

10/25/2005

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

RIGHT NUMBER: 37-4147

NAME AND ADDRESS: ALDRICH BOWLER
HC 60 BOX 1110
BLISS ID 83314

SOURCE: UNNAMED STREAM

TRIBUTARY: SNAKE RIVER

QUANTITY: 17.000 CFS

PRIORITY DATE: 11/01/1934

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:

T06S R13E S21 SWSE Lot 3 Within GOODING County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

POWER

1/01 12/31

17.000 CFS

PLACE OF USE:

POWER Within GOODING County

T06S R13E S21 Lot 3 SWSE

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

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

T06S R13E S21 Lot 3 SWSE

1



Bridge over stream to power plant. (Remains of original structure was below on left.)



Remains of old power plant structure

Jean Robertson
8-27-04
GPS Coordinates
2424849
1298391



Power Plant 37-4147

Jean Robertson
8-27-04
GPS coordinates
X= 2424900
Y= 1298379

Affidavit

RECEIVED
AUG 27 2004
Department of Water Resources
Southern Region

Water Right Claim 37-4007

I am Peter A. Bowler, current owner of the Snake River Pottery property at 555 River Road #E, Bliss, Idaho 83314. I grew up at Snake River Pottery and lived there from 1948 – 1967. I have returned many times each year since then for stays ranging from a weekend to months – thus, I am familiar with the history of water use at Snake River Pottery. Our water was gotten from a spring that flows under our road. This water was used for domestic and irrigation purposes. My father also put in a water wheel that used the water before it entered our pond. Although we initially did flood irrigation or whatever we could sprinkle with gravity, eventually a large overhead sprinkler setup was installed using water pumped from the pond. We raised goats, and at times sheep, calves and pigs on our irrigated land. We have many fruit trees and have a garden, flower beds and lawn for which we use the water as well.

Water Right Claim 37-4147

Warren Farnsworth, a neighbor, had a power plant that was originally developed in the late 1930s. In 1952 my father installed a turbine at a site below Farnsworth's to gain more head. He split the power with the Farnsworths. Although the old power house burned to the ground in 1959, the foundations can still be seen. My father has operated his power plant continuously, eventually moving his headworks to their present location. His plant has a 90 foot head and he has a 35 year contract with Idaho Power Company.

I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.



Peter A. Bowler

State of Idaho)
County of Goodly) SS.

Subscribed and sworn (or affirmed) before me this 27 day of Aug 2004.

Seal



Mark E. Olding
Notary Public

Residing at Harlem

My Commission Expires 06/08/06

RECEIVED

AUG 27 2004

Department of Water Resources
Southern Region

Affidavit

Water Right Claim 37-4007

I am Aldrich E. Bowler and I have resided at Snake River Pottery for 57 years. After World War II my wife and I returned to Idaho in 1946 and purchased undeveloped land along the Snake River near Bliss, where we built our house, constructed a pond, set up a water wheel, planted a garden and trees, and established the Snake River Pottery. Our drinking and irrigation water were derived from a spring in a gully several hundred feet uphill from the house. The spring flows under our road, and I set up an overshot waterwheel to generate electricity there in 1949. Water from the spring was used to irrigate our 2.5 acre farm. We have used this water ever since we bought the land.

Water Right Claim 37-4147

A neighbor, Warren Farnsworth, developed a DC power plant in the 1930s to provide electricity for his house, and in 1952 I put in a more modern turbine closer to river level using the same stream. The power was used by the Farnsworths and by us. Warren measured the stream flow and it was 17+ cfs. This was the basis for his listing 17 cfs when he sold it to me. When Maurice Smith put in his fish ponds above our headworks, he was required by the Department of Water Resources to measure the flow. George Lemmon measured the flow for Maurice at a weir that is now submerged, and this was the basis of Smith's Application listing 17 cfs. Leo Ray, the current owner of the fish farm just above our diversion point has measured the water flow and the base flow is over 17 cfs. After the enactment of PURPA we established a 35 year contract with Idaho Power Company to sell back power to them, and there are another 15 years of contracted sales with IPCo. I have personally operated my power plant at this site continuously since I put in my first turbine in 1952.

I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.



Aldrich E. Bowler

State of Idaho)
) SS.
County of Goodly)

Subscribed and sworn (or affirmed) before me this 27 day of August
2004.

