and cross references. Hence, each situation requires careful analysis for proper interpretation of the contract. However, a general discussion in terms of usual operations will serve to develop a reasonably accurate but not precise description of the water rights.

In the contract, the company (1) reserved for its use certain water rights and (2) acquired, in addition, two storage rights in the American Falls Reservoir in order to have some control in the release of its water. In general, the company primary water right for the period April to October, inclusive, is a specific quantity of water each day. Also, the company may use through its plant



Water Supply

any additional water released from American Falls Reservoir that is in excess of the primary right of the company plant and the secondary right of the United States plant.

During the period beginning October 1, each year, until the American Falls Reservoir first fills the succeeding year, the company has the right to use 300,000 acre-feet of water, of which 195,000 acre-feet must be used by April 1 and not more than 45,000 (primary storage) can be carried over beyond the time the reservoir first fills or beyond June 10, whichever occurs first. The 45,000 acre-feet must be released by the following November 15. If the company does not utilize the water in the quantities and within the times above stated, it relinquishes its rights to the unused water.

A further limitation operates to control releases of water for the company in the nonirrigation period in the form of a schedule of flows for stated periods, and it is this latter limitation that usually governs the amounts of water available for release through the company plants during the period October 1 through June 10 or until the reservoir fills.

The United States power water right during the period April 1 to October 31, inclusive, is expressed in terms of a limitation on the average daily generation. The quantity of water that may be used for power generation is also specified but is not the limiting factor. The United States water right during the period November to March, inclusive, is the right to generate such power and energy as is needed supplemental to the Minidoka powerplant generation to satisfy the requirements of a load at Minidoka having a 10,000-kilowatt half-hour peak. This winter right has priority over the company winter rights and, of course, requires that Minidoka make the most efficient use of water available to it for power generation.

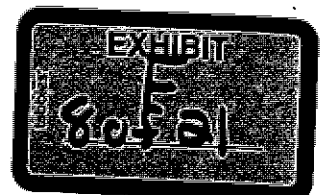
Contract No. ILr-733, June 15, 1923

The various provisions of the June 15, 1923 contract between the United States and the Idaho Power Company, which are outlined above in general terms, are discussed in greater detail in the following paragraphs.

Rights Acquired by the United States

The United States, as against the Idaho Power Company, acquired the following water rights at American Falls:

- (a) Summer Power Right, April 1 to October 31
(Secondary to Idaho Power Company Summer Right). A



Water Supply

secondary right to that amount of water which will generate continuously for delivery from the generator bus bars in the Government power station at American Falls, 6,700 kilowatts beginning on April 1, increasing uniformly to 25,000 kilowatts on May 1 and to 30,000 kilowatts on June 1, continuing at that amount to August 15, inclusive, then decreasing uniformly to 25,000 kilowatts on September 15 and to 5,500 kilowatts on October 31. In no case, however, shall the water utilized under this power right exceed a daily average of 1,500 second-feet on April 1, increasing uniformly to 5,000 second-feet on May 1, and to 6,000 second-feet on June 1, continuing at that amount to September 15, inclusive, and decreasing uniformly to 1,500 second-feet on October 31.

(b) Winter Power Right, November 1 to March 31 (Primary to Idaho Power Company Winter Right). A primary right for developing not to exceed a half-hour peak of 10,000 kilowatts of power needed to supply the power demands and uses on the Minidoka Project and its proposed extensions. The United States shall secure all of this winter power at the Minidoka powerplant insofar as it is reasonably practicable to secure that power from the installed machinery at the Minidoka plant without releasing water which otherwise might be held for irrigation, generating at American Falls the balance, if any, of the amount required. The United States has the right to generate the full ten thousand kilowatts at its American Falls plant when the Minidoka plant is out of operation on account of enlargement, improvement, or repairs.

(c) Storage Rights. The primary right, as against the Idaho Power Company, to build, fill, and use 3,000,000 acre-feet of storage capacity, including the capacity of the American Falls Reservoir, anywhere on the Snake River, in addition to the storage capacity available in 1923 in Jackson Lake Reservoir and Lake Walcott. The United States, as against the Idaho Power Company, also has the right to store and use for irrigation and domestic purposes the water authorized to be used for the generation of the 10,000 kilowatts of winter power, and the water authorized to be used by the United States for generation of summer power, whenever the Secretary of the Interior shall decide such water is required for irrigation purposes.

Rights Reserved by the Idaho Power Company

The Idaho Power Company specifically reserved the following water rights out of those conveyed to the United States under the terms of the 1923 contract:

(a) Summer Power Right, April 1 to October 31 (Primary to the United States Summer Right). The right to use



Water Supply

for power production at American Falls the following amounts of water: 100 cubic feet per second beginning April 1, and increasing uniformly to 2,500 cubic feet per second on May 1 and continuing at that amount to September 15, inclusive, then decreasing uniformly to 100 second-feet on October 31.

(b) Additional Summer Power Right. A tertiary power right at American Falls to all additional water released, or wasted, from the reservoir, by the United States from April 1 to October 1, inclusive, over and above the amounts required to furnish the primary rights reserved by the company and the secondary rights granted to the United States. Records of flows past American Falls Dam in recent years indicate that the maximum controlled summer release is about 12,000 cubic feet per second. Since the existing irrigation developments below American Falls received a full supply of water in years of maximum controlled summer releases, and plans for future irrigation development using surface water of the Snake River below American Falls, are limited to the development of about 13,000 acres in the Minidoka Project, it is unlikely that the maximum release will be materially increased over that in the past. Of this maximum release about 6,000 cubic feet per second would accrue to the United States summer power right and about 6,000 cubic feet to the company under its primary and tertiary summer power rights. Since the Idaho Power Company's powerplant at American Falls (completed in 1927) has a hydraulic capacity of about 8,400 cubic feet per second, at normal head and normal tailwater, all of the company's right can be utilized for generation of power at its American Falls plant. River operation studies indicate that it will be necessary to waste limited amounts of water at American Falls during the summer period at infrequent intervals in addition to required releases. Under its tertiary summer right the Idaho Power Company is entitled to use such water up to the limits of installed capacity. The remaining wasted water is unappropriated and available for use by either party during such infrequent periods.

(c) Reserved Water Right. The right (for power development at American Falls and for power development below Milner Dam within limits discussed hereafter under Idaho Power Company Secondary Storage Right) to the first 300,000 acre-feet flowing into the American Falls reservoir after October 1 of each year and actually storable therein. Precedence, however, must be given to the release through the American Falls Dam of the amount of water, if any, required to satisfy the Government's winter power right. The water required to fill the 45,000 acre-feet of primary storage capacity conveyed to the Idaho Power Company by the United States and discussed hereafter is part of the above 300,000 acre-feet of water reserved



Water Supply

by the company. The remaining 255,000 acre-feet of this reserved water is regulated in the Idaho Power Company's secondary storage space in American Falls Reservoir. Releases therefrom for the Idaho Power Company's use are limited to those required to maintain certain minimum flows below Milner Dam during the period October 1 to June 10 as discussed hereafter under the Idaho Power Company Secondary Storage Right. The company has no right to require the release of more than 300,000 acre-feet in any one year beginning October 1, in addition to the company's primary summer power rights and the hold-over in its 45,000 acre-feet of primary storage capacity.

(d) Power Right to Winter Waste. The right, as against the United States, to use for power purposes at American Falls water released, or wasted, between November 1 and March 31, in excess of the amount allowed the United States under the United States winter power and storage right granted by the contract. The contract provides that the Bureau of Reclamation shall determine the amount available for waste by assuming for a water year beginning October 1, 200,000 acre-feet less storable runoff than the lowest year of record at the time of such determination, and that such water as under this assumption is not necessary to provide 300,000 acre-feet for the company and to fill existing storage capacity, will be considered available for wasting. A storable runoff of about 1,050,000 acre-feet was recorded in 1934 and is the minimum of record. The contract provides that available waste shall be released as nearly uniformly as practicable so as to make it available for beneficial use for power development.

Storage Rights Granted the Idaho Power Company

The United States granted to the Idaho Power Company the following rights to use of space in American Falls Reservoir:

(a) Primary Storage Capacity. The right to perpetual use of 45,000 acre-feet of storage capacity in American Falls Reservoir to regulate its reserved water within the limitations of the contract. The company has the privilege of holding after October 1 and until November 15 of each year, any water which it may have in its primary storage capacity of 45,000 acre-feet, but the company's right to such water expires on November 15.

(b) Secondary Storage Capacity. A secondary right between October 1 and June 10 to use not to exceed 255,000 acre-feet of storage capacity in American Falls Reservoir, when such capacity is not then required and not being used by the



Water Supply

owners of irrigation storage rights. This secondary right to storage capacity was granted the company for the purpose of regulating and controlling the water reserved to the company under their reserved water right of 300,000 acre-feet during the winter and spring months. However, the right to use any part of this 255,000 acre-feet of storage capacity and to any water stored therein is relinquished as soon as the reservoir is first filled each year, and further, the company releases on April 1 of each year all right and claim to such capacity and water stored therein, except 60,000 acre-feet, and releases all right and claim to the remainder, if any, on June 10 each year.

(c) Summer Regulation of 5,000 Acre-Feet. The company has the right to accumulate from time to time, in storage capacity that would otherwise be unused in the American Falls Reservoir, out of the amounts of water to which it is entitled under its primary summer power right, an amount not exceeding 5,000 acre-feet, and use the same as desired, except that after the reservoir has been filled in any year, the company shall be entitled to only that part of the 5,000 acre-feet accumulated after the filling of the reservoir. The company must release, upon demand by the United States, such portion of the 5,000 acre-feet as the company may have accumulated, whenever the available stored water in the American Falls Reservoir to which the present Minidoka Project and extensions thereof diverting from Lake Walcott are entitled, amounts to less than 5,000 acre-feet, and in any event, the company has no claim to any part of the 5,000 acre-feet of accumulated water remaining after September 30.

(d) Rights below Milner Dam. The right to demand the release of water from the American Falls Reservoir, for release by and use below Milner Dam, is limited to the 45,000 acre-feet of primary storage rights described above, and to such portion of the 255,000 acre-feet of secondary storage rights described above, as is needed for beneficial use for power development at Shoshone Falls or Twin Falls. The releases of secondary storage must be limited so as not to exceed the amounts necessary to make the total flow at the Idaho Power Company Twin Falls powerplant:

690 second-feet - October 1 to November 30, inclusive
790 second-feet - December 1 to January 31, inclusive
690 second-feet - February 1 to February 12, inclusive
590 second-feet - February 13 to April 15, inclusive
690 second-feet - April 16 to June 10, inclusive

These releases must be made from American Falls Reservoir in such a way that the required flow can be maintained at Twin



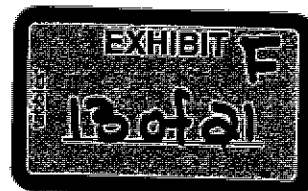
Water Supply

Falls by the utilization of not to exceed 3,000 acre-feet of storage capacity in Lake Walcott. These operations do not in any way abridge the company's right to require the release from the American Falls Reservoir and have passed by Milner Dam, at any time, any part of its 45,000 acre-feet of primary storage.

Contract No. Ilr-801 - October 1, 1934

Because of a series of dry years which occurred during the early 1930's, the June 15, 1923 contract was further modified by a new contract between the United States and the Idaho Power Company, dated October 1, 1934, Symbol and No. Ilr-801. The objective sought in the October 1, 1934 contract was to curtail the winter release of water by the company at American Falls Dam and to permit the storage of the saved water for irrigation purposes. Releases from American Falls Reservoir, to satisfy Idaho Power Company rights, were made under the terms of the October 1, 1934 contract until December 16, 1950, the effective date of a new contract, Symbol and No. Il74r-1506, which terminated the October 1, 1934 contract, thus restoring on December 16, 1950, the conditions of the June 15, 1923 contract as regards the water rights of the Idaho Power Company and the United States.

The 1934 contract provided a primary storage right of about 45,000 acre-feet for Island Park Reservoir in addition to the more substantial benefits which accrued to the American Falls Reservoir. Section I of the 1934 contract included the following statement: "It is agreed that the water conserved and made available by the terms of this agreement is for storage in the American Falls Reservoir, except the water saved by the company's release of the right to have water discharged over Milner Dam which water may be stored in Island Park or Teton reservoirs if built, and is in lieu of water that would otherwise be conserved and so stored by construction of the said generating unit at American Falls Reservoir and shall inure to the benefit of all parties interested in American Falls Reservoir in like manner and extent." The estimated average annual saving during the 1930-34 period resulting from the reduction in releases past Milner Dam for the company is 45,000 acre-feet. During the life of the 1934 contract this saving was credited toward filling Island Park Reservoir each year. Provision of a similar storage right for Island Park Reservoir has been incorporated in contracts with the Snake River water users regarding the sale of the reserved space in American Falls Reservoir and the space in Palisades Reservoir.



Water Supply

MINIDOKA POWER RIGHT

The Foster Decree of June 20, 1931, recognizes two power rights at Minidoka Dam for a total flow of 2,700 cubic feet per second. The amounts and priority dates are as follows: 2,500 cubic feet per second, June 15, 1909, and 200 cubic feet per second, July 1, 1912. During periods of low runoff, operation of American Falls Reservoir for the purpose of maintaining flows at the Power Company's Twin Falls plant at the minimum flows provided in the contract of June 15, 1923 and meeting the minimum requirements of canals diverting below American Falls has the effect of precluding the full use of the power rights at Minidoka Dam during the months October through March. It is planned to offset this decrease by generation at the proposed United States powerplant at American Falls. In the case of Burley Irrigation District v. Ickes (116 Fed. 2d, 529), the court ruled that the United States, acting through the Secretary of the Interior, as the holder of title to the powerplant and the related water right, with the right to manage, control and operate the works, could curtail power production at Minidoka Dam and that, when curtailment was part of a program to save water for irrigation (with at least incidental benefit to the Burley Irrigation District), the action could not be attacked as arbitrary. Since water savings from such curtailment accrue primarily to water users other than the Burley and Minidoka Irrigation Districts, the curtailment is conditioned on reasonable compensation being made to the Minidoka powerplant.

STREAM REGULATION AND STORAGE

An engineering determination of the amount of water available for power production at the proposed American Falls powerplant must take into account the many diverse and interrelated factors governing the administration and use of the surface flow of the upper Snake River. Foremost among these is the multitude of natural flow and storage rights which have been adjudicated by the courts over the past four decades and which now serve as a basis for distributing the available water supply. The effect of future irrigation and power developments and of the 1923 contract with the Idaho Power Company must also be considered.

A comprehensive study of the operation of the upper Snake River system since 1918 was made by the Bureau of Reclamation for the purpose of determining, first, where winter diversions could be economically eliminated; second, the most feasible means of eliminating such diversions; and third, the best use of water so conserved and thus made available for storage. Results of this study, which was begun in 1942, were published in October 1946 in Project



Water Supply

Planning Report No. 1-5.17-1, "Water Supply for Palisades Reservoir Project." This report is the basis for subsequent agreements with the water users as to the extent of the winter water saving program to be carried out when Palisades Reservoir is placed in operation and as to the allocation of the reserved irrigation space in American Falls Reservoir between existing and new land projects.

River Operation Studies

The original operation studies in the above report were revised to reflect the terms of the current agreements with the water users regarding winter water saving and the allotment of the reserved irrigation space in American Falls Reservoir and to reflect the terms of the June 15, 1923 contract with the Idaho Power Company. In line with current plans Palisades Reservoir was operated on a forecast basis and American Falls Reservoir was operated on the basis of a rule curve in order to increase the winter power production at Minidoka. The basic data on streamflow, diversion requirements, and river gains and losses used in the revised studies are the same as used in the original studies, except that the period of study was changed from 1919-1942 to 1928-1953. The important criteria and assumptions used in the revised study are summarized as follows:

Study Period

The study was confined to the period October 1, 1927 through September 30, 1953. Reservoir contents at the beginning of the period were estimated on the basis of previous studies. The study period includes one average wet cycle and the driest cycle since about 1870, the earliest date for which any precipitation records are available for Idaho.

Irrigated Areas

All existing irrigation projects diverting from the Snake River or its tributaries, above Milner Dam were included. Two new land projects, Unit A, North Side Pumping Division, Minidoka Project, and the Michaud Flats Project, were included. Unit A includes an irrigable area of 13,650 acres as discussed in Project Planning Report No. 1-5.53.1-1 dated April 1949. The area included in the Michaud Flats Project is limited by the allotment of American Falls storage space. Sufficient area will be developed to utilize the water available under the storage allotment in American Falls Reservoir supplemented by Palisades storage. This water supply will be delivered by pumping from American Falls Reservoir.



Water Supply

Irrigation Requirements

Requirements for existing projects are the same as used in the original studies. Records of past diversions were used except during periods of shortage which were adjusted to provide a full supply of irrigation water. Estimated annual requirements of 56,000 acre-feet and 170,000 acre-feet, respectively, were used for Unit A, North Side Pumping Division, Minidoka Project and for the Michaud Project.

