

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

Case No. 39576

Water Right: 03-7018

NOTICE OF ADMINISTRATIVE  
PROCEEDING

IDWR has received an application for an Administrative Proceeding for the above water right(s).

The Administrative Proceeding contemplates a change in the water right(s) as indicated below:

- ☐ Substitution of Party (waiting for documentation)
- ☐ Substitution of Party/Split Water Right
- ☐ I.C. § 42-222 transfer
  - ☐ Point of Diversion      ☐ Place of Use
  - ☐ Period of Use              ☐ Purpose of Use
- ☒ Other: Request for the reconsideration of a licensing condition.

IDWR projects the Administrative Proceeding shall be completed not later than: December 10, 2008

Dated 12-10-07

  
Signature of IDWR Representative

## INSTRUCTIONS FOR MAILING

Mail this form to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing.

## CERTIFICATE OF MAILING

I certify that on \_\_\_\_\_, 2007, I mailed the original and copies of this form to the following persons, postage prepaid, and addressed as follows:

1. Original to:

Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
PO Box 2707  
Twin Falls ID 83303-2707

2. One copy to:

Claimant(s)

IDAHO POWER CO  
PO BOX 70  
BOISE, ID 83707

BARKER ROSHOLT & SIMPSON LLP  
1010 W JEFFERSON STE 102  
PO BOX 2139  
BOISE, ID 83701-2139

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Signature of person or attorney mailing the form

MEMO

TO: File 3-7018  
RE: Subordination language

Idaho Power is objecting to the conditions of approval that were put on the permit, which has not yet been licensed. The subordination condition was copied verbatim from the permit to the recommendation. What Idaho Power would like to have is the subordination language that was crafted in the 1950s for their Hells Canyon projects (and C.J. Strike Dam) rather than the more explicit language from the 1970s.

04 5-1-07

Proposed Priority 12-24-1975

Received by RLH Date 12-24-1975 Time 11:00AM  
Preliminary check by RLH Fee \$ 1465-00  
Receipted by RLH Date 12-24-75 # 3603  
Publication prepared by RLH Date 12-21-75  
Published in Upper County News Reporter  
Publication dates Jan. 8 & 15  
Publication approved CLS Date 1-16-76  
Priority reduced to \_\_\_\_\_ Reason \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Protests filed by: \_\_\_\_\_  
\_\_\_\_\_  
Copies of protests forwarded by \_\_\_\_\_  
Hearing held by \_\_\_\_\_ Date \_\_\_\_\_  
Recommended for approval denial by RLH

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 03-7018, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before February 1, 19 80.
- c. Other: 1. The rights for the use of the waters under this permit shall be subordinate to and not prevent or interfere with any future upstream diversion and use of the waters of the Snake River and its tributaries for the irrigation of lands or other consumptive beneficial uses in the Snake River watershed.  
2. This permit has been issued subject to Section 42-207, Idaho Code. In the event of its sale, transfer, assignment, or its being mortgaged, without a compliance with the provisions of this section, it shall be cancelled and revoked by the Director of the Department of Water Resources.

Witness my hand this 29 day of January 19 76.

R. K. H. H. H.  
Director

*IPCO objected to this language*

07/17/2006

IDAHO DEPARTMENT OF WATER RESOURCES  
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 3-7018

NAME AND ADDRESS: IDAHO POWER CO  
PO BOX 70  
BOISE ID 83707

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 5,000.000 CFS

PRIORITY DATE: 12/24/1975

POINT OF DIVERSION:

T17N R05W S2 SESE Lot 3 Within WASHINGTON County, Idaho

T08S R47E S25 NESE Lot 9 WM Within BAKER County, Oregon

Water is diverted by a dam that spans the Snake River between Idaho and Oregon.

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u>                                | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|------------------------------------------------------|----------------------|-----------------|
| POWER                                                | 1/01 12/31           | 5,000.000 CFS   |
| Power generation is at the Brownlee Dam Power Plant. |                      |                 |