Seal



Mark E. Dolduc
Notary Public

Residing at Hagerman

My Commission Expires 06/05/06

37-4147

1984 A new generator was installed and was enclosed soon after this photo was taken.

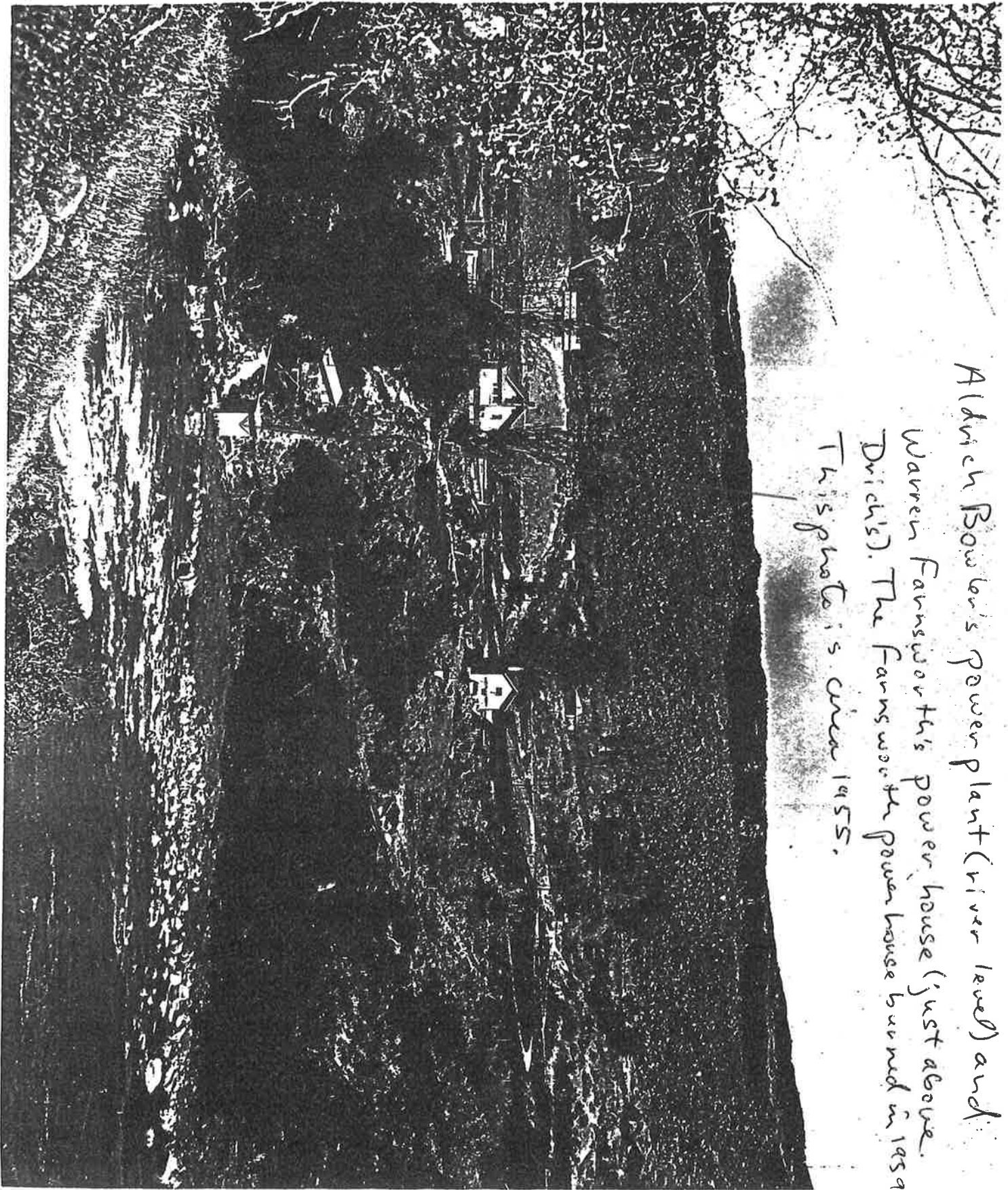


A Navy surplus generator that operated beginning 1953, Two generators preceded this one.



31-4147

Aldrich Bowler's power plant (river level) and
Warren Farnsworth's power house (just above
Drich's). The Farnsworth power house burned in 1959.
This photo is circa 1955.