Domestic Requirements

Domestic requirements during summer are included as part of the irrigation requirement. Winter diversions were limited to the recorded diversions to the South Side Twin Falls Canal and to the North Side Twin Falls Canal, plus a stock water run of 5,000 acre-feet for the Milner-Gooding Canal. Winter diversions (October-March) by the North Side Twin Falls Canal in excess of 126,000 acre-feet were charged to storage owned by that company in years when American Falls Reservoir failed to fill.

Power Requirements

The only set power requirement included in the study is that at Milner Dam for downstream Idaho Power Company plants. Power production at Palisades, American Falls, and Minidoka was considered as incidental to the operation for irrigation and domestic water. Required releases for the Idaho Power Company's plants below Milner Dam were computed on the basis of the 1923 contract. The company's 45,000 acre-feet of primary storage capacity in American Falls Reservoir was assumed to fill each year and the water was released in line with past use of this water by the company. The company's secondary storage water was released to maintain specified minimum flows at Twin Falls during the period October 1 through June 10 as required by the 1923 contract, as shown below. The required minimum flows at Twin Falls are as follows except in years when American Falls Reservoir fills prior to June 10. The company has no right to secondary storage water after the reservoir first fills each year.

October 1 - November 30 - 690 cubic feet per second
December 1 - January 31 - 790 cubic feet per second
February 1 - February 12 - 690 cubic feet per second
February 13 - April 15 - 590 cubic feet per second
April 16 - June 10 - 690 cubic feet per second

Henrys Fork Operations

A separate operation study for existing projects and reservoirs on the Henrys Fork River was made to determine the inflow to the Snake River from the Henrys Fork as modified by changed conditions



Water Supply

since 1927. Changes over past operation of that system since 1940 are slight, being limited to a slight increase in supply which results from the coordinated operation of all reservoirs in the Henrys Fork River and the Snake River systems. The major change prior to 1940 resulted from extending the operation of Island Park and Grassy Lake Reservoirs back to 1927. Natural flows of the Henrys Fork, bypassed to those Snake River natural flow rights, which are senior to the Henrys Fork natural flow rights, are the same as recorded in the past. All reservoirs were operated on a holdover basis and storage water was shifted to and maintained as long as possible in the farthest upstream reservoirs in order to obtain a maximum amount of holdover storage for use in dry years. Water was stored adversely to downstream natural flow and storage rights and was released only as necessary to avoid shortages downstream after all downstream storage had been utilized.

Available Water

The modified flow of the Henrys Fork River at its mouth, as shown by the operation study of that river system, and the computed natural flow of Snake River where it emerges on the Snake River Plain near Heise, Idaho, were used as the original water supply available for regulation and use in the upper Snake River Valley.

Winter Water Saving

The winter water saving program, assumed to be in effect, was confined to the elimination of winter operation of canals above American Falls Reservoir and to the limiting of winter diversions of natural flow by the North Side Canal Company to 126,000 acre-feet annually in years when American Falls Reservoir fails to fill. It was assumed that the canals serving the Minidoka Project will continue to be shut off in the future as they have been in recent years. Winter diversions to the South Side Twin Falls Project were assumed to be the same as recorded in the past. The estimated winter saving of 135,000 acre-feet was assumed to be stored in Palisades Reservoir to the credit of the upper valley canals making the saving.

Jackson Lake Reservoir

It was assumed that no irrigation water would be drawn from this reservoir until all of Palisades irrigation storage had been completely used, except in years when a water shortage is forecast. Holdover privileges would be granted in Jackson Lake Reservoir. The storage content of this reservoir was limited to 647,000 acre-feet during the December through April period to protect the dam from ice damage. Special storage releases were made in October and November when necessary to meet this limitation.



Water Supply

Palisades Reservoir

The active capacity of 1,200,000 acre-feet in Palisades Reservoir was operated jointly for irrigation, flood control, and power. This reservoir was operated on a forecast basis in accordance with a tentative agreement between the Corps of Engineers and the Bureau of Reclamation. The 135,000 acre-feet of winter water saved in the upper valley was assumed to be stored in Palisades Reservoir to the credit of the upper valley canals. The bottom 200,000 acre-feet of space in Palisades Reservoir was reserved as dead storage to maintain a minimum power head. Irrigation releases from Palisades Reservoir were limited to those needed to supply the upper valley as long as irrigation storage was available in American Falls Reservoir.

Palisades Powerplant

The operation of the Palisades powerplant is entirely incidental to the operation of Palisades Reservoir for irrigation and flood control. Winter releases from this reservoir, required to fill the prior storage right of American Falls Reservoir, permit the generation of about 16,000 kilowatts of firm power. During the peak of the irrigation season and when storage is being evacuated for flood control, the plant could be operated at its rated capacity (114,000 kilowatts).

American Falls Reservoir

The inflow to American Falls Reservoir under future conditions was obtained by adjusting the recorded inflow to reflect the anticipated changes in water uses resulting from the operation of Palisades Reservoir and elimination of winter diversions. Using this modified inflow, American Falls Reservoir was operated to meet the anticipated water requirements downstream for irrigation, domestic, and power purposes. During the winter period, October through March, this reservoir was operated on a rule curve basis in order to increase and make more uniform the power production at the Government's Minidoka powerplant.

American Falls Powerplant

No water was released past American Falls specifically for power production at the proposed American Falls powerplant. The division of the incidental flow at this point between the Government's proposed powerplant and the existing Idaho Power Company plant at American Falls was computed on the basis of the 1923 contract between the United States and the Idaho Power Company. However, in the interest of optimum power production, all of the flows were utilized through the proposed American Falls powerplant



Water Supply

to the limit of its capacity and the Idaho Power Company plant was credited with the production which it could have achieved using water according to its right under the 1923 contract. Water in excess of plant capacity would be utilized through the Idaho Power Company plant to the extent of its capacity or as required to meet load. Water available for power production was determined by storage content rule curves for the four reservoirs (Jackson Lake, Palisades, American Falls and Lake Walcott) for the months October through December and on the basis of forecasted storable flow for the months January through April. In years of adequate irrigation supplies, the proposed American Falls powerplant was normally operated at the installed capacity of 30,000 kilowatts during the peak of the irrigation season when flows past American Falls Dam are high.

Lake Walcott

The total active capacity of Lake Walcott is about 95,000 acre-feet; however, it was assumed that the normal drawdown would be limited to 55,000 acre-feet in order to maintain a higher effective head for power production at the Minidoka powerplant. In extremely dry years, a total drawdown of 80,000 acre-feet was assumed. Use of the remaining 15,000 acre-feet of storage is impracticable, since it seriously interferes with diversions by canals diverting from this reservoir.

Minidoka Powerplant

In order to conserve water for irrigation use, the water supply for this powerplant was assumed to be limited to irrigation and power releases necessary to meet requirements below Minidoka Dam and to spills from American Falls Reservoir. Operation of American Falls Reservoir on the basis of a rule curve permits the release of anticipated minimum spills during the winter months in some years and increases the power production at Minidoka. In some years, however, the basic power right of 2,700 cubic feet per second at Minidoka was curtailed in order to conserve water for irrigation uses. It is planned to make up this loss from power generated at the proposed American Falls powerplant. It was assumed that the incidental flow past Minidoka Dam will be utilized to the maximum extent practicable for generation of power at the Minidoka powerplant. The installed capacity of this plant is 13,400 kilowatts.

Allocation of Reserved Space, American Falls Reservoir

It was assumed that 315,000 acre-feet of the 433,000 acre-feet of unsold space in American Falls Reservoir would be allotted to existing projects and that the remaining 118,000 acre-feet would be allotted to new lands. Of the allotment to new land, 47,000 acre-feet were allotted to Unit A, North Side Pumping Division, Minidoka



Water Supply

Project and 71,000 acre-feet to the Michaud Flats Project. It was assumed that the water supply for the latter area would be delivered by pumping from American Falls Reservoir.

Available Water Supply, American Falls Powerplant

The revised river operation study discussed in the preceding paragraphs reflects expected future conditions. The estimated monthly runoff past American Falls Dam under future conditions of development and with streamflow similar to that of the 1928-1953 period is given in table A.



Table A. -- Total Flow past American Falls Dam
(Based on 1923 contract)

Year	(Units of 1,000 Acre-Feet)														Total
	O	N	D	J	F	M	A	M	J	J	A	S			
1928	392	282	364	579	572	509	1,147	1,172	687	683	700	423	7,510		
29	236	147	161	130	142	437	497	923	625	702	693	387	5,080		
1930	171	30	82	76	53	194	498	459	630	703	709	405	4,010		
31	148	86	84	83	59	124	293	645	667	751	711	428	4,079		
32	218	91	86	87	72	92	214	584	590	721	715	459	3,929		
33	181	75	78	76	58	78	286	587	676	710	744	448	3,997		
34	208	78	87	88	67	141	254	494	400	490	237	191	2,735		
35	219	97	54	74	47	83	177	594	660	601	490	330	3,426		
36	213	65	76	59	15	64	207	722	610	702	695	390	3,818		
37	185	56	65	75	44	86	180	628	590	738	706	384	3,737		
38	191	49	67	69	53	88	216	623	613	634	702	448	3,753		
39	167	60	125	156	141	232	613	648	609	708	709	397	4,565		
1940	169	60	76	66	43	79	237	656	666	709	704	389	3,854		
41	131	56	64	65	45	85	255	666	577	693	693	375	3,705		
42	130	33	60	90	55	86	252	541	597	727	722	415	3,708		
43	194	60	56	281	256	311	1,241	888	731	707	722	427	5,874		
44	336	156	160	107	355	424	476	533	817	723	712	433	5,232		
45	198	62	67	164	141	186	436	766	825	705	714	398	4,662		
46	358	152	168	346	537	602	779	836	672	620	706	356	6,132		
47	208	149	159	289	532	518	578	682	564	732	709	405	5,525		
48	244	155	161	286	164	479	559	1,009	951	729	707	394	5,838		
49	215	127	107	284	260	451	739	925	627	756	722	381	5,594		
1950	127	51	73	143	257	411	1,222	817	858	753	711	426	5,851		
51	233	173	503	546	604	614	1,126	1,006	648	761	673	457	7,344		
52	244	155	246	593	578	719	864	1,175	757	750	757	453	7,291		
53	182	63	154	57	173	488	418	616	923	780	740	458	5,052		

Exhibit G

Letter from A.C. Inman to
the Honorable Hamer
Budge



IDAHO POWER COMPANY

BOISE, IDAHO

REC'D JUN 14 1954

June 14, 1954

Honorable Hamer Budge
House of Representatives
Washington, D. C.

Dear Mr. Budge:

The Congressional Record for June 8, 1954, pages A4230-32, contains a reprint of a letter written by Mr. G. H. R. Taylor, a director of the National Hells Canyon Association. This organization is one of the parties to the proceeding now pending before the Federal Power Commission to determine the proper type of development of the Hells Canyon-Weiser reach of the Snake River for power and other multi-purpose uses. The letter discusses, and gives the views of Mr. Taylor concerning a number of matters which are before the Commission for its decision, and in addition comments on the construction of the American Falls Dam in southeastern Idaho by the Bureau of Reclamation.

Because the American Falls Dam has been a frequent subject of propaganda against the Idaho Power Company, I thought you would be interested in the attached memorandum concerning this project, and the contract of June 15, 1923, between the United States Government and the Idaho Power Company, in which the rights of the parties are set forth.

Contrary to the statements of Mr. Taylor, no condemnation of the Idaho Power Company's property at American Falls was necessary or involved, as all the numerous problems inherent in the construction of the project were settled by amicable negotiations between the Government, the irrigators and the company.

Very truly yours,

A. C. Inman
Secretary

Attachment

7 P.C. - Mued

EXHIBIT

1042

Although the contract provided for payment to the Company of \$1,000,000, a compromise figure arrived at after lengthy negotiations, the actual amount paid was \$965,000, due to prepayment credits provided for in the agreement. This was in full compensation not only for the two power plants, but also for all of the reservoir lands, water rights and flooding easements which were necessary for the reclamation development.

The negotiations leading up to the contract involved some two years of conferences of officials of the Bureau of Reclamation, the Idaho Power Company, local water-users organizations, and the State of Idaho. The Power Company (according to Mr F A Banks of the USBR) had originally placed a value upon its power plants, reservoir lands and other property of \$2,500,000 and asked for 80,000 acre-feet of primary storage in the American Falls reservoir (which has a total capacity of 1,700,000 acre-feet).

Instead, the Company finally received \$965,000 and 45,000 acre-feet of storage capacity in the reservoir, with 255,000 acre-feet of "secondary" storage space. The secondary space has no annual storage carry-over, as all rights to this space expire at the first filling of the reservoir each season, and in any event not later than June 10th. For the limited storage rights which it has in the reservoir, the Company pays the same proportionate charges as any other water user. The Company's rights under the contract are considerably less than the original continuous flow rights which the Company had for its American Falls operations and future development, which totaled 8,000 cubic feet per second of the flow of the river, in addition to its reservoir storage permit. Total 8,000 cfs

The agreement provides that the Power Company may use through its remaining power plant at American Falls any water released or wasted from the reservoir so long as this water is not used by any power plant constructed by the United States. The contract did not provide for the construction of any Government power plant or plants, nor does it contain any agreement or commitment by the Company as to any such plant. This subject was left entirely open pending future developments and conditions. The Company has never used any head developed by the American Falls dam, and any water released or wasted from the reservoir is simply free-flowing water, the use of which in no way conflicts with irrigation needs.

The terms of the contract were the result of lengthy conferences both in Idaho and Washington, D. C., in which representatives of the parties and water-users participated. Before formal presentation to the Idaho Power Company for signature, the United States required the approval of the Idaho State Board of Land Commissioners, which was obtained in October, 1921, and the contract was signed by the Company shortly thereafter. However, it was not until nearly two years later that other preliminary steps necessary to the construction of the dam were finally completed, and the contract was signed on behalf of the Government in June, 1923.

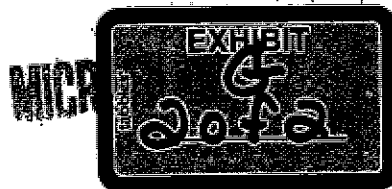


Exhibit H

Statement of John Baker

AMERICAN FALLS RESERVOIR DISTRICT

1132 LOCUST STREET — TWIN FALLS, IDAHO 83301

Office of the Secretary

PHONE 733-3560

OFFICERS:

JOHN M. BARKER, PRESIDENT
MERL E. LEONARD, VICE PRESIDENT
TOM OLMSTEAD, TREASURER
DIANNE BRIDEGUM, SECRETARY

DIRECTORS

JOHN M. BARKER
FRANK W. GRAVES
DALE DEPEW
TOM OLMSTEAD
ARMIN SCHROEDER
MERLE E. LEONARD
RUSSELL WOOLLEY

BEFORE THE WATER AND POWER RESOURCES SUBCOMMITTEE
INTERIOR AND INSULAR AFFAIRS COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES
STATEMENT OF JOHN M. BARKER, PRESIDENT
AMERICAN FALLS RESERVOIR DISTRICT

Field Hearing
Burley, Idaho
October 6, 1973

Chairman Johnson, members of the Committee, distinguished guests, ladies and gentlemen:

My name is John M. Barker. I operate an insurance agency in Buhl, Idaho. I am a farm owner and manager in Twin Falls County, Idaho. I have served as a director of the American Falls Reservoir District for sixteen years, and for the past six years have served as President of the Board. Since 1967, I have served in the Idaho Legislature as a Senator from Twin Falls County.

It is a great pleasure for me to represent the American Falls Reservoir District.

Our district was formed in 1923 when it became the consensus of opinion that the original American Falls Dam should be constructed. Because of the then unavailability of Federal monies, our district bonded themselves for 2.7 million dollars in general obligation bonds at six percent interest. The bond election was approved by a vote of six to one. The lands in the American Falls Reservoir District were pledged to repayment of the then obligation. This money was used in the construction of the dam. The district now owns approximately 490,000 acre-feet of storage space in the reservoir, when the reservoir is operated at a full capacity of 1.7 million. Our district encompasses approximately 450,000 acres of land and represents five irrigation-operation companies. They are the Twin Falls Canal Company, the North Side Canal Company, the Aberdeen-Springfield Canal Company, the Martin Canal Company, and the Woodville Canal Company. Some of these companies own additional American Falls storage in their own name. Since retirement of the American Falls bonds, the district



STATEMENT OF JOHN M. BARKER
Page two

has merely operated as an agency for the collection of annual O & M charges for the operation of American Falls. Since 1964, the date of the Bureau's first engineering pronouncements concerning the alkali condition at American Falls Dam, American Falls Spaceholders have been concerned about the situation. The restriction order of October 1972, was termed an emergency by the Spaceholders. The loss of one-third of American Falls storage capacity brought all of the Spaceholders together on a common ground to determine the best basis to remedy the situation. An informal association of American Falls Spaceholders was formed. An Executive Committee was selected and empowered to evaluate all of the alternatives toward the earliest possible replacement at American Falls. The American Falls Spaceholders, through our district, approached the Idaho Power Company on the possibility of working out a sale for falling water if a private reconstruction could be accomplished. In March of 1973, the Spaceholders endorsed the concept of private financing for the replacement. The American Falls Reservoir District, has consented to act as the "constructing agency" as defined in S.1529 because of the number of acres and the value of their lands which would be pledged as security for eventual bond payments.