PLACE OF USE: POWER Within WASHINGTON County

T17N R05W S02 Lot 1 NESE

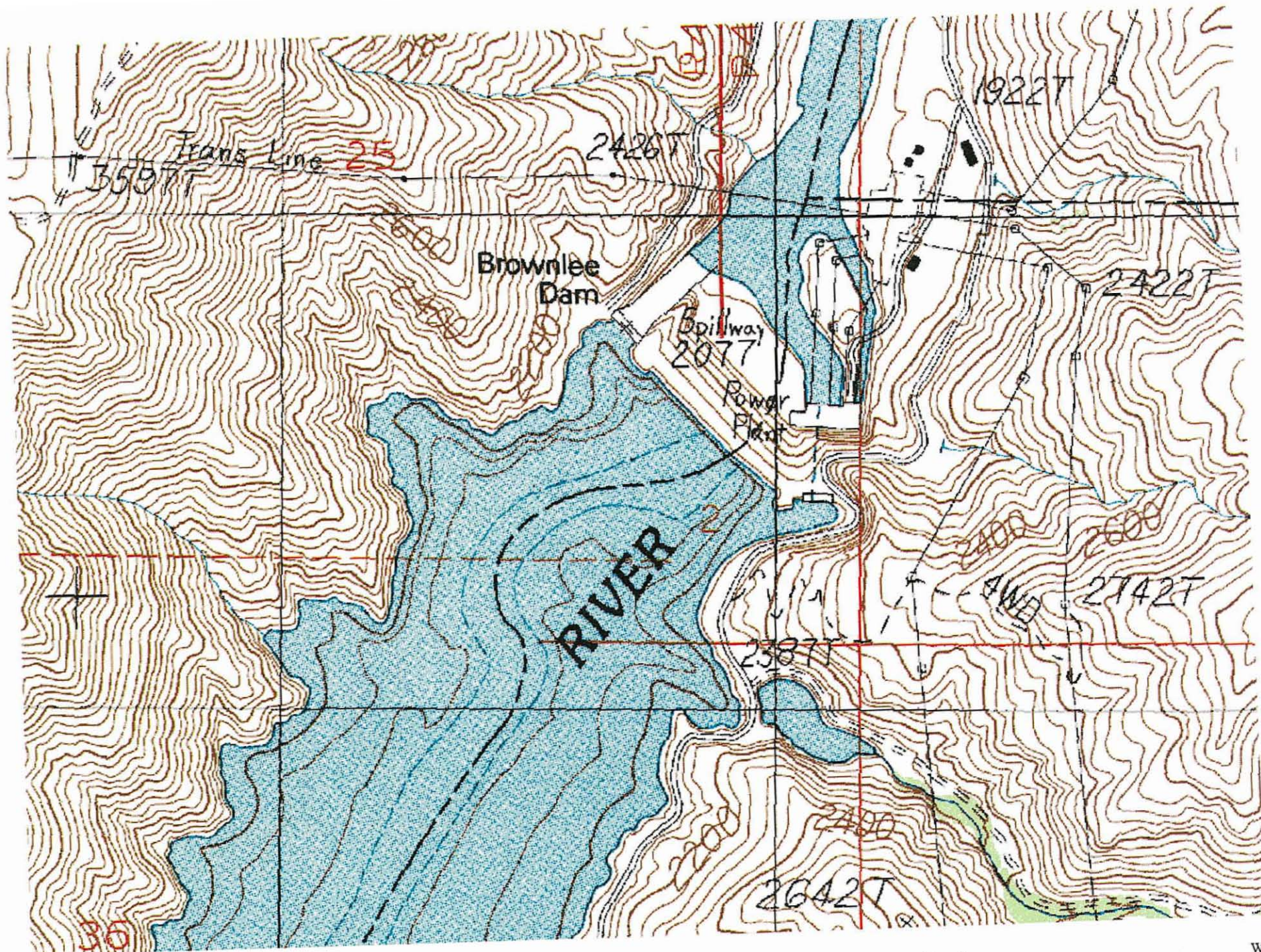
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