RECEIVED

SEP 08 2004

DEPARTMENT OF
WATER RESOURCES

RECEIVED

SEP 02 2004

Department of Water Resources
Southern Region

To Jeanie Robertson

From Patsy Bowler

for file 37-4147

Snake R Pottery

**John J. Straubhar, P.E.
Consulting Engineer
P.O. Box 5071
Twin Falls, Idaho 83303-5071**

August 11, 2004

RECEIVED

SEP 02 2004

Department of Water Resources
Southern Region

Mr. Randy Allphin
Contract Administrator
Idaho Power Company
P. O. Box 70
Boise, Idaho 83703

Re: Snake River Pottery Hydro Project
IPCo Facility No. 313115021

Dear Mr. Allphin:

Enclosed with this letter is a copy of the Snake River Pottery Hydro Project, Engineers Certification of Ongoing Operations and Maintenance, prepared by John J. Straubhar, P.E. Said certification is submitted to comply with the Idaho Power Company power sales agreement with Snake River Pottery Power Company.

If you need further information please contact me at your convenience. You may call me at 736-8255.

Best regards,

John J. Straubhar, P.E.
John J. Straubhar, P.E.

JJS/ss
Enclosure
Cc: Allrich Bowler
Rim View Trout Company

APPENDIX F

ENGINEER'S CERTIFICATION OF ONGOING OPERATIONS AND MAINTENANCE

The undersigned, John J. Straubhar, P.E., on behalf of himself operating as a sole practitioner, herein referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the First Amendment of the Firm Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and Snake River Pottery Power Company, as Seller, dated March 4, 1997.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. 31315021 and is further designated as Federal Energy Regulatory Commission Hydro Project No. 5651-002, and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the Snake River Pottery Hydro Project, is located in the SW1/4, Section 2', T6S, R13 E, Boise Meridian, Gooding County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a thirty-five (35) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection, and the Project's Policy for Operation and Maintenance ("O&M") bearing the words "CERTIFIED FOR IDAHO P.U.C. SECURITY APPROVAL" and the stamp of the Certifying Engineer. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing operation and maintenance has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy

continues, the Project will continue producing at or near its design electrical output, efficiency, and plant factor for three (3) years.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 21.4.3 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.
10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By



Date

August 11, 2004

State of Idaho)

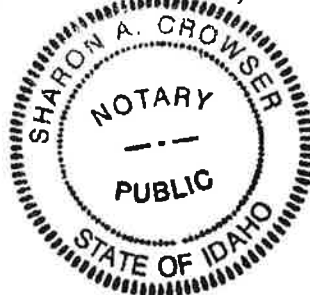
County of

Lawn Falls ss

On this 11th day of Aug, 2004, before me, the undersigned, a Notary Public, personally appeared John J. Straubhar, P.E., personally known, who being duly sworn, did say that he is the individual who executed the within instrument, and acknowledged to me that he executed the same as a free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(NOTARIAL SEAL)



Notary Public for Idaho

Residing at Lawn Falls

My commission expires:

12/31/06

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Snake River Pottery)

Project No. 5651-002

ORDER GRANTING EXEMPTION FROM LICENSING OF A
SMALL HYDROELECTRIC PROJECT OF 5 MW OR LESS

(Issued September 2, 1982)

The Applicant 1/ filed an application for exemption from all or part of Part 1 of the Federal Power Act pursuant to 18 C.F.R. Part 4 Subpart K (1980) implementing in part Section 408 of the Energy Security Act (Act) of 1980 for a project as described in the attached public notice. 2/ 3/

Notice of the application was published in accordance with Section 408 of the Act and the Commission's regulations and comments were requested from interested Federal and State agencies including the U.S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and petitions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

Standard Article 2, included in this exemption, requires compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources. The terms and conditions referred to in Article 2 are contained in any letters of comment by these agencies which have been forwarded to the Applicant in conjunction with this exemption.

1/ Snake River Pottery, Project No. 5651-002, filed on May 3, 1982.

2/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2708).

3/ Authority to act on this matter is delegated to the Deputy Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 18 C.F.R. §375.308(1981). This order may be appealed to the Commission by any party within 30 days of its issuance pursuant to Rule 1902, 18 C.F.R. 385.1902, 47 Fed. Reg. 19047(1982). Filing an appeal and final Commission action on that appeal are prerequisites for filing an application for rehearing as provided in Section 313(a) of the Act. Filing an appeal does not operate as a stay of the effective date of this order or of any other date of this order or of any other date specified in this order, except as specifically directed by the Commission.