Thereafter, the Spaceholders worked in close conjunction with the Idaho Congressional Delegation and were successful in the introduction of bills on both the Senate and the House side. S.1529, as passed by the Senate, is the concept which the Spaceholders endorse for the replacement of the dam. The agreement of the Spaceholders is that any replacement would be operated in an identical fashion as the existing American Falls Reservoir and that each existing Spaceholder would be entitled to enter contracts for the repayment of their proportionate share of the cost of the replacement structure.

Because of the offer of the Idaho Power Company, and if the dam is constructed with power facilities, the Spaceholders will be liable to repay only those amounts over and above the payments by the Idaho Power Company for the falling water.

The Spaceholders have now contracted with Bechtel, Inc., of San Francisco, to begin engineering work toward the end of final plans and designs for the replacement dam. The Spaceholders coordinated in selecting a consulting board to review the preliminary concepts of Bechtel. The consulting board endorsed the Bechtel approach. With the passage of S.1529, it would be the hope of the Spaceholders that the Idaho Power Company would be successful in obtaining a Federal Power Commission license, so that construction could proceed simultaneously on the dam and power house, and that a saving would result by utilizing the same contractor. The Idaho Power Company would then agree to pay 19 million dollars, plus tax exempt interest, over a period of forty years. During the same period, the American Falls Reservoir District would collect from all other Spaceholders who contract for storage water in the reservoir, enough money to make the annual bond payments, plus interest.

The reservoir would be operated in the same manner in which it



STATEMENT OF JOHN M. BARKER
Page three

is now operated, observing the preference for irrigation. The Spaceholders are agreed to work out arrangements as to a highway crossing and any mitigation of fish, wildlife, and environmental matters.

If S.1529 becomes law, we would proceed to negotiate a contract with the Secretary of Interior for his ownership of the structure after completion, and the continued operation and maintenance of the dam and reservoir by the Bureau of Reclamation.

It is presently the plan to construct a two-lane highway on top of the dam, which coupled with the two-lane bridge to be constructed below the dam by the Idaho State Department of Highways, would provide an adequate four-lane crossing. A memorandum of understanding now exists between the Idaho State Department of Highways and the American Falls Reservoir District concerning their mutual obligations.

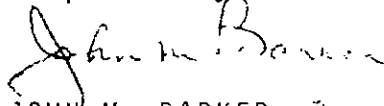
Following the enactment of S.1529, our bonding counsel has advised us that it will be necessary to secure additional amendments to the Idaho Irrigation District Code. Because of the state-wide impact of the American Falls replacement problem, we anticipate a favorable response from the legislature. Thereafter, the American Falls Reservoir District would plan a bond election and together with the Bureau of Reclamation, would propose and execute contracts with all existing Spaceholders for their proportionate share of the space.

We are advised that it is not timely to file with the Internal Revenue Service for a tax exempt ruling until such time as the Congressional bill has passed, the State legislation obtained, and the contracts are in a form which might be presented to the Internal Revenue Service. We are encouraged at the possibility of obtaining tax exempt interest for our bonds. In talking with financial agents, we are also encouraged at the possibility of some competitive bidding for those bonds.

There is one amendment which the Spaceholders must request from the committee concerning the qualifying of American Falls Reservoir District as the "constructing agency" for the purposes of qualifying us to receive Federal funds for construction of a highway on the dam.

On behalf of the American Falls Board of Directors, I would like to thank the Chairman and the members of the Committee for affording us this hearing. We hope that you will enjoy your visit in Idaho, and will recommend S.1529 for passage upon your return to Washington.

Respectfully submitted,



JOHN M. BARKER, President
American Falls Reservoir District



Exhibit I

House Report

Tax Exempt Status of Obligations Used to Provide Certain Irrigation Facilities

Westlaw

1976-1 C.B. 490
H.R. Rep. No. 94-531

Page 1

(Publication page references are not available for this document.)

Internal Revenue Service (I.R.S.)

House Report

TAX EXEMPT STATUS OF OBLIGATIONS USED TO PROVIDE CERTAIN IRRIGATION
FACILITIES

October 3, 1975

House of Representatives Report No. 94-531 1st Session

[Bracketed numerals indicate official report page numbers]

OCTOBER 3, 1975

Mr. ULLMAN, from the Committee on Ways and Means, submitted the following report to accompany H.R. 9968. [FN1]

The Committee on Ways and Means, to whom was referred the bill (H.R. 9968) to amend section 103 of the Internal Revenue Code of 1954 with respect to certain obligations used to provide irrigation facilities, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. SUMMARY

The bill, H.R. 9968, deals with the tax-exempt status of obligations the proceeds of which are to be used to reconstruct the American Falls Dam in Idaho. The dam is used for irrigation purposes but the water also has a subordinate use in generating electric energy. Under present law, an industrial development bond whose proceeds are used to build a dam that stores water for irrigation purposes may be eligible for tax-exempt status. However, in this case where the water has a subordinate use in generating electric energy, the eligibility of the bond issue for tax-exempt status is uncertain.

The American Falls Dam is under the supervision of the Bureau of Reclamation of the Department of Interior and has been restricted to two-thirds of its capacity because of certain structural defects. The Federal Government might well eventually appropriate the funds to reconstruct the dam. However, the American Falls Reservoir District is undertaking the reconstruction project now in order to make the dam fully operational. In addition, the Idaho Power Company is assisting the financing of the project and is to use the water for electric energy generation. It is the interrelationships of the use of the dam for furnishing water for irrigation purposes and the use of the water for electric energy that raises questions with the interpretation of the present exceptions to industrial development bond



1976-1 C.B. 490
H.R. Rep. No. 94-531

Page 2

(Publication page references are not available for this document.)

treatment. In view of [2] the special circumstances in this case, your committee believes it is appropriate to except the obligations for the reconstruction of the American Falls Dam from industrial development bond treatment which would allow these obligations to receive tax-exempt status.

PRESENT LAW

Present law provides that interest on obligations of State and local governments generally is exempt from Federal income tax. In 1968 tax-exempt status was withdrawn from industrial development bonds which State and local governments were using to finance and attract private industrial development within their jurisdictions.

Industrial development bonds are generally considered to be State or local obligations, a major portion of the proceeds of which are to be used in and repaid by, a taxable trade or business. Such bonds are normally issued to acquire a facility for private business in which the beneficial ownership of the facility remains in the private trade or business, although (in order to secure repayment of the bonds) legal title normally remains with the State or local unit issuing the obligations.

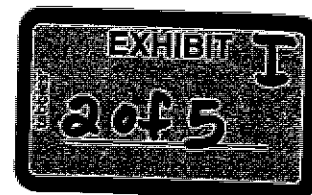
When the industrial development bond limitation was enacted, exceptions were provided for certain small issues (sec. 103(c)(6)) and for certain specified public activities (sec. 103(c)(4)) in which cases tax-exempt status was continued. As initially enacted, one of the public activities for which an exemption was provided (sec. 103(c)(4)(E)) was "sewage or solid waste disposal facilities or facilities for the local furnishing of electric energy, gas or water."

In 1971, Congress amended the exception in subparagraph (E) to delete "water" and added the present law subparagraph (G) which extends the exception to "facilities for the furnishing of water, if available on reasonable demand to members of the general public."

As a result, in those cases where obligations are issued for facilities for the furnishing of water which meet the exception (under sec. 103(c)(4)(G)) but where the water is also used to generate electricity, it is uncertain as to whether the obligations would qualify for exempt status unless the use of the electric energy meets the "local" furnishing test (under sec. 103(c)(4)(E)), which has been interpreted to cover an area of two contiguous counties.

REASONS FOR THE BILL

The American Falls Reservoir District applied to the Internal Revenue Service in June 1974 for a ruling that bonds to be issued to finance the replacement and rehabilitation of the American Falls Dam would qualify as a tax-exempt issue under section 103(c)(4)(G). The Internal Revenue Service, however, had questions of in-



1976-1 C.B. 490
H.R. Rep. No. 94-531

Page 3

(Publication page references are not available for this document.)

terpretation with respect to the interrelationship of the exceptions for facilities for furnishing of water and the local furnishing of electric energy and their application to the specific facts of this case. The committee reviewed the facts involved, as described below, and believed it is appropriate to specifically except the bond issue in this case as a result of the special circumstances.

The original American Falls Dam was constructed in 1927 by the Bureau of Reclamation. The dam was restricted to two-thirds of its [3] 1.7 million acre foot capacity in 1972 by the Bureau of Reclamation of the Department of the Interior for safety reasons because of excessive pressures on the dam which were caused by an alkali-aggregate reaction and deterioration in the concrete.

Legislation was enacted on December 28, 1973, to permit replacement and rehabilitation of the American Falls Dam by the American Falls Reservoir District, which is a political subdivision of the State of Idaho. Replacement of the existing dam by the American Falls Reservoir District is an action to be taken in lieu of waiting for a Federal appropriation that would enable the Bureau of Reclamation to build the replacement dam.

The Act of December 28, 1973, also provides that upon completion of construction the United States shall take title to the dam as a feature of the Minidoka Project, located in the upper Snake River basin, Idaho.

As the constructing agent, the American Falls Reservoir District was authorized to contract with an electric utility for the use of the falling water at the dam for hydroelectric power generation. Revenues from such a contract will help defer the costs of constructing the dam. Prior to the adoption of the Act of December 28, 1973, the Idaho Power Company, which is a spaceholder in the reservoir and which owns and operates a power-plant below the existing dam, expressed interest in the execution of a falling water contract. Subsequent to the adoption of the Act, the District, as the constructing agency, entered into negotiations with the Secretary of the Interior, the Idaho Power Company and the other water users for the preparation of various contracts including a contract for the use of falling water.

It was intended that in normal circumstances, substantially all of the falling water would be made available to the Power Company only when water was released from the dam for irrigation purposes. There has been no intention to release water specifically for use by the Idaho Power Company to generate electricity, except for 45,000 acre-feet (2.65 percent of the storage capacity) whose release the power company can schedule for the purpose of generating electric energy. Thus, the use of water for electric energy would be subordinated to the use of the water for irrigation.

Although the Federal Government might well eventually completely finance the reconstruction of the American Falls Dam, the American Falls Reservoir District is



1976-1 C.B. 490
H.R. Rep. No. 94-531

Page 4

(Publication page references are not available for this document.)

undertaking the reconstruction now in order to make the dam fully operational for the spaceholders (rather than the present restricted two-thirds capacity). If it were not for the use of the water by the Idaho Power Company for hydroelectric power generations, any bonds issued by the Reservoir District would presently qualify for tax-exempt status. In this case the Idaho Power Company has a limited spaceholder right (under 3 percent) and is financing a large portion of the debt to assist the reconstruction of the dam and has use of the falling water for its hydroelectric power generation purposes. In addition, since the dam is to be turned over to the Federal Government after its reconstruction for ownership and operation, in effect, this financing can be viewed as saving the Federal Government the expenditure it would have had to make to reconstruct the dam several years in the future. In view of these special circumstances, your committee believes it is appropriate to extend tax-exempt status to the bonds to be issued to finance the reconstruction of the dam.

[4] EXPLANATION OF THE BILL

Your committee's bill adds a new exception to industrial development bond treatment to specifically allow tax-exempt status for the bonds issued to reconstruct the American Falls Dam. This exception is to apply to obligations for a dam which furnishes water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water if substantially all of the stored water is contractually available for release from the dam for irrigation purposes and if the water released is available on reasonable demand for members of the general public.

The committee intends that subordinate use of water for generating electric energy means that less than 10 percent of the normal supply of stored water may contractually be scheduled for release by the power company and used for generating electric energy. "Normal" refers to conditions that generally prevail in the service area of this reservoir, and it is recognized that unusually wet or dry weather can cause a significant distortion in the 2.65 percent of water contractually scheduled for release to be used for generating electric energy. The committee intends that such unusual circumstances not be guiding in determining the subordinate use of water. In addition, "normal" use does not include a temporary increase in water released for the power company following contractual default by a spaceholder and his water share being made available to other spaceholders under the terms of the contract for the construction and operation of the dam and its facilities.

Thus, the provision applies the requirements of subsection (c)(4)(G) where substantially all of the stored water (under normal weather and climatic conditions) is available for release to be used for irrigation in the American Falls Reservoir District. The requirement that the released water be available on reasonable demand to members of the general public is retained in the new subsection (e). The committee understands that the American Falls project conforms with this require-



1976-1 C.B. 490
H.R. Rep. No. 94-531

Page 5

(Publication page references are not available for this document.)

ment.

Your committee's bill is to apply to obligations issued after the date of the enactment of this Act.

* * * * *

[11] VI. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clauses 2(1)(3) and 2(1)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made.

With regard to subdivision (A) of Clause 3, the Committee advises that its oversight findings led it to the conclusion that an amendment to the Internal Revenue Code is necessary to establish the eligibility of bonds issued by the American Falls Reservoir District for a dam and related facilities for tax-exempt status as industrial development bonds.

In compliance with subdivision (B) of Clause 3, the committee states that the change made in section 103 of the Internal Revenue Code will produce an annual revenue loss of about \$1 million at current tax rates for the period of maturity during which the bonds to be issued will be outstanding. Alternatively, the cost to the Federal Government of construction of this project as a direct expenditure presently is estimated at about \$50 million.

With respect to subdivisions (C) and (D) of Clause 3, the Committee advises that no estimate or comparison has been prepared by the Director of the Congressional Budget Office relative to any of the provisions of H.R. 9968, nor have any oversight findings or recommendations been made by the Committee on Government Operations with respect to the subject matter contained in H.R. 9968.

In compliance with clause 2(1)(4) of Rule XI, the Committee states that the bonds to be issued followed enactment of H.R. 9968 are not expected to have an inflationary impact on prices and in costs in the operation of the national economy.

FN1. Pub. L. 94-164, page 486.

1976-1 C.B. 490

END OF DOCUMENT



Exhibit J

Senate Report

Tax Exempt Status of Obligations Used to Provide Certain Irrigation Facilities

Westlaw

1976-1 C.B. 492

S. Rep. No. 94-570

Page 1

(Publication page references are not available for this document.)

Internal Revenue Service (I.R.S.)

Senate Report

TAX EXEMPT STATUS OF OBLIGATIONS USED TO PROVIDE CERTAIN IRRIGATION
FACILITIES

December 16, 1975

Senate Report No. 94-570 1st Session

[Bracketed numerals indicate official report page numbers]

DECEMBER 16 (legislative day, DECEMBER 15), 1975

Mr. LONG, from the Committee on Finance, submitted the following report to accompany H.R. 9968. [FN1]

The Committee on Finance, to which was referred the bill (H.R. 9968) to amend section 103 of the Internal Revenue Code of 1954 with respect to certain obligations used to provide irrigation facilities, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

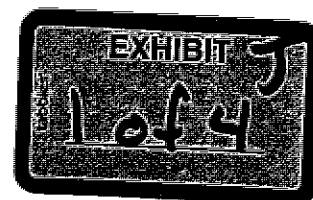
I. SUMMARY

H.R. 9968 would clarify the tax-exempt status of obligations the proceeds of which are to be used to reconstruct the American Falls Dam in Idaho.

Present law provides that an industrial revenue bond whose proceeds are used to build a dam to store water for irrigation purposes may be eligible for tax-exempt status. Where, however, the water also has a subordinate use in generating electricity, the status of the bonds is not clear under existing law. The American Falls Dam is used principally for irrigation purposes, but the water has a subordinate use in generating electricity. H.R. 9968 provides that industrial revenue bonds issued in such a case may qualify for exempt status if substantially all of the stored water is contractually available for irrigation purposes and the water is available on reasonable demand to members of the general public.

II. GENERAL EXPLANATION OF THE BILL

Present law provides that interest on obligations of State and local governments generally is exempt from Federal income tax. In 1968 tax-exempt status was withdrawn from industrial development bonds [2] which State and local governments were using to finance and attract private industrial development within their jurisdictions.



1976-1 C.B. 492
S. Rep. No. 94-570

Page 2

(Publication page references are not available for this document.)

Industrial development bonds are generally considered to be State or local obligations, a major portion of the proceeds of which are to be used in, and repaid by, a taxable trade or business. Such bonds are normally issued to acquire a facility for private business in which the beneficial ownership of the facility remains in the private trade or business, although (in order to secure repayment of the bonds) legal title normally remains with the State or local unit issuing the obligations.

When the industrial development bond limitation was enacted, exceptions were provided for certain small issues (sec. 103(c)(6)) and for certain specified public activities (sec. 103(c)(4) in which cases tax-exempt status was continued. As initially enacted, one of the public activities for which an exemption was provided (sec. 103(c)(4)(E)) was "sewage or solid waste disposal facilities or facilities for the local furnishing of electric energy, gas or water."

In 1971, Congress amended the exception in subparagraph (E) to delete "water" and added the present law subparagraph (G) which extends the exception to "facilities for the furnishing of water, if available on reasonable demand to members of the general public."

As a result, in those cases where obligations are issued for facilities for the furnishing of water which meet the exception (under sec. 103(c)(4)(G)) but where the water is also used to generate electricity, it is uncertain as to whether the obligations would qualify for exempt status unless the use of the electric energy meets the "local" furnishing test (under sec. 103(c)(4)(E)), which has been interpreted to cover an area of two contiguous counties.