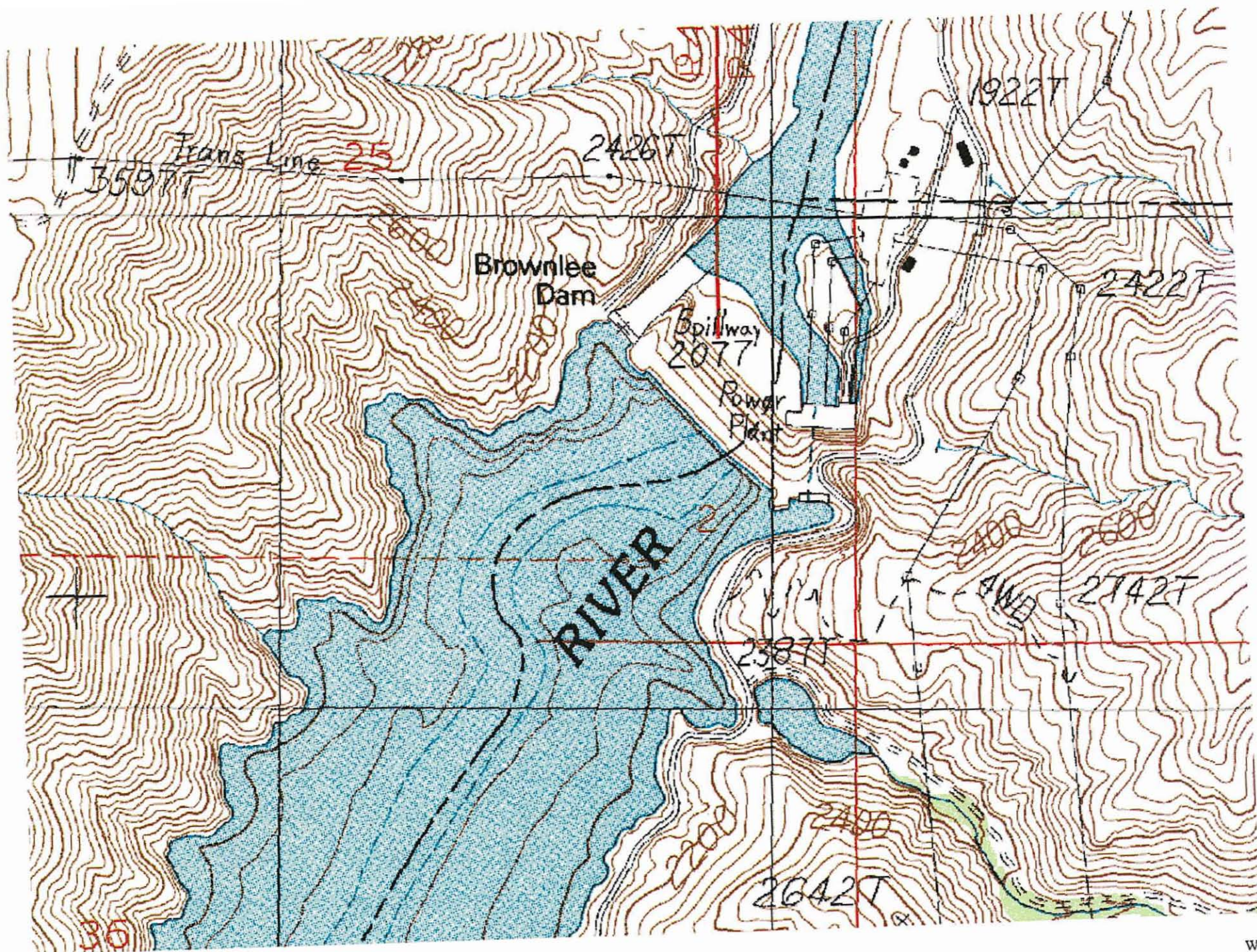
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The rights for the use of the waters under this permit shall be subordinate to and not prevent or interfere with any future upstream diversion and use of the waters of the Snake River and its tributaries for the irrigation of lands or other consumptive beneficial uses in the Snake River watershed. This permit has been issued subject to Section 42-207, Idaho Code. In the event of its sale, transfer, assignment, or its being mortgaged, without a compliance with the provisions of this section, it shall be cancelled and revoked by the Director of the Department of Water Resources.

This right is conditioned upon completion of the appropriation in accordance with the statutory procedure for appropriation of water rights. This right remains subject to all conditions set forth in the permit upon which this right is based, and will be subject to all conditions set forth in the license issued by IDWR upon completion of the statutory appropriation process.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Permit





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

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A03-07018  
Date Received: 3/31/1988  
Receipt No: C000526  
OF 4/07/88

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: IDAHO POWER CO.  
Address: P.O. BOX 70  
BOISE, ID 83707

2. Date of Priority: DEC 24, 1975

3. Source: SNAKE RIVER Trib. to: COLUMBIA RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County     |
|----------|-------|---------|--------|--------|--------|-----|------------|
| 17N      | 05W   | 2       | NE     | SE     | SE     | 3   | WASHINGTON |

5. Description of diverting works:  
395' HIGH ROCK FILL WITH CLAY CORE DAM, PENSTOCKS TO GENERATORS.

6. Water is used for the following purposes:

| Purpose | From  | To    | C.F.S    | (or) | A.F.A. |
|---------|-------|-------|----------|------|--------|
| POWER   | 01/01 | 12/31 | 5000.000 |      |        |

7. Total Quantity Appropriated is:  
5000.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:  
POWER PLANT WITH 260' HEAD AND 5 GENERATORS.  
GENERATING CAPACITY 585400.0 KILOWATTS

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 of | Lot | Use   | Acres |
|----------|-------|---------|--------|--------|-----|-------|-------|
| 17N      | 05W   | 2       | NE     | SE     | 1   | POWER |       |

11. Place of use in counties: WASHINGTON

A03-07018

Page 1

Date: 04/01/88

MICROFILMED  
AUG 10 1992

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:  
03-2023, 03-2024, 03-2018

14. Remarks:  
BROWNLEE DAM & POWER PLANT. THE POINT OF DIVERSION ON THE  
OREGON SIDE OF THE SNAKE RIVER IS IN TWN 08S, RNG 47E, SEC 25,  
SW 1/4 OF THE NE 1/4 OF THE SE 1/4, W.M.