DC-A-6

374149

SEP 3 1982

Department of Water Resources

-2-

Should the Applicant contest any terms or conditions that were proposed by Federal or State agencies in their letters of comment as being outside the scope of Article 2, the Commission shall determine whether the disputed terms or conditions are outside the scope of Article 2.

It is ordered that:

SNAKE RIVER POTTERY Project No. 5651 as described and designated in Snake River Pottery application filed on May 3, 1982, exempted from all of the requirements of Part 1 of the Federal Power Act, including licensing, subject to the standard articles in §4.106 of the Commission's regulations attached hereto as Form E-2, 18 C.F.R. §4.106, 45 Fed. Reg. 76115 (November 18, 1980), and the following Special Article.

Article 6. The construction, operation, and maintenance of the exempt project may be reviewed by the Commission and subjected to further requirements for consistency with the terms and conditions to the regional fish and wildlife program developed pursuant to the Pacific Northwest Electric Power planning and Conservation Act. Inconsistencies between the regional plan and the mandatory conditions under Article 2 will be resolved by the Commission.

Robert E. Cackowski
Deputy Director, Office of
Electric Power Regulation

\$\$\$

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Snake River Pottery

Project No. 5651-002

NOTICE OF APPLICATION FOR EXEMPTION FOR SMALL HYDROELECTRIC
POWER PROJECT UNDER 5 MW CAPACITY
(May 28, 1982)

Take notice that on May 3, 1982, Snake River Pottery (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 552705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5651) would be located on an unnamed Spring near Bliss, in Gooding County, Idaho. Correspondence with the Applicant should be directed to: Mr. Dale Hatch, P.O. Box 1071, Twin Falls, Idaho 83301.

Project Description - Applicant proposes to rehabilitate its existing project by replacing two existing generating units with installed capacity of 30 kW with new generating units with total rated capacity of 97 kW. The existing project consists of: (1) an intake structure; (2) a 650-foot-long penstock; (3) a powerhouse at elevation 2,710 feet m.s.l. that the Applicant would move to an elevation outside the A.J. Wiley Project No. 2845 reservoir boundary on the Snake River, when it is licensed for construction; and (4) a proposed 12.5-kV, 1,270-foot-long transmission line connecting the project with an existing Idaho Power Company line north of the project.

Purpose of Exemption - An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments - The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed

to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an Agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application - Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before AUG 9 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

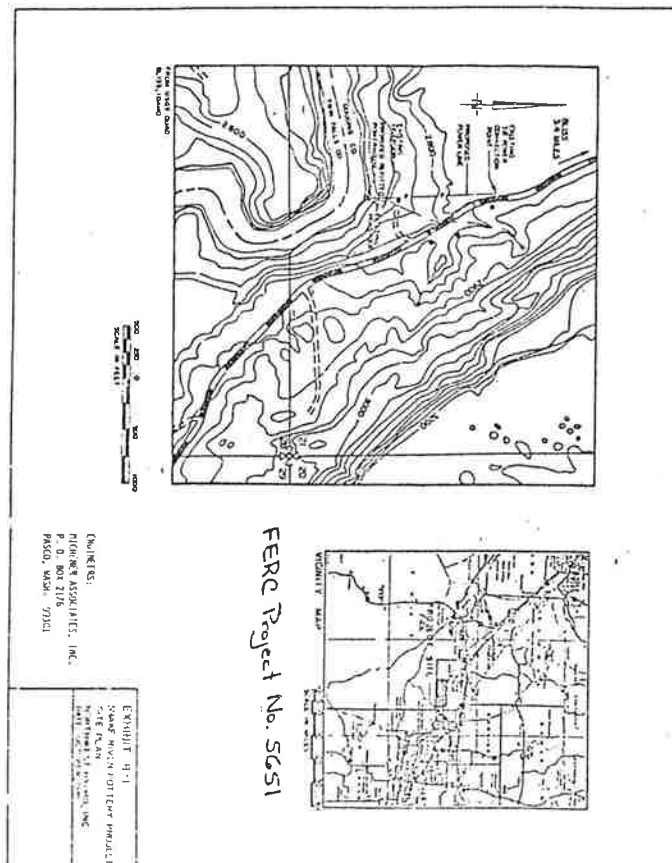
A notice of intent must conform with the requirements of 18 C.F.R. 54.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 C.F.R. 54.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene - Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. 51.6 or 51.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before AUG 9 1982.

Filing and Service of Responsive Documents - Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb
Secretary

DC-A-27



§ 4.106 Standard terms and conditions of exemption from licensing.