The American Falls Reservoir District applied to the Internal Revenue Service in June 1974 for a ruling that bonds to be issued to finance the replacement and rehabilitation of the American Falls Dam would qualify as a tax-exempt issue under section 103(c)(4)(G). The Internal Revenue Service, however, had questions of interpretation with respect to the interrelationship of the exceptions for facilities for furnishing of water and the local furnishing of electric energy and their application to the specific facts of this case. The committee reviewed the facts involved, as described below, and believed it is appropriate to specifically except the bond issue in this case as a result of the special circumstances.

The original American Falls Dam was constructed in 1927 by the Bureau of Reclamation. The dam was restricted to two-thirds of its 1.7 million acre foot capacity in 1972 by the Bureau of Reclamation of the Department of the Interior for safety reasons because of excessive pressures on the dam which were caused by an alkali-aggregate reaction and deterioration in the concrete.

Legislation was enacted on December 28, 1973, to permit replacement and rehabilitation of the American Falls Dam by the American Falls Reservoir District, which is a political subdivision of the State of Idaho. Replacement of the existing dam



1976-1 C.B. 492
S. Rep. No. 94-570

Page 3

(Publication page references are not available for this document.)

by the American Falls Reservoir District is an action to be taken in lieu of waiting for a Federal appropriation that would enable the Bureau of Reclamation to build the replacement dam.

[3] The Act of December 28, 1973, also provides that upon completion of construction the United States shall take title to the dam as a feature of the Minidoka Project, located in the upper Snake River basin, Idaho.

As the constructing agent, the American Falls Reservoir District was authorized to contract with an electric utility for the use of the falling water at the dam for hydroelectric power generation. Revenues from such a contract with help defer the costs of constructing the dam. Prior to the adoption of the Act of December 28, 1973, the Idaho Power Company, which is a spaceholder in the reservoir and which owns and operates a power-plant below the existing dam, expressed interest in the execution of a falling water contract. Subsequent to the adoption of the Act, the District, as the constructing agency, entered into negotiations with the Secretary of the Interior, the Idaho Power Company and the other water users for the preparation of various contracts including a contract for the use of falling water.

It was intended that in normal circumstances substantially all of the falling water would be made available to the Power Company only when water was released from the dam for irrigation purposes. There has been no intention to release water specifically for use by the Idaho Power Company to generate electricity, except for 45,000 acre-feet (2.65 percent of the storage capacity) whose release the power company, in its capacity as a space holder in the irrigation district, can schedule for the purpose of generating electric energy. Thus, the use of water for electric energy would be subordinated to the use of the water for irrigation.

Although the Federal Government might well eventually completely finance the reconstruction of the American Falls Dam, the American Falls Reservoir District is undertaking the reconstruction now in order to make the dam fully operational for the spaceholders (rather than the present restricted two-thirds capacity). If it were not for the use of the water by the Idaho Power Company for hydroelectric power generation, any bonds issued by the Reservoir District would presently qualify for tax-exempt status. In this case the Idaho Power Company has a limited spaceholder right (under 3 percent) and is financing a large portion of the debt to assist the reconstruction of the dam and has use of the falling water for its hydroelectric power generation purposes. In addition, since the dam is to be turned over to the Federal Government after its reconstruction for ownership and operation, in effect, this financing can be viewed as saving the Federal Government the expenditure it would have had to make to reconstruct the dam several years in the future. In view of these special circumstances, the committee believes it is appropriate to extend tax-exempt status to the bonds to be issued to finance the reconstruction of the dam.



1976-1 C.B. 492
S. Rep. No. 94-570

(Publication page references are not available for this document.)

The bill adds a new exception to industrial development bond treatment to specifically allow tax-exempt status for the bonds issued to reconstruct the American Falls Dam. This exception is to apply to obligations for a dam which furnishes water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water if substantially all of the stored water is contractually available for release from the dam for irrigation purposes [4] and if the water released is available on reasonable demand for members of the general public.

The committee intends that subordinate use of water for generating electric energy means that less than 10 percent of the normal supply of stored water may contractually be scheduled for release by the power company and used for generating electric energy. Normal refers to conditions that generally prevail in the service area of this reservoir, and it is recognized that unusually wet or dry weather can cause a significant distortion in the 2.65 percent of water contractually scheduled for release to be used for generating electric energy. The committee intends that such unusual circumstances not be guiding in determining the subordinate use of water. In addition, normal use does not include a temporary increase in water released for the power company following contractual default by a spaceholder and his water share being made available to other spaceholders under the terms of the contract for the construction and operation of the dam and its facilities.

Thus, the provision applies the requirements of subsection (c)(4)(G) where substantially all of the stored water (under normal weather and climatic conditions) is available for release to be used for irrigation in the American Falls Reservoir District. The requirement that the released water be available on reasonable demand to members of the general public is retained in the new subsection (e). The committee understands that the American Falls project conforms with this requirement.

The bill is to apply to obligations issued after the date of the enactment of this Act.

FN1. Pub. L. 94-164, page 486.

1976-1 C.B. 492

END OF DOCUMENT



Exhibit K

PL 94-164, 89 Stat 970

An Act to change certain
income tax provisions of
the Internal Revenue Code
of 1954

Tax Exempt Status of
Obligations Used to
Provide Certain Irrigation
Facilities

UNITED STATES PUBLIC LAWS
94th Congress - First Session
Convening January 14, 1975

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PL 94-164 (HR 9968)
December 23, 1975

An Act to change certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States
of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Revenue Adjustment Act of 1975". // 26 USC 1 note. //

SEC. 1 A. DECLARATION OF POLICY.

(a) // 29 USC 1 note. //

Congress is determined to continue to tax reduction for the first 6 months of 1976 in order to assure continued economic recovery.

(b) Congress is also determined to continue to control spending levels in order to reduce the national deficit.

(c) Congress reaffirms its commitments to the procedures established by the Congressional Budget and Impoundment Control Act of 1974 // 31 USC 1301 note. // under which it has already established a binding spending ceiling for the fiscal year 1976.

(d) If the Congress adopts a continuation of the tax reduction provided by this act beyond June 30, 1976, and if economic conditions warrant doing so, Congress shall provide, through the procedures in the Budget Act, for reductions in the level of spending in the fiscal year 1977 below what would otherwise occur, equal to any additional reduction in taxes (from the 1974 tax rate levels) provided for the fiscal year 1977: Provided, however, That nothing shall preclude the right of the Congress to pass a budget resolution containing a higher or lower expenditure figure if the Congress concludes that this is warranted by economic conditions or unforeseen circumstances.

SEC. 2. INDIVIDUAL INCOME TAX REDUCTIONS.



(a) Low Income Allowance.--

(1) Increase.--Subsection (c) of section 141 of the Internal Revenue Code of 1954

// 26 USC 141. // (relating to low income allowance) is amended to read as follows:

"(c) Low Income Allowance.--

"(1) In general.-- The low income allowance is--

"(A) \$2,100 in the case of-- "(i) a joint return under section 6013,

// 26 USC 6013. // or "(ii) a surviving spouse (as defined in section 2(a)),

"(B) \$1,700 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(C) \$1,050 in the case of a married individual filing a separate return.

"(2) Application of 6-Month Rule.--Notwithstanding the provisions of paragraph (1), the following amounts shall be substituted for the amount set forth in paragraph (1)--

"(A) '\$1,700' for '2,100' in subparagraph (A),

"(B) '\$1,500' for '\$1,700' in subparagraph (B), and

"(C) '\$850' for '\$1,050' in subparagraph (C).".

(2) Change in filing requirements to reflect increase in low income allowance.--Paragraph (1) (C) of section 6012(a) of such Code

// 26 USC 6012. // (relating to persons required to make returns of income) is amended--

(A) by striking out "\$2,350" in clause (i) of such paragraph and inserting in lieu thereof "\$2,450";

(B) by striking out "\$2,650" in clause (ii) of such paragraph and inserting in lieu thereof "\$2,850"; and

(C) by striking out "\$3,400" in clause (iii) of such paragraph and inserting in lieu thereof "\$3,600".

(b) Percentage Standard Deduction.--

(1) Increase.--Subsection (b) of section 141 of such Code

// 26 USC 141. // (relating to percentage standard deduction) is amended to read as follows:

"(b) Percentage Standard Deduction.--

"(1) General rule.--The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but



not to exceed--

"(A) \$2,800 in the case of--

"(i) a joint return under section 6013,

// 26 USC 6013. // or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) \$2,400 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(C) \$1,400 in the case of a married individual filing a separate return.

"(2) Application of 6-month rule.--Notwithstanding the provisions of paragraph (1) of this subsection, the following amounts shall be substituted for the amounts set forth in paragraph (1)--

"(A) '\$2,400' for '\$2,800' in subparagraph (A),

"(B) '\$2,200' for '\$2,400' in subparagraph (B), and

"(C) '\$1,200' for '\$1,400' in subparagraph (C).".

(2) Conforming amendments.--Section 3402(m) of such Code // 26 USC 3402. // (relating to withholding allowances based on itemized deductions) is amended--

(A) by striking out "\$2,600" in paragraph (1) (B) and inserting in lieu thereof "\$2,800", and

(B) by striking out "\$2,300" in such paragraph and inserting in lieu thereof "\$2,400".

(c) Earned Income Credit.--Subsections (a) and (b) of section 43 of such Code // 26 USC 43. // (relating to earned income credit) are amended to read as follows::

"(a) Allowance of Credit.--

"(1) General rule.--In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed \$4,000.

"(2) Application of 6-month rule.--Notwithstanding the provisions of paragraph (1), the term '5 percent' shall be substituted for the term '10 percent' where it appears in that paragraph.".

"(b) Limitation.--

"(1) General rule.--The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds \$4,000.



"(2) Application of 6-month rule.--Notwithstanding the provisions of paragraph (1), the term '5 percent' shall be substituted for the term '10 percent' where it appears in that paragraph."

(d) // 26 USC 43 note. //

Disregard of Refund.--Any refund of Federal income taxes made to any individual by reason of section 43 of the Internal Revenue Code of 1954 // 26 USC 43. // (relating to earned income credit) shall not be taken into account as income or receipts for purposes of determining the eligibility, for the month in which such refund is made or any month thereafter which begins prior to July 1, 1976, of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds, but only in such individual (or the family unit of which he is a member) is a recipient of benefits of assistance under such a program for the month before the month in which such refund is made.

(e) // 26 USC 42 note. //

Extension of Certain Low-Income Allowance, Percentage Standard Deduction, and Tax Credit Provisions.--The last sentence of section 209(a) of the Tax Reduction Act of 1975 // 26 USC 42 note. // is amended to read as follows: "The amendments made by section 201(a) and 202(a) shall cease to apply to taxable years ending after December 31, 1975; those made by sections 201(b), 201(c), and 203 shall cease to apply to taxable years ending after December 31, 1976."

(f) Extension of Earned Income Credit.--Section 209(b) of the Tax Reduction Act of 1975 // 26 USC 43 note. // (relating to effective date for section 204) is amended by striking out "January 1, 1976," and inserting in lieu thereof "January 1, 1977."

(g) // 26 USC 42 note. //

Effective Date.--The amendments made by this section apply to taxable years ending after December 31, 1975, and before January 1, 1977.

SEC. 3. TAXABLE INCOME CREDIT.

(a) Taxable Income Credit.--

(1) In general.--Section 42 of the Internal Revenue Code of 1954 (relating to credit for personal exemptions) is amended to read as follows:

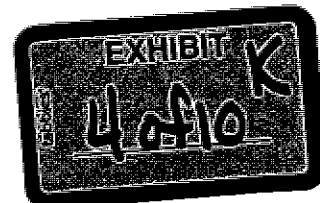
"SEC. 42.

// 26 USC 42. // TAXABLE INCOME CREDIT.--

"(1) In general.--In the case of an individual, there shall be allowed as a credit against to tax imposed by the chapter for the taxable year an amount equal to the greater of--

"(A) 2 percent of so much of the taxpayer's taxable income for the taxable year as does not exceed \$9,000; or

"(B) \$35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (e) of section 151.



// 26 USC 151. //

"(2) Application of six-month rule.--Notwithstanding the provisions of paragraph (1) of this subsection, the percentage "1 percent" shall be substituted for "2 percent" in subparagraph (A) of such paragraph, and the amount "\$17.50" shall be substituted for the amount "\$35" in subparagraph (B) of such paragraph.

"(b) Application With Other Credits.--The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year. In determining the credits allowed under--

"(1) section 33

// 26 USC 33. // (relating to foreign tax credit),

"(2) section 37

// 26 USC 37. // (relating to retirement income credit),

"(3) section 38

// 26 USC 38. // (relating to investment in certain depreciable property),

"(4) section 40

// 26 USC 40. // (relating to expenses of work incentive programs), and

"(5) section 41

// 26 USC 41. // (relating to contributions to candidates for public office),

the tax imposed by this chapter shall (before any other reductions) be reduced by the credit allowed by this section.

"(c) Special Rule for Married Individuals Filing Separate Returns.--,

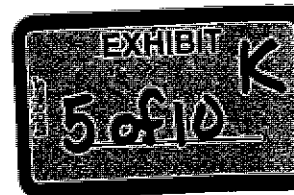
"(1) In general.--Notwithstanding subsection (a), in the case of a married individual who files a separate return for the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be equal to either--

"(A) the amount determined under paragraph (1) (A) of subsection (a); or

"(B) if this subparagraph applies to the individual for the taxable year, the amount determined under paragraph (1) (B) of subsection (a).

For purposes of the preceding sentence, paragraph (1) of subsection (a) shall be applied by substituting '\$4,500' for '\$9,000'.

"(2) Application of paragraph (1) (B).--Subparagraph (B) of paragraph (1) shall apply to any taxpayer for any taxable year if--



"(A) such taxpayer elects to have such subparagraph apply for such taxable year, and

"(B) the spouse of such taxpayer elects to have such subparagraph apply for any taxable year corresponding, for purposes of section 142(a),

// 26 USC 142. // to the taxable year of the taxpayer.

Any such election shall be made at such time, and in such manner, as the Secretary or his delegate shall by regulations prescribe.

"(3) Marital status.--For purposes of this subsection, the determination of marital status shall be made under section 143.

// 26 USC 143. //

"(d) Certain Persons Not Eligible.--This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual."

(2) Clerical amendment.--The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

" SEC. 42. Taxable income credit."

(b) // 26 USC 42 note. // Effective Date.--The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1975. Such amendments shall cease to apply to taxable years ending after December 31, 1976.

SEC. 4. CORPORATE TAX RATES AND SURTAX EXEMPTION.

(a) Corporate Normal Tax.--Section 11(a) of the Internal Revenue Code of 1954 // 26 USC 11. // (relating to corporate normal tax) is amended to read as follows:

"(b) Normal Tax.--,

"(1) General rule.--The normal tax is equal to--,

"(A) in the case of a taxable year ending after December 31, 1976, 22 percent of the taxable income, and

"(B) in the case of a taxable year ending after December 31, 1974, and before January 1, 1977, the sum of--,

"(i) 20 percent of such much of the taxable income as does not exceed \$25,000, plus

"(ii) 22 percent of so much of the taxable income as exceeds \$25,000.

"(2) Six-month application of general rule.--,

"(A) Calendar year taxpayers.--Notwithstanding the provisions of paragraph (1), in the case of a taxpayer who



has as his taxable year the calendar year 1976, the normal tax for such taxable year is equal to the sum of--,

"(i) 21 percent of so much of the taxable income as does not exceed \$25,000, plus

"(ii) 22 percent of so much of the taxable income as exceeds \$25,000.

"(B) Fiscal year taxpayers.--Notwithstanding the provisions of paragraph (1), in the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976, paragraph (1) shall cease to apply and the normal tax shall be 22 percent."

(b) Corporate Subtax.--Section 11(c) of such Code // 26 USC 11. // (relating to surtax) is amended to read as follows:

"(c) Surtax.--,

"(1) General rule.--The surtax is 26 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year.

"(2) Special rule for 1976 for calendar year taxpayers.--, Notwithstanding the provisions of paragraph (1), in the case of a taxpayer who has as his taxable year the calendar year 1976, the surtax for such taxable year is--,

"(A) 13 percent of the amount by which the taxable income exceeds the \$25,000 surtax exemption (as in effect under subsection (d)(2)) but does not exceed \$50,000, plus

"(B) 26 percent of the amount by which the taxable income exceeds \$50,000."

(c) Surtax Exemption.--Section 11(d) of such Code (relating to surtax exemption) is amended to read as follows:

"(d) Surtax Exemption.--,

"(1) General rule.--For purposes of this subtitle, the surtax exemption for any taxable year is \$50,000, except that, with respect to a corporation to which section 1561 or 1564

// 26 USC 1561, 1564. // (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.

"(2) Six-month application of general rule.--Notwithstanding the provisions of paragraph (1)--, "(a) Calendar year taxpayers.--In the case of a taxpayer who has as his taxable year the calendar year 1976, the provisions of paragraph (1) shall be applied for such taxable year by substituting the amount '25,000' for the amount '\$50,000' appearing therein.