15. Basis of Claim: PERMIT  
Water Right Number:

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do ☒ do not ☐ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 0

**For Organizations:**

I do solemnly swear or affirm that I am Vice President and Secretary of  
Idaho Power Company, that I have signed the foregoing  
Organization  
document in the space below as Vice President and Secretary of  
Idaho Power Company and that the statements contained in the  
Organization  
foregoing document are true and correct.

Paul Lawrence  
Signature of Authorized Agent  
Vice President and Secretary  
Idaho Power Company  
Title and Organization

April 5, 1988  
Date

State of Idaho )  
County of Ada ) SS.

Subscribed and sworn (or affirmed) before me this 5th day  
of April 19 88

Julie A. Ryan  
Notary Public

Seal

Residing at Boise, Idaho

My Commission Expires October 26, 1993

17. Notice of Appearance:

Notice is hereby given that I, Thomas G. Nelson will be  
Print Name  
acting as attorney at law on behalf of the claimant signing above, and that  
all notices required by law to be mailed by the director to the claimant  
signing above should be mailed to me at the address listed below.

Signature Thomas G. Nelson

Address Post Office Box 2139 Boise, 83701

Date April 6, 1988

James C. Tucker  
Bruce M. Smith  
ROSHOLT, ROBERTSON & TUCKER  
P. O. Box 2139  
Boise, Idaho 83702-2139  
Telephone: (208) 336-0700  
4743p/shs/1-2-92

Steven L. Herndon  
Assistant General Counsel  
Idaho Power Company  
P. O. Box 70  
Boise, Idaho 83707

- 383-2692

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

\* \* \* \* \*

In Re the General Adjudication  
of Rights to the Use of Water  
from the Snake River Basin  
Water System.

CASE NO: 39576

The State of Idaho, ex rel.  
A. Kenneth Dunn in his official  
capacity as director of the  
Idaho Department of Water  
Resources,

NOTICE OF  
APPEARANCE

Petitioner,

vs.

The United States; the State  
of Idaho; and all claimants  
to the use of water from the  
Snake River Basin Water System,

Defendants.

\* \* \* \* \*

COMES NOW, IDAHO POWER COMPANY, by and through its  
attorneys, Steven L. Herndon, Assistant General Counsel of

1 IDAHO POWER COMPANY, and James C. Tucker and Bruce M. Smith of  
2 the firm of ROSHOLT, ROBERTSON & TUCKER, and, pursuant to Order  
3 of this Court entered December 17, 1991, enters its appearance  
4 in the above-captioned case.

5 DATED this 2nd day of January, 1992.

6 ROSHOLT, ROBERTSON & TUCKER

7 *for* James R. Rosholt  
8 JAMES C. TUCKER

9 CERTIFICATE OF MAILING

10 I hereby certify that on this 2nd day of January,  
11 1992, I caused to be served a true copy of the foregoing NOTICE  
12 OF APPEARANCE by the method indicated below, and addressed to  
13 each of the following:

14 Larry Echohawk  
15 Attorney General  
16 State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720

☒ U.S. Mail, Postage Prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Telecopy (Fax)

17 David Shaw  
18 Adjudication Bureau Chief  
19 Idaho Department of Water  
Resources  
1301 North Orchard  
Statehouse Mail  
20 Boise, Idaho 83720 (6 copies)

☒ U.S. Mail, Postage Prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Telecopy (Fax)

21 Peter C. Monson, Esq.  
22 Assistant Attorney General  
23 U.S. Department of Justice  
Land and Natural Resources  
Division  
24 Indian Resources Section,  
Rm. 6317  
25 P. O. Box 44378  
Washington, D.C. 20026-4378

☒ U.S. Mail, Postage Prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Telecopy (Fax)

26  
27  
28  
MICROFILMED

AUG 10 1992

1 Don A. Olowinski  
2 HAWLEY, TROXELL, ENNIS  
3 & HAWLEY  
4 P. O. Box 1617  
5 Boise, Idaho 83701

☒ U.S. Mail, Postage Prepa  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Telecopy (Fax)

for John A. Roschert  
JAMES C. TUCKER

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