Any exemption from licensing granted under this subpart for a small hydroelectric power project is subject to the following standard terms and conditions:

(a) Article 1. The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt project. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) Article 2. The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that any Federal or state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act, as specified in Exhibit B of the application for exemption from licensing or in the comments submitted in response to the notice of the exemption application.

(c) Article 3. The Commission may accept a license application by any qualified license applicant and revoke this exemption if actual construction or development of any proposed generating facilities has not begun within 18 months, or been completed within four years, from the date on which this exemption was granted. If an exemption is revoked, the Commission will not accept a subsequent application for exemption within two years of the revocation.

(d) Article 4. This exemption is subject to the navigation servitude of the United States if the project is located on navigable waters of the United States.

(e) Article 5. This exemption does not confer any right to use or occupy any Federal lands that may be necessary for the development or operation of the project. Any right to use or occupy any Federal lands for those purposes must be obtained from the administering Federal land agencies. The Commission may accept a license application by any qualified license applicant and revoke this exemption, if any necessary right to use or occupy Federal lands for those purposes has not been obtained within one year from the date on which this exemption was granted.



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

March 27, 1985

Aldrich Bowler
Snake River Pottery
HC-60, Box 110
Bliss, ID 83314

Re: Water Rights for Power Production Purposes

Dear Mr. Bowler:

The purpose of this letter is to document our conversation of Friday, March 22, 1985, which included discussions regarding water rights for your power plant located on an unnamed stream tributary to the Snake River.

Based on the information that you provided during your visit, a data summary table has been developed, as shown below:

<u>Date of Use</u>	<u>Rate of Flow Utilized</u>	<u>Power Generated</u>	<u>Head</u>
1934	17 cfs	7.5 kw	50'
1952	17 cfs	25 kw	50'
1979	17 cfs	25 kw total	90'
Dec. 18, 1984	17 cfs	86 kw	90'

During our conversation you indicated that although some changes have been made to the power generation system during the last fifty years, the point of diversion and place of use have remained in the same forty-acre tract, and the rate of flow utilized has not been changed significantly. As you indicated, the increase in amount of power generated in 1952 versus 1934 was caused by the updating of turbine equipment. You further described that in 1979 you changed the point of diversion somewhat, resulting in an increase of head from fifty feet to ninety feet, but our Department advised you that no change in the water right was necessary because the point of diversion remained in the same forty-acre tract. Although we would require a transfer if such a change were made today, our interpretation in 1979 was different and no transfer was required at that time.

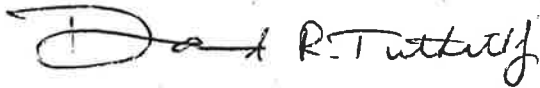
Mr. Aldrich Bowler
March 27, 1985
Page 2

You have indicated that on December 18, 1984, new equipment was brought on line to increase the power output to 86 kilowatts using the same amount of water and head as had been utilized for several years. Even though the amount of power generated has increased, because the rate of flow utilized has not been increased no additional water right filing is required.

Copies of this letter will be placed in our files for Claims to Water Rights Nos. 37-4007 and 37-4147. If information provided in this letter is incorrect, or if interpretations herein are erroneous, please advise this office.

I enjoyed your visit to this office and wish you good luck in operation of your power generating system.

Sincerely,

A handwritten signature in dark ink, appearing to read "David R. Tuthill, Jr.", with a stylized, cursive script.

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT/lrs

cc: Files 37-4007 and 37-4147

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: A37-04147
Date Received: 7/22/1988
Receipt No: S001063
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ALDRICH BOWLER 208-837-6379
Address: HC 60 BOX 1110
BLISS, ID 83314

2. Date of Priority: NOV 01, 1934

3. Source: UNNAMED STREAM Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06S	13E	21	SW	SE		3	GOODING

5. Description of diverting works:
PENSTOCK & GENERATOR

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
POWER	01/01	12/31	17.000		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
GENERATING CAPACITY 81.0 KILOWATTS

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	13E	21	SW	SE	3	POWER	

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:

14. Remarks:

EXACT P/D & P/U DETERMINED FROM CLAIM DATA & USGS MAP.

15. Basis of Claim: STATUTORY CLAIM

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Aldrich Bowler Date: 7/22/88

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 22nd day

of July 19 88

Mary A. Baldwin
Notary Public

Seal

Residing at Gooding Id
My Commission Expires 10/16/1992