"(B) Fiscal year taxpayer.--In the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976, paragraph (1) shall be applied by substituting the amount '\$25,000' for the amount '\$50,000' appearing therein, and such substitution shall be treated, for purposes of section 21, as a change in a rate of tax."

(d) Technical and Conforming Changes.--,

(1) Section 1561(a) (1) of such Code (relating to limitations on certain multiple tax benefits in the case of certain



controlled corporations) as such section is in effect for taxable years ending after December 31, 1975, is amended by striking out "\$25,000". Section 962(c) of such Code

// 26 USC 962. // (relating to surtax exemption for individuals electing to be subject to tax at corporate rates) as such section is in effect for taxable years ending after December 31, 1975, is amended by striking out "25,000" and inserting in lieu thereof "the surtax exemption".

(2) Section 21(f) of such Code

// 26 USC 21. // (relating to increase in surtax exemptions) is amended--,

(A) by striking out " Increase" in the caption and inserting "Change" in lieu thereof, and

(B) by inserting after "Tax Reduction Act of 1975" the following: "and the change made by section 3(c) of the Revenue Adjustment Act of 1975".

(e) // 26 USC 11 note. // Effective Dates.--The amendments made by subsections (b), (c), and (d) apply to taxable years beginning after December 31, 1975. The amendment made by subsection (c) ceases to apply for taxable years beginning after December 31, 1976.

SEC. 5. WITHHOLDING; ESTIMATED TAX PAYMENTS.

(a) Withholding.--,

(1) In general.--Section 3402(a) of the Internal Revenue Code of 1954

// 26 USC 3402. // (relating to income tax collected at source), as amended by section 205 of the Tax Reduction Act of 1975, is amended by inserting after the second sentence thereof the following: "The tables so prescribed with respect to wages paid after December 31, 1975, and before July 1, 1976, shall be the same as the tables prescribed under this subsection which were in effect on December 10, 1975.".

(2) Technical amendment.--Section 209(c) of the Tax reduction Act of 1975

// 26 USC 3420 note. // is amended by striking out "January 1, 1976" and inserting in lieu thereof "July 1, 1976".

(b) Estimated Tax Payments by Individuals.--Section 6153 of such Code // 26 USC 6153. // (relating to installment payments of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(g) Six-Month Application of Revenue Adjustment Act of 1975 Changes.--In the case of a taxpayer who has as his taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 1, 1976, may be computed without regard to section 42(a) (2), 43(a) (2), 43(b)(2), 141(b)(2), or 141(c)(2)." // 26 USC 42, 43, 141. //

(c) Estimated Tax Payments by Corporations.--Section 6154 of such Code // 26 USC 6154. // (relating to installment payments of estimated income tax by corporations) is amended by adding at the end thereof the following new subsection:

"(h) Six-Month Application of Revenue Adjustment Act of 1975 Changes.--In the case of a corporation which has



as its taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 1, 1976, may be computed without regard to sections 11(b)(2), 11(c)(2), and 11(d)(2).". // 26 USC 11. //

SEC. 6. ROLLING STOCK.

(a) Exclusion From Income.--Section 883(a) of the Internal Revenue Code of 1954 // 26 USC 883. // is hereby amended by adding at the end thereof the following new paragraph:

"(3) Railroad rolling stock of foreign corporations.-- Earnings derived from payments by a common carrier for the use on a temporary basis (not expected to exceed a total of 90 days in any taxable year) of railroad rolling stock owned by a corporation of a foreign country which grants an equivalent exemption to corporations organized in the United States."

(b) // 26 USC 883 note. // Effective Date.--The amendment made by this section shall apply to payments made after November 18, 1974.

SEC. 7. CERTAIN IRRIGATION FACILITIES.

(a) In General.--Section 103 of the Internal Revenue Code of 1954 // 26 USC 103. // (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Certain Irrigation Dams.--A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c) (4) (G) if--

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

"(2) the water so released is available on reasonable demand to members of the general public."

(b) // 26 USC 103 note. // Effective Date.--The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

LEGISLATIVE HISTORY:

HOUSE REPORT NO. 94--531 (Comm. on Ways and Means). SENATE REPORT No. 94--570 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 121, (1975):

Oct. 6, considered and passed House. Dec. 19, considered and passed Senate, amended; House concurred in Senate amendment with an amendment; Senate concurred in House amendment.

Approved December 23, 1975.

PL 94-164, 1975 HR 9968

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PL 94-164, 1975 HR 9968

PL 94-164, December 23, 1975, 89 Stat 970

(Publication page references are not available for this document.)

Page 10



Exhibit L

Memorandum from
B.E. Stoutemyer to
Commissioner

UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION
603 Post Office Building
Portland, Oregon

March 12, 1940.

MEMORANDUM for the Commissioner,

Concerning the provisions of the contracts between the United States and the Idaho Power Company, the conditions which led to the contracts in question, and the purposes which have been accomplished by the contracts.

The Government has three power plants in connection with its reclamation projects in Idaho. All of the power plants were constructed for reclamation purposes, and in so far as there has been any power production for commercial purposes it has been merely incidental to the main purpose of reclaiming the arid lands under the reclamation act.

Minidoka
Power
Plant

The largest of the 3 government power plants in Idaho is the one at the Minidoka Dam, in connection with the Minidoka reclamation project. It has a generating capacity of about 10,000 kilowatts. This plant has been enlarged several times, and another unit is now in process of construction. The demands for power for irrigation pumping on the Minidoka project -- mainly in the Burley Irrigation District -- have grown to such an extent that the irrigation pumping requirements alone now require all, and at some times more power than is available from the total capacity of the Minidoka plant, thus leaving no firm power at all from the Minidoka

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plant for the purpose of carrying on the extensive commercial power business which has been developed on the Minidoka project. However, the commercial power business, which is quite profitable, has been preserved and is now being carried on by means of the contracts hereafter mentioned.

Boise
Diversion
Plant

The second power plant constructed in Idaho is the small plant on the Boise River at the government diversion dam, a few miles above the city of Boise. This plant was designed to have a capacity of about 1800 kilowatts, but the capacity has at times been reduced by a silting-up of the river below the dam and is often reduced by lack of sufficient water to operate the plant to full capacity. This plant was constructed as a means of providing construction power to be used in the construction of the Arrowrock Dam. A transmission line was constructed between the power plant at the diversion dam and the Arrowrock Dam, and the plant is considered to have paid for itself in furnishing power for construction purposes, it being cheaper and better for that purpose than any other means of providing the necessary construction power. The Boise Diversion Plant is not operated in the winter time, because it is necessary to store the winter flow of the Boise River for irrigation purposes. The plant is operated intermittently during the irrigation season whenever there is sufficient demand for power to justify the expense of operation. The expense of operating this small plant of 1800 kilowatts capacity is twice as much per kilowatt



as the expense of operating the Black Canyon plant, which has a capacity of 8,000 kilowatts. For this reason the Boise plant is held in reserve most of the time as a standby plant, and is put into operation only when there is a greater demand for power than can be supplied from the Black Canyon plant.

Black
Canyon
Plant

The Black Canyon power plant is located on the Payette River at the Black Canyon Dam, about 6 miles above the town of Emmett. It has a capacity of 8,000 kilowatts. It was constructed under a special provision in the Act of Congress of June 5, 1924 (43 Stat. 416), one of the provisions in this appropriation act reading:

"Provided further, That no part of the money appropriated under this paragraph shall be expended for the development of electric power until the Secretary of the Interior shall have secured, subject to the needs of the Boise project, a contract with the Gem Irrigation District, providing for the purchase by that district, for a period to be determined by the Secretary of the Interior, of the electric power necessary for the irrigation of the lands of said district: And provided further, That the rates in such contract shall be sufficient to include interest at five per centum per annum on the cost of such power development plus a reasonable depreciation on the power plant, as found by the Secretary of the Interior, and that the contract shall provide that before delivery of power in any season the district shall furnish security satisfactory to the Secretary of the Interior to insure payment to the Government of the power charges for such season, * * * "

The immediate purpose of the construction of the Black Canyon power plant was to save the Gem Irrigation District, which had been settled and highly improved but which was finding it impossible to meet the power charges of the Idaho Power Company



on account of the very high pumping lift in connection with the irrigation of the lands in the district. That is, it was intended that the power from the Black Canyon plant would be used in the Gem district until such time as gravity water might become available from the Owyhee Reservoir, and that thereafter the Black Canyon plant would be available for pumping water in the Black Canyon or Payette division of the Boise project, parts of which are under pumping lift.

The Act of Congress under which the Black Canyon plant was built required that the contract with the Gem district should provide for a sufficient payment to provide 5% interest on the money invested in the power plant and a reasonable depreciation on the plant and transmission facilities, and such additional amount as might be required for operation and maintenance of the plant and the transmission lines. The proper depreciation to be collected in connection with the contract in question was determined to be $3\frac{1}{2}\%$ on the power plant and $5\frac{1}{4}\%$ on the transmission lines. The Government constructed only a short transmission line from the power plant (about 6 miles in length) extending from the Black Canyon power plant down to a point near the town of Emmett, where a connection was made with the transmission lines of the Idaho Power Company.

Contract
Feb. 5, 1925
(ILR-413)

For the purpose of saving the heavy cost which would have been necessary in constructing, operating and maintaining a transmission line from Emmett to the pumping plants of the Gem Irrigation District, and also for the purpose of securing



from the Idaho Power Company standby service at times when the government's plant might not be able to furnish the required amount of power, the Government entered into the first contract with the Idaho Power Company in connection with the Black Canyon power plant. Under this contract (3-party contract of February 5, 1925 with the Company and the District) the Government traded the winter power produced at the Black Canyon plant to the Company for transmission service, which the Company agreed to furnish without charge except the payment in power as provided for in the contract.

In addition to furnishing transmission service, the contract provided that the Company would allow the District the free use of one of the Company's idle plants whenever there might be a shortage in the amount of power available from the Black Canyon plant, the District to pay the cost of operating and maintaining the Company's plant which might be put into use for that purpose. This provision in the contract proved to be one of very great importance to the Gen District, so important that without this service the District could not have survived during the cycle of low water years.

From the time that the first Black Canyon contract was made with the Idaho Power Company down until 1934, the Company had a surplus of generating capacity and always, or nearly always, had one or two idle plants which could be taken over by the District to furnish emergency power when the water in the Payette River was too low to run the Black Canyon plant to full capacity. The plants which were usually idle were the plant on the Malad River



in the Hagerman Valley and the one at Horseshoe Bend on the Payette River. Beginning shortly after the time that the first contract was made with the Idaho Power Company there was a cycle of unusually low water years on nearly all of the Idaho streams, and nearly every year for a number of years, extending down until about 1935, the natural flow of the Payette River dropped off in the late summer to such an extent that there was little more water available than that required to operate the direct-connected pumping plant which pumps water into the North Side Canal of the Emmett Irrigation District, and the Black Canyon plant was entirely incapable of furnishing the amount of power required for pumping in the Gam Irrigation District. Under these conditions the Gam district took over the operation of one of the Company's plants each low water year and during the latter half of the irrigation season secured its power mainly from the plant of the Idaho Power Company. This was a life saver for the District, and the District could not have survived as a going concern during such years without this assistance from the Company's plants.

Under the terms of the contract, the District was required to pay the cost of operating the Company's plant during the time that the plant was used to furnish power for the District, but under the Idaho statute taxes are rebated to the Company on any power plant capacity used in furnishing power for irrigation pumping, provided the Company passes on to the irrigation district or irrigation customer the full benefit of such tax rebate. In this



instance the tax rebate which was passed on to the Gem District was ample to cover the charges which would otherwise have been required for operation and maintenance of the company plant used by the District, so that the District received the benefit of the company plant for this purpose without any cost whatever.

So the two main considerations furnished by the Company in payment for the winter power furnished the Company from the Black Canyon plant consisted of, first, the furnishing of transmission service over the company's lines in transmitting the irrigation-- season power from Emmett to the pumps of the Gem District, which service was later extended to the pumping plants of the other Owyhee project districts, and, second, the furnishing free of cost of one of the company's otherwise idle plants for the use of the District in providing power when the Black Canyon plant was unable to furnish the required amount.

There was also in this contract a provision which required the Company to pay \$600 a month to the Government to cover the cost of operating the Black Canyon plant during the winter months when the Government otherwise would not have operated the plant. The Government preferred to operate the plant and require the Company to pay the cost of operation, rather than to allow the Company to operate the plant at its own expense, and that was the sole purpose of the \$600 a month payment in the winter months. There have been some misstatements made by some parties, especially some of those conducting litigation with the Secretary, to the effect that the \$600 per month was the sole consideration paid



by the Power Company for the winter power which it secured from the Black Canyon plant, and, based upon that erroneous supposition, there was an absurd statement as to the low rate paid by the Company. These misstatements have now been fully exploded by the findings of the court, made in the case of Burley Irrigation District v. Ickes, from which I will quote later. The \$600 per month during the winter was merely the contribution of the Company toward the operation and maintenance of the plant and was not the consideration for the power furnished to the Company from that plant in the winter, such consideration being (as stated above) the transmission service furnished by the Company and the free use of one or more of the company plants to furnish power to the Gem District when the Black Canyon plant was incapable of supplying the needs of the District.

Contract

Oct. 1, 1934
(ILR-801)

Under the contract of October 1, 1934, the contract of February 5, 1925 was continued in effect with some important modifications which included, among other things, the agreement on the part of the Power Company to furnish on the Minidoka project all the power needed on that project during the non-irrigation season up to 10,000 kilowatts, that is all the power needed in excess of the amount generated at the Minidoka plant, thus enabling us to close the Minidoka power plant down to a point where it used only the water which would have to be released to supply lower rights for domestic water and stock water. In other words, under the contract of October 1, 1934 the Company in effect transmits the winter power from the Black Canyon plant to the Minidoka project -- or you might say furnishes exchange

power on the Minidoka project for the winter power from the Black Canyon plant which the Company had previously received as consideration for transmission service — but continues to furnish transmission service also.

The power demands on the Company's system have now grown to such an extent that the Company does not have any idle plants during the peak demand in the irrigation season, nor does it have any idle capacity, as a general rule, in the fall and winter. But in the meantime the completion of the Owyhee reservoir and the canal system and tunnels leading to the Gem District have made gravity water available, and the construction of the Deadwood Reservoir has tended to hold up the late flow of the Payette River. So that it is no longer necessary to rely on the Company for standby service in the summer to serve the Gem district and other districts of the Owyhee project.

So under the present contract arrangement, as it now applies in connection with the Black Canyon plant and the Gem district and other irrigation districts of the Owyhee project, the Company furnishes transmission service in the summer without charge for such transmission service, and exchanges power delivered by the Company on the Minidoka project for the winter power received by the Company from the Black Canyon plant. The Company, however, receives some surplus power on some occasions intermittently when there may be a surplus available from the Black Canyon plant and finds it beneficial to have the Black Canyon plant on the western end of the Company's system as a stabilizer, the Company

having a heavy demand for power on the western end of its system and very little generating capacity on that end of its system. In other words, it is mutually advantageous to the Company and to the Government to trade Black Canyon winter power, delivered by the Government near Emmett, for winter power delivered by the Company on the Minidoka project.

In connection with the contract of October 1, 1934 between the United States and the Company, the Company also agreed to furnish and does furnish free of charge to the Government a total of 7,500 kilowatts of irrigation-season power on the Minidoka project, or so much thereof as may be needed on that project, 3,500 kilowatts of the total being breakdown power only but 4,000 kilowatts thereof being firm power. This additional summer or irrigation-season power comes to the United States absolutely free of charge and has saved the Government the expense of building another power plant, which would probably involve a cost of about a million dollars, and also saves the Government the expense of transmitting the power from the site of the proposed government plant at American Falls to the Minidoka project, and has the additional advantage over a government-owned plant in that the power is furnished free of any charge for depreciation or operation and maintenance, while if the Government had constructed its own plant it would not only have had to pay the cost of constructing the plant (perhaps a million dollars) but would also have had to pay



the cost of operating and maintaining the plant and the transmission system, all of which is saved under the contract above referred to.

The conditions which led up to the making of the contract of October 1, 1934, and the benefits derived from that contract have been quite fully set out in the findings of fact as made by the court (Judge O'Donoghue) in the case of Burley Irrigation District v. Ickes, in the United States District Court for the District of Columbia, from which I quote as follows:

The Minidoka Project is composed of and includes seven divisions known as follows:

1. The Jackson Lake Division;
2. The American Falls Reservoir Division, which furnishes stored water directly or indirectly for the irrigation of about 90 percent of the million acres of land which are irrigated from the Snake River in southern Idaho;
3. The Gravity Division, irrigated for the most part by gravity. The irrigable lands of this Division are now included in the Minidoka Irrigation District;
4. The Pumping Division or South Side Pumping Division, the irrigable lands of which are mostly high lands and must be irrigated by pumping water up to their level. These lands are about 46,000 acres and are now included in the Burley Irrigation District;
5. The Gooding Division;
6. The North Side Pumping Division, for which storage works have been constructed but which is undeveloped to the extent that the canals have not yet been constructed;
7. The Commercial Power Division, to which charges were made for power generating units, transmission lines, transformers, substations and other electrical works used in the generation and distribution of surplus electric power for commercial purposes including electrical heating, lighting and general power purposes.

The principal structures and physical features of the said Minidoka Project include the Jackson Lake Dam and Jackson Lake Reservoir located in Wyoming near the boundary of the Yellowstone National Park about 250 miles upstream from the Minidoka Project, which reservoir has a



storage capacity of about 850,000 acre-feet, the American Falls Dam and Reservoir with storage capacity of approximately 1,700,000 acre-feet, Lake Walcott Reservoir, located immediately above the Minidoka Dam and being the backwater formed by the said dam, with a capacity of about 100,000 acre-feet, the Minidoka Dam and spillway, the canals and headworks supplying the Gravity Division of the Minidoka Project and Pumping Division thereof, the power plant and penstocks at the Minidoka Dam and its six generating units with rated capacity of 10,000 kilowatts and the transmission lines, substations, transformers and other electrical works in connection therewith and the canal system for the Gooding division. The Minidoka Dam serves the triple purpose of a diversion dam, a storage dam and a power dam. The Minidoka power plant is incorporated in and forms a part of the Minidoka Dam, the dam forms one of the walls of the power plant and the penstocks for the power development serve also as outlet works for the reservoir.

The power generated by the Minidoka power plant is used primarily for pumping irrigation water to lands at high levels, most of which are in the Burley District South Side Pumping Division, as well as for drainage pumping. Such power as is available from the plant after those uses are satisfied has been used to supply, in so far as it could, the commercial power demands on the Minidoka Project and in towns adjacent thereto.

The said Minidoka power plant and the Minidoka Dam with which the same is connected and the related works in connection therewith were constructed by the United States on public land of the United States under authority of the said Reclamation Law and were paid for by the United States with funds from the special fund set aside and designated as the Reclamation Fund, to be reimbursed as provided in the said Reclamation Law, and that the same have been operated, maintained and controlled by the United States ever since the construction thereof, the cost of operation and maintenance, however, being reimbursed to the United States by the water users (or the district in which their lands are located) and in part out of the gross receipts from sale of power.

All of the irrigation works constructed by the United States in connection with the various divisions of the said Minidoka Project were constructed under the provisions of the said Reclamation Law.

The Gravity Division of the Minidoka Project has rights in and receives stored water from the American Falls Reservoir and constitutes a part of the total of about 900,000 acres of irrigated land which receives water from the American Falls Reservoir directly or indirectly.

About 400,000 acre-feet of the storage capacity of American Falls Reservoir has been constructed for and is being reserved for use on the proposed North Side Pumping Division of the Minidoka Project but is being leased temporarily pending the construction of the canal system for that division. During the year 1935, the Burley Irrigation District shared in such leased capacity to the extent of 50,000 acre-feet of capacity and enjoyed the benefit of the improved water supply made available for storage in the reservoir under the water conservation plan put into effect by the Secretary of the Interior in connection with the contract of October 1, 1934, with the Idaho Power Company, although by reason of water shortage it was impossible, even with the conservation plan in effect, to deliver water to the full extent of the leased capacity. Since the year 1935 the Burley Irrigation District has had no lease of space in the American Falls Reservoir and has not used any of the water stored therein except on an exchange basis with parties located above the reservoir who owned rights in the reservoir.

The transmission lines and transformers in connection with the said Minidoka power plant and those used in the distribution and transmission of power therefrom were also constructed by the United States under the Reclamation Law and paid for out of the said Reclamation Fund, and all irrigation and power works in connection with the project were constructed either on public lands of the United States or on lands or rights of way purchased by the United States for that purpose.

The works referred to as the commercial power distribution system of the Minidoka Project, including most of the transmission lines and transformers in connection with the said project, consist in the main of certain original transmission and transformer works which were charged on the books to a separate division or account known as the Commercial Power Division of the Minidoka Project and were not charged to the Burley Irrigation District or the lands of the South Side Pumping Division but to another division of the Minidoka Project known as the Commercial Power Division and also consist of certain transformer and transmission works, substations and interconnection works constructed at a later date, in part constructed and charged in the same way in the same manner as the original works and in part provided for from receipts secured from power distributed through the original works. That part of the power system not charged to the Commercial Power Division was charged to and is to be repaid by the water users or the districts which include their lands.

Certain minor works, or "transferred" works, such as laterals, sublaterals and pumping substations are now being operated and maintained by the Minidoka Irrigation District and the Burley Irrigation District, respectively, under contracts later made with



the United States. But all the major irrigation and power works, or "reserved" works, which include all the works in connection with the various divisions of the Minidoka Project except the transferred works, have ever since their construction been operated, maintained and controlled by the United States. Those reserved works include all dams, reservoirs, power plants and power distribution facilities. The right of the United States to operate, maintain and control the reserved works is recognized in the contract of March 15, 1926, between the United States and the Burley Irrigation District. The transferred works are of much less importance and of much less value than the reserved works.

The lands of the Snake River Valley, including the lands of the various divisions of the Minidoka Project and the entire 900,000 acres which receive water directly or indirectly from the American Falls Reservoir are in their natural condition arid and incapable of producing agricultural crops without irrigation but are fruitful and productive when irrigated.

The average annual rainfall for the irrigated portion of the Snake River Valley in southern Idaho varies from about eight inches per year to 12 inches per year. In their natural condition the said lands were covered with sagebrush and other similar desert plants. Irrigation farming is the fundamental industry of southern Idaho in general and the Snake River Valley and Minidoka Project in particular and the Snake River is the main source of the water supply for such irrigation farming. The entire community, both the urban community and the rural community, and the entire economic life and civilization of the region is dependent directly or indirectly upon irrigation water for the production of crops. On the Minidoka Project the average size of the farm units is about 50 acres for each unit. Each unit on the average supports two families on the project, one located on the farm and one located in one of the towns, near or on the project, the town population in the project towns being approximately the same as the population residing on the farms, so that on the average each 25 acres of project lands supports one family on the project directly or indirectly.

The principal crops are potatoes, sugar beets, hay, grain and beans. During the spring months up to and including a part of the month of June there is usually sufficient flood water in the Snake River from melting snows in the mountains and other natural sources of supply to provide the required water supply for irrigation purposes, but during the last half of the irrigation season the farms of the Snake River Valley in general, including those on the various divisions of the Minidoka Project, are dependent largely, and, in the case of the Minidoka Project, mainly on the stored water from the various reservoirs which have



been constructed by the United States on Snake River as portions or divisions of the Minidoka Project. The most valuable crops per acre are the potatoes, sugar beets and beans for which water in the later part of the irrigation season is particularly necessary. In very dry years, when the snowfall is limited, it has been necessary to start using storage water as early as April or May, thereby reducing the amount of stored water available for the later part of the irrigation season.

There has been in recent years an increase to a great extent in crops for which late water is essential. The increase in irrigation acreage in Wyoming in recent years has tended to reduce the amount of water reaching the Idaho State line from the Snake River and, together with some increased irrigation from Snake River in Idaho and the increasing importance and area of crops of more value per acre particularly dependent on late water, has largely increased the demand and need for irrigation water from Snake River, particularly during the last half of the irrigation season when maturing crops especially need water. Serious water shortages occurred in Snake River Valley from 1931 to 1934, inclusive, and a particularly severe shortage occurred during the year 1934. The year 1935 was also a year of low water. The stream flow had been below normal for a series of years and the ground water was drained to low levels.

The said water shortages were due in part to the fact that the stream flow was much below normal during the 5-year period above referred to and in part to the increased water requirements above referred to and in part to diversions in Wyoming on the tributaries of Snake River for additional lands recently brought under irrigation in that State.

Severe crop losses occurred throughout the Snake River Valley in general during the 5-year period from 1931 to 1935 and the said losses were especially severe during the year 1934 on account of water shortage and the failure of the American Falls Reservoir to fill to full capacity during the years above referred to. One of the causes which directly contributed to the failure of the American Falls Reservoir to fill during the years from 1929 to 1935, inclusive, and the resulting water shortages was the use of large amounts of the winter flow water of Snake River in the operation of the power plant at the Minidoka Dam. The Minidoka Dam and power plant are located below the American Falls Reservoir. There is no reservoir below the power plant in which water can be stored or conserved after it has been used in developing power at the power plant.



The water used for power development at Minidoka power plant in the winter time, except for a small part thereof taken out below for domestic and municipal purposes, flows on down the Snake River and ultimately reaches the Pacific Ocean and is wasted so far as irrigation is concerned. The amount of water annually thus wasted for irrigation use formerly by the discharge of water, not otherwise required to be turned downstream, to operate the Minidoka Power plant during the nonirrigation season was over 225,000 acre-feet, or about enough to irrigate all the lands in the South Side Pumping Division of the Burley Irrigation District. Such waste of water is inimical to the imperative need for preservation of irrigation in the Snake River Valley.

For the purpose of conserving water and preventing as far as possible the repetition of the disastrous water shortages of the preceding four years and also for the purpose of bringing to the Minidoka Project an additional supply of power to meet the constantly increasing power demands on that project the Secretary of the Interior entered into a contract with the Idaho Power Company, under which the company agreed to deliver to the Minidoka Project during the irrigation season such amount of power as might be needed thereon up to 7,500 kilowatts of which 3,500 kilowatts were to be breakdown power only and 4,000 kilowatts firm power, the term "breakdown power" being used to describe power to be furnished in case of temporary emergencies due to breakdown in machinery or equipment or similar causes and the term "firm power" being used to designate power to be available as needed to supply the ordinary demands of the Minidoka Project business during the irrigation season, that is, to supply the excess demand on the said project over and above the amount available from the Minidoka power plant. It also agreed to furnish such nonirrigation season power up to 10,000 kilowatts as might be required on the Minidoka Project during the nonirrigation season. That in consideration of or in exchange for the power agreed to be furnished by the Idaho Power Company the United States agreed to forego during the term of the contract its right to build a proposed power plant of its own at American Falls and to extend to run concurrently with the contract in question for a term of 25 years, unless sooner terminated by the United States, a contract under which the power developed at the Government's Black Canyon Power Plant, located on the Payette River in western Idaho (a plant constructed under the Reclamation Act in connection with the Boise Project), was delivered to the power company, the said transaction constituting in effect an exchange of power between the Government and the company under which the company took the Black Canyon power from the Government's plant near Emmett, Idaho, and in exchange therefor delivered power to the Minidoka Project, both during the winter season and the summer season.

The winter power secured from the Idaho Power Company in exchange for the Black Canyon power made it possible to par-



tially close down the Minidoka power plant during the winter and reduce the use or demand for winter water at said plant to the amount which must in any event go by to supply domestic and municipal and other uses below. The summer or irrigation season power secured from outside sources by means of this exchange made it possible to preserve and continue the commercial power business on the Minidoka Project which would otherwise have been entirely lost, except the unprofitable heating business. The rapidly growing demands for power for irrigation pumping, mainly for the lands included in the Burley District, had by the beginning of the year 1935 reached a point which absorbed the entire power output and entire power capacity of the Minidoka power plant during the summer and left no surplus power whatever available from that source during the peak of the irrigation season to carry on the growing commercial, domestic and industrial power business of the Minidoka Project.

No successful commercial power business could have been carried on during the year 1935 or any of the succeeding years without the power brought in from outside sources and delivered to the Minidoka Project by the Idaho Power Company, for the reason that a successful power business requires a year-round power supply and such business cannot be maintained at all if there are long periods or seasons when no power is available. The surplus power available from the Minidoka power plant alone during the winter season would be usable only for house heating purposes for which it was sold at a price of about two mills per kilowatt hour, the said price being less than one-fifth as much as the average price secured per kilowatt hour for power used for general lighting, domestic, commercial and manufacturing purposes. Without the power which was brought to the Minidoka Project by the Idaho Power Company in exchange for the power from the Government's Black Canyon power plant, the amount which could have been secured from the sale of such surplus power as might be available from the Minidoka plant during the nonirrigation season for heating purposes would have produced no net profit at all, because the low price applicable to such power for heating purposes would scarcely pay the cost of operating the power plant, and this would have been true even if the Secretary had continued to waste the winter flow of Snake River through the Minidoka power plant. Such wastage of the winter flow of Snake River through the power plant for the production of power useful only for heating purposes would have sacrificed the paramount interest of the entire community by depleting the supply of available storage water for irrigation purposes and preventing the filling of the storage reservoirs, and would have availed nothing in maintaining or securing any profitable commercial power business, owing to the fact that the limited capacity of the power plant was com-

pletely absorbed during the irrigation season in the furnishing of the power necessary to operate the irrigation pumps, thus leaving no power available from the Minidoka power plant to carry on a commercial or domestic power business in the irrigation season, and that without a dependable supply of power through the entire year no successful or profitable power business could be carried on.

The plan adopted by the Secretary of the Interior, and put into effect through the said contract of October 1, 1934, with the Idaho Power Company, resulted in the saving for irrigation purposes during 1935 of about 250,000 acre-feet of water, which would otherwise have gone to waste into the Pacific Ocean. In the year 1935 and each year thereafter it also resulted in saving and preserving the profitable commercial power business on the Minidoka Project, which would otherwise have been lost through lack of a dependable source of power during the irrigation season.

The operations under the said contract during the year 1935 and subsequent years resulted, in effect, in giving the United States and the Minidoka Project the free use of the power company's transmission system in transmitting power from the Black Canyon power plant to the Minidoka Project or providing exchange power in lieu of the power furnished from the said Black Canyon plant. No direct power connection exists between the Black Canyon power plant and the Minidoka Project.

Neither the Burley Irrigation District nor its land owners now have, or have ever had, any interest whatever, or shadow of right whatever, either legal or equitable, in the Black Canyon power plant of the United States or in the power plants of the Idaho Power Company or in the transmission lines of the Idaho Power Company, nor have they ever claimed such rights or interest, and it is entirely immaterial so far as Burley Irrigation District is concerned whether the power brought in to the Minidoka Project from outside sources is regarded as derived from the Black Canyon plant by means of exchanges or is regarded as derived from the plants of the Idaho Power Company.

There is a constantly growing demand for power on the Minidoka Project, both during the irrigation season and the non-irrigation season.

When the winter power demand on the Minidoka Project reaches the point which would require the use of the full decreed water power right of 2700 second-feet during the nonirrigation season, the resulting waste of water for irrigation use, if such demand were supplied through the winter operation of the Minidoka plant, would amount to about 475,000 acre-feet.



To waste water during years of insufficient supply, needed for irrigation use to fill the American Falls Reservoir, for the purpose of producing winter power at the Minidoka power plant for heating purposes or other purposes would greatly impair the efficiency of the irrigation project, particularly the American Falls Reservoir division thereof and the other divisions of the said Minidoka Project which are dependent in whole or in part upon the said reservoir for their water supply, in that the said reservoir would be useless in proportion that it failed to fill, and that the resulting lack of stored water on the various divisions of the Minidoka Project dependent on the said reservoir would result in serious water shortages and loss and destruction of crops, through lack of sufficient irrigation water to mature the same, and would be in conflict with the primary purpose of the Reclamation Act and the provisions of the act of Congress of April 16, 1906 (34 Stat. 116).

The inducements and considerations which led up to and induced the Idaho Power Company to assume the obligation to furnish the 4,000 kilowatts of firm irrigation season power and the nonirrigation season power up to 10,000 kilowatts provided for in said contract of October 1, 1934, included the following:

1. There had been a period of drought and insufficient supply of water for irrigation in the Snake River Valley. The power company served electricity to a good share of this valley, beginning at Pocatello and Blackfoot on the east and on through to eastern Oregon on the west, with the exception of that area which is served by the Minidoka plant in the Minidoka and Burley irrigation areas. The company's revenue to a large extent depends upon the successful irrigation of the valley, since some 30 percent of the company's customers are rural and, in addition, the business of the territory is practically entirely dependent upon successful farming operation. Therefore, the power company had a large interest in water conservation.

2. There had been the discussion of a 7,500 kilowatt power generating unit to be installed by the Federal Government through its Bureau of Reclamation at American Falls. Had this unit been installed it would have, in some short water years, used some of the water for which the company had already installed generating equipment at its American Falls plant; and by supplying power to nearby farmers, especially for irrigation pumping, would have also reduced the number of customers receiving power from the Idaho Power Company.

3. The power company desired to continue and extend the period of the Black Canyon contract of April 10, 1930, whereby it secured the winter kilowatt hours available from that plant, as the company could make good use of that energy in the western end of its interconnected system. This contract of April 10,



1930, would have expired on April 15, 1936, by its own terms.

4. The United States agreed to permit the company to use through the company's power plant at American Falls for the duration of the contract of October 1, 1934, such water in addition to the company's water as would be released from American Falls Reservoir. This use of water is of substantial benefit to the Idaho Power Company.

The power from the Government's Black Canyon plant enters the Idaho Power Company system at Emmett, Idaho, near the western boundary of the State, and from that point is transmitted either direct or by the displacement method to the irrigation project served by the Bureau of Reclamation. The United States Government owns and operates three power plants in southern Idaho, all constructed as incidental to reclamation projects under the provisions of the Federal reclamation laws: (1) the Minidoka power plant, which is directly involved in this action, (2) the Black Canyon power plant, located on the Payette River, constituting a part of the Boise Project, and (3) the Boise Diversion power plant, located on the Boise River, a short distance above the City of Boise, and also connected with the Boise Reclamation Project of the Federal Government. The Idaho Power Company has eight or 10 power plants in southern Idaho, including American Falls plant, Shoshone Falls plant, the Thousand Springs power plant, the Upper Salmon Falls power plant, the Lower Salmon Falls power plant and the Malad power plant. All of the above-named power plants of the Idaho Power Company and all of the Government's power plants in southern Idaho are interconnected by transmission lines constructed and owned by the Idaho Power Company.

The conservation plan put into effect by the Secretary of the Interior under the respective aforementioned contract of October 1, 1934, and the contract of January 1, 1935, mentioned below, was the only feasible plan to enable the conservation both of needed irrigation water and of the profitable power business. The feasibility of any possible plan for saving water depends almost entirely on the extent to which the American Falls Reservoir could be filled. But the American Falls Reservoir could not be filled during years of insufficient water supply so long as needed irrigation water was being wasted for purposes of producing power in the Minidoka power plant. The essential factor in any water conservation plan, therefore, was the cessation of waste of water, needed for irrigation, in the operation of the Minidoka power plant. Nor was there any other existing means by which additional power could be secured to serve the growing power demands of the Minidoka Project and to permit the saving of the winter flow of Snake River, except by means of power transmitted over the transmission system of the Idaho Power Company.



It is not feasible to construct another power unit at the Minidoka Dam for summer power generation unless the winter flow of Snake River is strictly conserved in the American Falls Reservoir during the nonirrigation season to provide an increased summer flow at the Minidoka Dam, because without such increased summer flow at the Minidoka Dam there would be a lack of sufficient water at times to operate the proposed additional or seventh unit, and, furthermore, there was no such unit available in 1934 or 1935 or at the present time.

The water conserved in the American Falls Reservoir under this conservation plan becomes available for the production of power at the Minidoka power plant during the irrigation season. Furthermore, even though Congress has appropriated funds available for the installation of an additional generating unit in the Minidoka power plant, the installation of that or other units is feasible only with the conservation of water. Without some plan of conserving water during the winter, however, there would, in low-water years, be insufficient water to operate the present Minidoka power plant to capacity even during the irrigation season, although it is precisely at that time that most electrical energy is needed, both for pumping purposes and to maintain the year-around commercial power business.

For the purpose of securing a guarantee of the payment of the \$50,000 per year found necessary to be credited to the Black Canyon power plant for the power secured from that source, the United States, acting through the Secretary of the Interior, entered into the contract of January 1, 1935, with the Minidoka Irrigation District.

Prior to the time said contract with the Minidoka District was made, that district contemplated the securing through its own efforts of outside power to supply the power market in that district, which contemplated power if secured might have resulted in the loss to the Minidoka power plant of that part of the power market within the Minidoka district, and that an additional reason for such contract with the Minidoka District was to eliminate such danger of loss of power market. Under no conditions could the amount of power agreed to be furnished to the Minidoka Irrigation District under the contract of January 1, 1935, exceed the amount of power brought into the project from outside sources under the aforesaid contracts of October 1, 1934, and January 1, 1935, respectively. Accurate and definite measurements are made of these respective amounts of power as well as of the amount generated at the Minidoka power plant.

The conservation plan which was put into effect by the Secretary of the Interior under the aforesaid contracts of the United States of October 1, 1934 and January 1, 1935, with the Idaho Power Company and the Minidoka Irrigation District, res-



pectively, resulted in numerous and important benefits not only to the United States, but also to the farmers of the Snake River Valley, to the Minidoka Project, to the Idaho Power Company, and to the Burley Irrigation District.

Under date of March 12, 1936, the then duly authorized and Acting Secretary of the Interior of the United States, T. A. Walters, made the findings of the Secretary of the Interior as to net profits from the Black Canyon and Minidoka power plants through the sales of power on the Minidoka Project and towns adjacent thereto during the year 1935, as set out in defendant's Exhibit No. 7 which was admitted in evidence and is incorporated by reference herein and is made a part of these findings. These findings constitute the first and only findings and the first and only decision ever made by any Secretary of the Interior as to the amount and division of the net profits derived from the operation of the Minidoka power plant during the year 1935.

The determination of the net profits derived from the operation of the Minidoka power plant during the year 1935 required the exercise of judgment and discretion on the part of the Secretary of the Interior and was not a ministerial act.

That there was no sham or subterfuge employed by the United States in the making of the aforementioned contracts of October 1, 1934, and January 1, 1935, respectively. The contract of April 10, 1930, with the Idaho Power Company could not have been perpetually maintained as the basis of contractual relations between the Idaho Power Company and the United States. The contract of October 1, 1934 was a substantially different contract from that of April 10, 1930. Furthermore, the need for conservation of irrigation water was a real one. Equally dire was the need for additional power during the irrigation season to provide the power necessary to supply both the pumping demands and the commercial power demands.

The Secretary of the Interior did not in any way act arbitrarily or resort to any subterfuge or sham in his determination of the net profits derived from the operation of said Minidoka power plant during the year 1935. He acted in accord with a sound discretion and under the authority vested in him both by law and by contract. The amount credited to the Black Canyon power plant was a proper and reasonable amount. The Burley Irrigation District has never been entitled to the profits derived from the sale of power from source other than the Minidoka power plant. In his determination of net profits the Secretary of the Interior was not oppressive to the Burley district, nor did he disregard any

possible rights of the Burley district in or to the Minidoka power plant or the water passing through that plant. In determining the net profits found to have been derived during the year 1935 from the operation of the Minidoka plant, the Secretary of the Interior was extremely generous to the Burley district in that he made no deduction for depreciation nor did he make any deductions for interest on the Government's investment in the commercial power facilities. Had deductions been made for depreciation and interest in arriving at net power profits, the net profits which could have been credited to the Burley Irrigation District would have been greatly reduced. The act of the Secretary of the Interior in making his determination was also liberal and free from oppression or injustice toward the Burley district in that the Minidoka power plant was credited with the major part of the power profits derived from power sales in the Minidoka Project area and in adjacent towns, although the mainstay of the power business and the only reliable source of power for carrying on such power business came from the Idaho Power Company in exchange for the Black Canyon Power and the other considerations above enumerated. The only surplus power available from the Minidoka plant after supplying the demands of the irrigation pumps could be utilized only during the winter season. Such surplus power was therefore not useful to maintain a commercial power business but would be usable only for heating purposes. But its use for heating purposes rendered its real value so low that the revenues from its sale would hardly have paid the cost of operating the plant. The Secretary of the Interior could have equitably credited the major portion of the receipts from the sale of power to the major factor in producing such receipts, namely, the power received from the Idaho Power Company in exchange for the power from the Black Canyon power plant. Nor was any sham or subterfuge perpetuated by the Secretary of the Interior in his decision to conserve irrigation water by diminishing the waste of winter flow of water through the Minidoka power plant. No other plan of conservation was feasible and the conservation of irrigation water was of paramount importance and an imperative necessity. In all his actions the Secretary of the Interior was guided by the irrigation necessities of the communities in the Snake River Valley and on the Minidoka Project and violated no rights of the Burley district.

There was no money paid by the Burley Irrigation District to the United States on the cost of construction of the irrigation works furnished by the United States for the service of the lands in that district nor upon the cost of the Minidoka power plant. What happened was that the Government made a profit in the power business, credited most of it to



the Burley District, and by such credit wiped out the installment charges which otherwise would have been payable by the District to the United States. The major part of the construction charges for the pumping division of the project have not yet come due.

The District thus received practically free of cost the full benefit of the irrigation and power works built and paid for by the United States under the provisions of the Reclamation Law. The Burley district also received a large share of the benefits which accrued from the filling of the American Falls Reservoir without any payment by the District toward the cost of that reservoir, in that the Burley district received during the year 1935, under a temporary rental contract, the stored water supply available from 50,000 acre-feet of storage capacity in the American Falls Reservoir, which supply secured by the District was substantially enlarged by reason of the water conservation plan adopted by the Secretary. The Burley district also received important benefits from the storage of water in American Falls Reservoir in that the exchange of water to which the Burley district had a right in the Jackson Lake Reservoir (distant 250 miles from the district), for an equal number of acre-feet of water in American Falls Reservoir, saved the district approximately 13 per cent of the amount of such stored water, which 13 percent would otherwise have been lost in evaporation and seepage during transmission from Jackson Lake to American Falls. This saving enlarged the stored water supply of the District to the extent of such 13 percent. The Burley district also greatly benefited by the closeness and ready availability of the stored water in the American Falls Reservoir in that it required five days to get stored water down from Jackson Lake Reservoir to the Minidoka Project, and without the American Falls water, losses might have occurred through inability to anticipate five days ahead the periods of maximum demand during hot weather spells of the natural fluctuations of the river during such periods of time. The Burley district also profited very largely from the construction and filling of the American Falls Reservoir without any payment for such benefits, in that the exchange of water above referred to eliminated the serious danger that stored water from Jackson Lake might be diverted by parties not entitled thereto through one or more of the numerous canal headings which take water out of Snake River between the American Falls and Jackson Lake and the difficulty of patrolling and regulating all such headings to prevent such excess diversions.

The Burley District also receives benefit through the more efficient utilization of Lake Walcott water through the use of American Falls Reservoir water. The Burley District has rights to certain water in Lake Walcott. But since the canal which supplies the Burley Irrigation District is at a fairly high grade, the use of Lake Walcott water draws the lake so low that



only a limited amount of water will flow into that canal. In order to get the water to which the District is entitled, the Burley District, therefore, occasionally borrows water from American Falls Reservoir to hold up the level of Lake Walcott. The water toward the bottom of Lake Walcott is let down the Snake River bed to Milner later in the season to go to those who owned the water loaned to the Burley District from the American Falls Reservoir. Maintaining Lake Walcott at a high level, in addition, serves to keep up the head of water for power production in the Minidoka power plant. An indirect though substantial benefit also accrues to the Burley Irrigation District from return flow of American Falls Reservoir water used by the Minidoka Irrigation District on the north side of the Minidoka Project. The return flow from that use enters the river between the Minidoka Dam and the Milner Dam. Under the system of reservoir operation, the return flow from the Minidoka Project is credited to the project, thus permitting project users to divert that much additional water at the Minidoka Dam. Furthermore, since projects below the Minidoka Dam have rights to use large amounts of water from American Falls Reservoir, there is more water flowing down the river during the latter part of the season, particularly during dry years, which is available for power purposes at the Minidoka power plant than would be the case if the American Falls Reservoir were not filled. Thus, the Burley Irrigation District receives both power and irrigation benefits from the American Falls Reservoir. All these benefits secured by the plaintiff from American Falls Reservoir were proportionately enhanced by the saving of the 250,000 acre-feet of water in 1935 which were used to fill what would otherwise have been empty capacity in American Falls Reservoir.

The State water officials in charge of the distribution of water from the Snake River, under the provisions of State law, and under the provisions of the decrees above referred to, have at all times recognized the Secretary of the Interior of the United States as the owner of such decreed right so decreed to him by the Court, and have at all times accorded to the representatives of the Secretary of the Interior of the United States the right to exercise the option as to whether they will or will not demand the water which they are permitted to take under that decree.

Under the administration of the State water officials in charge of the distribution of water from Snake River and the decrees of the courts, it is optional with the party to whom such rights are decreed to demand or not demand the water, and the State water officials in charge of water deliveries in their administration of the water regard the decreed amounts as the maximum amounts that may be delivered, not as the minimum amounts which must unconditionally be delivered. They deliver as much thereof as the owner, at his option, desires and requests from time to time. The decreed right is thus regarded by the



State water officials as a permissive privilege to use, not a compulsory requirement to misuse.

The decreed rights to water of the Snake River are relative in accordance with specified dates of priority. Only at very brief periods is it possible to fill all the respective decreed water rights. The available water at any particular time goes to fill the earliest right in full or to the extent demanded. Any available surplus then accrues to the right next in priority and so on down until the available supply on any particular date is exhausted. During the nonirrigation season there are three uses for water in the Snake River Valley:

(1) for storage in the reservoirs; (2) for production of power; (3) for stock and domestic water in certain canals that are not provided with other sources. Direct diversions for irrigation purposes are not in effect at that time. The water not used by the Secretary of the Interior for power production at the Minidoka power plant accrues to the next right asking for water at that time. The next right happens to be the decreed storage right of the United States at the American Falls Reservoir. Hence the practice of the Secretary of the Interior under this conservation plan of not demanding water to the full amount decreed to the United States increases the amount of irrigation water which can be conserved for the next irrigation season.

By reason of the construction of the said Minidoka power plant and related power works by the United States on public land of the United States, and the payment therefor by the United States, title to said plant, both legal and equitable, vested in the United States and has never been transferred to the Burley district in whole or in part, or to any other party.

Neither the Burley district nor its landowners now have, or ever had, any interest or right whatever, either legal or equitable, in the Black Canyon power plant of the United States or in the power plants of the Idaho Power Company or in the power produced by either or both, or in the transmission lines of the Idaho Power Company, nor has the Burley district or its landowners ever claimed such rights or interest.

The Government of the United States held full title to the dam site with all riparian rights. The power of falling water was an inevitable incident of the construction of the dam. The water power came into the exclusive control of the Federal Government. The mechanical energy was convertible into electric energy, and the water power, the right to convert it into electric energy and the electric energy thus produced constitutes property belonging to the United States.

Such use as is made and such use as was made during the year 1935 of transformers, substations, switch yards, trans-



mission lines and other equipment connected with the Minidoka Project for distributing power received in exchange for Black Canyon power, in no way interfered with the use of the same equipment in distributing power generated at the Minidoka power plant or in distributing power used in the Burley Irrigation District and other points outside the Minidoka Irrigation District and in no way increases the depreciation of these facilities. Furthermore, the restricted use of the Minidoka power plant during the period between October 1 and April 1 of the succeeding year reduces the cost of operating the plant, diminishes its wear and tear and consequent depreciation, and facilitates repairs to the plant and equipment by allowing ample time to make any needed repairs.

D. E. Stoutenmeyer

RG 115 USBR

Project Correspondence file, 1930-45

Minidoka Project 320

Box 759

Folder 320, Minidoka Project.

Corresp. re. Development of Power
Jan 1946 thru Dec. 1941

[specimen only did not go thru the whole folder/box 5/12/06]



JRP001067

Exhibit M

Letter from Chris Ketchum
to Lyle Swank



United States Department of the Interior

BUREAU OF RECLAMATION

Snake River Area Office
1359 Hansen Avenue
Burley, Idaho 83318-1821

IN REPLY REFER TO:

SRA-6400
PRJ-17.00

DEC 05 2007

RECEIVED

DEC 07 2007

Department of Water Resources
Eastern Region

Mr. Lyle Swank, Watermaster
Water District 1
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402

Subject: Winter Power Operations: Minidoka Powerplant

Dear Mr. Swank:

Minidoka powerplant production losses have been computed using the criteria and methods required by spaceholder contracts. As you know, a committee composed of the watermaster, a representative chosen by Minidoka and Burley Irrigation Districts and the North Side Canal Company and myself must determine the annual power replacement requirement before January 1 each year. The enclosed tables show the calculations for the 2006 water year and the 20-year average after adding 2006 and excluding 1986. The net result is a small increase in the 20-year average and the annual power replacement requirement in effect for calendar year 2008.

We have contacted each of you by telephone and understand that you or your representatives are available to review and approve the report at 10:30 a.m., Friday, December 7, 2007. We understand that most of you plan to be in attendance at our office and we will include Mr. Lyle Swank by telephone. If you wish to participate by telephone please contact Ms. Melissa Brownfield, Secretary at 208-678-0461 ext. 17, before 10:00 a.m. on Friday.

Sincerely,

Chris W. Ketchum
Assistant Area Manager

Enclosure

Identical letter sent to persons on next page.



Identical Letter Sent To:

Mr. Ted Diehl, Manager
North Side Canal Company Ltd.
921 North Lincoln
Jerome, ID 83338

Mr. Randy Bingham, Manager
Burley Irrigation District
246 East 100 South Street
Burley, ID 83318

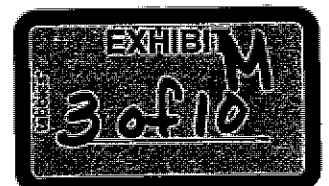
Mr. Billy Thompson, Manager
Minidoka Irrigation District
98 West 50 South
Rupert, ID 83350



Determination of Net Power Loss Due to Restriction on Use of Minidoka Water Rights

1987 through 2006

Prepared December, 2007



CONDITION I

OCTOBER 1, 2005 TO SEPTEMBER 30, 2006
Usable flow with restricted use of Minidoka
rights and excluding Jackson Lake storage flow

	MINIDOKA AVERAGE HEAD	MINIDOKA HYDRAULIC CAP. CFS	MINIDOKA USABLE FLOW CFS	USABLE EQUAL/> CAPACITY	CAPACITY GREATER USABLE	COMPUTED AVERAGE KW	OUTPUT 1000 KWH
OCT	47.67	3470	1989		6040	5436	4044
NOV	46.74	3391	520		1470	1323	953
DEC	46.66	3385	500		1385	1247	928
JAN	45.39	3272	609		1310	1179	877
FEB	45.40	3273	2313		6960	6264	4209
MAR	43.54	3106	2581		7700	6938	5156
APR	47.53	3457	3100		9510	8559	6162
MAY	47.76	3477	3700	10300		9940	7395
JUN	47.90	3490	3700	10344		9982	7187
JUL	47.93	3492	3700	10353		9991	7433
AUG	47.92	3491	3700	10350		9988	7431
SEP	50.62	3775	3467		10710	9639	6940

CONDITION II

OCTOBER 1, 2005 TO SEPTEMBER 30, 2006
Usable flow without restriction on use of Minidoka
water rights and excluding storage flow

	MINIDOKA AVERAGE HEAD	MINIDOKA HYDRAULIC CAP. CFS	MINIDOKA USABLE FLOW CFS	USABLE EQUAL/> CAPACITY	CAPACITY GREATER USABLE	COMPUTED AVERAGE KW	OUTPUT 1000 KWH
OCT	47.67	3470	2965		8990	8091	6020
NOV	46.74	3391	2700		8300	7470	5378
DEC	46.66	3385	2700		8290	7461	5551
JAN	45.39	3272	2700		8150	7335	5457
FEB	45.40	3273	3111		9350	8415	5655
MAR	43.54	3106	3086		9150	8235	6127
APR	47.53	3457	1603		5020	4518	3253
MAY	47.76	3477	3700	10300		9940	7395
JUN	47.90	3490	3700	10344		9982	7187
JUL	47.93	3492	2155		6700	6038	4486
AUG	47.92	3491	1977		6000	5400	4018
SEP	50.62	3775	2418		7580	6822	4912

RESULTS OF WINTER POWER OPERATION - WATER STORED
WATER YEAR 2006

MONTH	USABLE FLOW II	USABLE FLOW I	AVG DAILY CFS STOR	DAYS	CFS*AF	ACRE FEET
OCT	2,965	1,989	976	31	1,98347	60,012
NOV	2,700	520	2,180	30	1,98347	129,719
DEC	2,700	500	2,200	31	1,98347	135,273
JAN	2,700	609	2,091	31	1,98347	128,571
FEB	3,111	2,313	798	28	1,98347	44,319
MAR	3,086	2,581	505	31	1,98347	31,051
APR	1,603	3,100	0	30	1,98347	0
MAY	3,700	3,700	0	31	1,98347	0
JUN	3,700	3,700	0	30	1,98347	0
JUL	2,155	3,700	0	31	1,98347	0
AUG	1,977	3,700	0	31	1,98347	0
SEP	2,418	3,467	0	30	1,98347	0
TOTAL ACRE-FEET STORED						528,944



MINIDOKA POWERPLANT UNITS 1-6
NET ANNUAL POWER PRODUCTION LOSS DUE
TO RESTRICTION OF USE OF MINIDOKA WATER RIGHTS
OCTOBER 1, 2005 TO SEPTEMBER 30, 2006

MONTH	COMPUTED OUTPUT			LOSS FROM RESTRICTION OF USE OF WATER RIGHTS	GAIN FROM AMERICAN FALLS STORAGE
	CONDITION II	CONDITION I	LOSS FROM RESTRICTION OF USE OF WATER RIGHTS		
	1000 KWH	1000 KWH	WATER RIGHTS		
OCT	6020	4044	1976	0	0
NOV	5378	953	4425	0	0
DEC	5551	928	4623	0	0
JAN	5457	877	4580	0	0
FEB	5655	4209	1446	0	0
MAR	6127	5156	971	0	0
APR	3253	6162	0	2909	2909
MAY	7395	7395	0	0	0
JUN	7187	7187	0	0	0
JUL	4486	7433	0	2947	2947
AUG	4018	7431	0	3413	3413
SEP	4912	6940	0	2028	2028
TOTAL ANNUAL LOSS			18021		
TOTAL ANNUAL GAIN I/			11297		
ANNUAL NET LOSS			6724		

I/ CONTRACTUALLY GAIN CANNOT EXCEED LOSS.



MINDOKA POWERPLANT
UNITS 1-6

NET POWER PRODUCTION LOSS DUE TO RESTRICTIONS OF USE OF
MINDOKA WATER RIGHTS

UNIT: THOUSANDS OF
KILOWATTHOURS

WATER YEAR OCT-SEPT	LOSS FROM RESTRICTION OF USE OF WATER RIGHTS	GAIN FROM I/ AMERICAN FALLS STORAGE	NET LOSS
1987	4673	6807	0
1988	23277	7605	15672
1989	23835	3183	20652
1990	18613	6543	12070
1991	22025	5314	16711
1992	20463	11497	8966
1993	23321	4084	19237
1994	4800	8933	0
1995	24097	5914	18183
1996	3833	4827	0
1997	1510	1295	215
1998	0	0	0
1999	0	512	0
2000	1308	7303	0
2001	24300	10470	13830
2002	24786	513	24273
2003	24196	8005	16191
2004	24559	8916	16580
2005	24827	8249	16578
2006	17884	11233	6651

20-YEAR AVERAGE

10290

ISLAND PARK
PALISADES
AMERICAN FALLS

12% = \$23,882
10% = \$19,902
78% = \$155,233

TOTAL

\$199,017



Power Replacement Cost Summary

Year	kWh		Mills/kWh	
2006	10,290,450		19.34	\$199,017
2005	9,958,000	*	19.34	\$192,588
2004	9,139,000	*	15.6	\$142,568
2003	8,300,000	*	15.6	\$129,480
2002	7,490,000	*	15.6	\$116,844
2001	6,996,000	*	12.7	\$88,849
2000	6,305,000	*	12.7	\$80,074
1999	7,247,000	*	12.7	\$92,037
1998	7,247,000	*	12.7	\$92,037
1997	7,960,000	*	12.7	\$101,092
1996	7,949,000	*	10.63	\$84,498



WATER YEAR 2006, STATION USHBLFLOI
DISCHARGE, CUBIC FEET PER SECOND

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	3700.0	525.0	535.0	579.0	561.0	3430.0	1560.0	3700.0	3700.0	3700.0	3700.0	3700.0
2	3700.0	526.0	517.0	649.0	552.0	3400.0	1580.0	3700.0	3700.0	3700.0	3700.0	3700.0
3	3700.0	522.0	523.0	587.0	552.0	3370.0	1570.0	3700.0	3700.0	3700.0	3700.0	3700.0
4	3700.0	517.0	512.0	665.0	545.0	3420.0	1570.0	3700.0	3700.0	3700.0	3700.0	3700.0
5	3700.0	516.0	500.0	611.0	561.0	3460.0	1590.0	3700.0	3700.0	3700.0	3700.0	3700.0
6	3700.0	516.0	510.0	613.0	585.0	3380.0	1630.0	3700.0	3700.0	3700.0	3700.0	3700.0
7	3030.0	510.0	500.0	625.0	558.0	3400.0	2550.0	3700.0	3700.0	3700.0	3700.0	3700.0
8	3090.0	508.0	490.0	618.0	597.0	3410.0	2060.0	3700.0	3700.0	3700.0	3700.0	3700.0
9	3180.0	522.0	480.0	689.0	593.0	3440.0	2070.0	3700.0	3700.0	3700.0	3700.0	3700.0
10	3190.0	505.0	460.0	609.0	664.0	3580.0	2990.0	3700.0	3700.0	3700.0	3700.0	3700.0
11	3060.0	504.0	460.0	614.0	1590.0	3370.0	3520.0	3700.0	3700.0	3700.0	3700.0	3700.0
12	2880.0	502.0	460.0	640.0	3290.0	3370.0	3700.0	3700.0	3700.0	3700.0	3700.0	3700.0
13	2700.0	521.0	460.0	616.0	3420.0	3380.0	3700.0	3700.0	3700.0	3700.0	3700.0	3700.0
14	2570.0	506.0	470.0	591.0	3310.0	3410.0	3700.0	3700.0	3700.0	3700.0	3700.0	3700.0
15	2500.0	537.0	470.0	593.0	3350.0	3380.0	3700.0	3700.0	3700.0	3700.0	3700.0	3700.0
16	1440.0	513.0	470.0	796.0	3340.0	3450.0	3700.0	3700.0	3700.0	3700.0	3700.0	3600.0
17	1410.0	511.0	480.0	611.0	3350.0	3230.0	3700.0	3700.0	3700.0	3700.0	3700.0	3540.0
18	1440.0	506.0	480.0	602.0	3340.0	1530.0	3700.0	3700.0	3700.0	3700.0	3700.0	3420.0
19	1170.0	512.0	480.0	617.0	3450.0	1520.0	3700.0	3700.0	3700.0	3700.0	3700.0	2969.0
20	1160.0	499.0	480.0	600.0	3460.0	1570.0	3700.0	3700.0	3700.0	3700.0	3700.0	2707.0
21	864.0	510.0	488.0	606.0	3420.0	1540.0	3700.0	3700.0	3700.0	3700.0	3700.0	2489.0
22	582.0	520.0	495.0	614.0	3430.0	1570.0	3700.0	3700.0	3700.0	3700.0	3700.0	2529.0
23	594.0	520.0	525.0	598.0	3440.0	1580.0	3700.0	3700.0	3700.0	3700.0	3700.0	2659.0
24	605.0	520.0	510.0	597.0	3350.0	1530.0	3700.0	3700.0	3700.0	3700.0	3700.0	3089.0
25	602.0	510.0	503.0	592.0	3350.0	1550.0	3700.0	3700.0	3700.0	3700.0	3700.0	3311.0
26	602.0	525.0	501.0	644.0	3340.0	1580.0	3700.0	3700.0	3700.0	3700.0	3700.0	3392.0
27	599.0	618.0	509.0	577.0	3370.0	1790.0	3700.0	3700.0	3700.0	3700.0	3700.0	3700.0
28	570.0	539.0	534.0	532.0	3390.0	1570.0	3700.0	3700.0	3700.0	3700.0	3700.0	3700.0
29	535.0	515.0	514.0	541.0	-	1580.0	3700.0	3700.0	3700.0	3700.0	3700.0	3700.0
30	536.0	542.0	636.0	539.0	-	1620.0	3700.0	3700.0	3700.0	3700.0	3700.0	3700.0
31	536.0	-	534.0	529.0	-	1600.0	-	3700.0	-	3700.0	3700.0	-
AVG	1988.5	519.9	499.5	609.5	2312.8	2581.0	3099.7	3700.0	3700.0	3700.0	3700.0	3466.8
SDM	31.0	30.0	31.0	31.0	28.0	31.0	30.0	31.0	30.0	31.0	31.0	30.0
SUM	61645.0	15597.0	15486.0	18894.0	64758.0	80010.0	92990.0	114700.0	111000.0	114700.0	114700.0	104005.0
MAX	3700.0	618.0	636.0	796.0	3460.0	3580.0	3700.0	3700.0	3700.0	3700.0	3700.0	3700.0
MIN	535.0	499.0	460.0	529.0	545.0	1520.0	1560.0	3700.0	3700.0	3700.0	3700.0	2489.0
EQM	536.0	542.0	534.0	529.0	3390.0	1600.0	3700.0	3700.0	3700.0	3700.0	3700.0	3700.0
AF	122271.0	30936.2	30716.0	37475.7	128445.5	158697.4	184442.9	227504.0	220165.2	227504.0	227504.0	206290.8

WATER YEAR TOTAL ACRE-FEET = 1801952.6



WATER YEAR 2006, STATION USABLEFLO2
DISCHARGE, CUBIC FEET PER SECOND

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	3700.0	2700.0	2700.0	2700.0	2700.0	3430.0	2700.0	3700.0	3700.0	3442.0	1902.0	2112.0
2	3700.0	2700.0	2700.0	2700.0	2700.0	3400.0	423.0	3700.0	3700.0	2855.0	1864.0	2029.0
3	3700.0	2700.0	2700.0	2700.0	2700.0	3370.0	362.0	3700.0	3700.0	2724.0	1921.0	1994.0
4	3700.0	2700.0	2700.0	2700.0	2700.0	3420.0	378.0	3700.0	3700.0	2899.0	2285.0	2001.0
5	3700.0	2700.0	2700.0	2700.0	2700.0	3460.0	505.0	3700.0	3700.0	3041.0	2059.0	1996.0
6	3700.0	2700.0	2700.0	2700.0	2700.0	3380.0	425.0	3700.0	3700.0	3114.0	1963.0	2065.0
7	3030.0	2700.0	2700.0	2700.0	2700.0	3400.0	514.0	3700.0	3700.0	3182.0	2041.0	2105.0
8	3090.0	2700.0	2700.0	2700.0	2700.0	3410.0	526.0	3700.0	3700.0	3270.0	2075.0	2165.0
9	3180.0	2700.0	2700.0	2700.0	2700.0	3440.0	367.0	3700.0	3700.0	3096.0	1987.0	2154.0
10	3190.0	2700.0	2700.0	2700.0	2700.0	3580.0	287.0	3700.0	3700.0	2987.0	1909.0	2126.0
11	3060.0	2700.0	2700.0	2700.0	2700.0	3370.0	278.0	3700.0	3700.0	2816.0	1980.0	2131.0
12	2880.0	2700.0	2700.0	2700.0	3290.0	3370.0	407.0	3700.0	3700.0	2649.0	1859.0	2224.0
13	2700.0	2700.0	2700.0	2700.0	3310.0	3380.0	198.0	3700.0	3700.0	2171.0	1884.0	2213.0
14	2700.0	2700.0	2700.0	2700.0	3350.0	3410.0	19.0	3700.0	3700.0	1579.0	1953.0	2194.0
15	2700.0	2700.0	2700.0	2700.0	3340.0	3450.0	0.0	3700.0	3700.0	1511.0	1943.0	2203.0
16	2700.0	2700.0	2700.0	2700.0	3350.0	3230.0	0.0	3700.0	3700.0	1486.0	2003.0	2293.0
17	2700.0	2700.0	2700.0	2700.0	3340.0	2700.0	14.0	3700.0	3700.0	1508.0	1917.0	2295.0
18	2700.0	2700.0	2700.0	2700.0	3450.0	2700.0	0.0	3700.0	3700.0	1443.0	2039.0	2222.0
19	2700.0	2700.0	2700.0	2700.0	3460.0	2700.0	0.0	3700.0	3700.0	1471.0	1971.0	2242.0
20	2700.0	2700.0	2700.0	2700.0	3420.0	2700.0	3700.0	3700.0	3700.0	1479.0	1967.0	2217.0
21	2700.0	2700.0	2700.0	2700.0	3430.0	2700.0	3700.0	3700.0	3700.0	1551.0	1945.0	2186.0
22	2700.0	2700.0	2700.0	2700.0	3440.0	2700.0	3700.0	3700.0	3700.0	1564.0	1927.0	2611.0
23	2700.0	2700.0	2700.0	2700.0	3350.0	2700.0	3700.0	3700.0	3700.0	1595.0	1905.0	2563.0
24	2700.0	2700.0	2700.0	2700.0	3350.0	2700.0	3700.0	3700.0	3700.0	1616.0	1867.0	3311.0
25	2700.0	2700.0	2700.0	2700.0	3340.0	2700.0	3700.0	3700.0	3700.0	1659.0	1892.0	3392.0
26	2700.0	2700.0	2700.0	2700.0	3370.0	2700.0	3700.0	3700.0	3700.0	1675.0	2068.0	3407.0
27	2700.0	2700.0	2700.0	2700.0	3390.0	2700.0	3700.0	3700.0	3700.0	1665.0	1999.0	3353.0
28	2700.0	2700.0	2700.0	2700.0	-	2700.0	3700.0	3700.0	3700.0	1736.0	2029.0	3316.0
29	2700.0	2700.0	2700.0	2700.0	-	2700.0	3700.0	3700.0	3700.0	1730.0	2067.0	3194.0
30	2700.0	2700.0	2700.0	2700.0	-	2700.0	3700.0	3700.0	3700.0	1691.0	2049.0	3194.0
31	2700.0	-	2700.0	2700.0	-	2700.0	-	3700.0	-	1691.0	2049.0	-
AVG	2965.5	2700.0	2700.0	2700.0	3110.7	3086.5	1603.4	3700.0	3700.0	2154.6	1977.5	2418.5
NUM	31.0	30.0	31.0	31.0	28.0	31.0	30.0	31.0	30.0	31.0	31.0	30.0
SUM	91930.0	81000.0	83700.0	83700.0	87100.0	95680.0	48103.0	114700.0	111000.0	66793.0	61301.0	72554.0
MAX	3700.0	2700.0	2700.0	2700.0	3460.0	3580.0	3700.0	3700.0	3700.0	3442.0	2285.0	3407.0
MIN	2700.0	2700.0	2700.0	2700.0	2700.0	2700.0	0.0	3700.0	3700.0	1443.0	1859.0	1994.0
EOM	2700.0	2700.0	2700.0	2700.0	3390.0	2700.0	3700.0	3700.0	3700.0	1691.0	2049.0	3194.0
AF	182340.4	160661.1	166016.4	166016.4	172760.2	189778.4	95410.9	227504.0	220165.2	132481.9	121588.7	143908.7

WATER YEAR TOTAL ACRE-FEET = 1978632.4

