

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

8/7/2020

Water Application 47-8165

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	HEED CO , ZZ

Status: Denied

Source

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
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Source and Point(s) of Diversion

Place Of Use

Conditions of Approval:

Comments:

Dates and Other Information

Application Denied Date: 1/27/1995  
Number of Protests: 0  
Water District Number: TBD  
Application Type: New Appropriation  
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A



# State of Idaho

## DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000  
Phone: (208) 327-7900 FAX: (208) 327-7866

NOV 14 1994

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

Department of Water Resources  
Southern Region Office

November 9, 1994

RE: In the matter of Application for Permit No. 47-08165 in the name of H.E.E.D. Company

Dear Interested Party:

The accompanying order is a "preliminary order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

### PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

### EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

47-08165

### ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

### CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

### FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

### APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



L. GLEN SAXTON  
Chief, Water Allocation Bureau

Enclosure

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 47-08165 IN THE )  
NAME OF H.E.E.D. CO. )  
\_\_\_\_\_ )

PRELIMINARY ORDER

This matter having come before the Idaho Department of Water Resources (department) as a result of the review of applications for permit pending before the department, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On March 24, 1989, H.E.E.D. Co. (applicant) filed Application for Permit No. 47-08165 (application) with the department proposing the diversion and use of 25 cubic feet per second of water from Deadman's Gulch tributary to Rock Creek to be used year-round for power generation purposes.

2. Review of the application shows that the last correspondence in connection with the proposed project was in 1989 and that there has been no activity toward project development since that time.

3. On September 29, 1994, the department corresponded with the applicant and requested information to show that the applicant was still interested in the project. The applicant did not respond to the department and did not show a continuing interest.

4. Failure to actively pursue the proposed project shows that the application has become speculative in nature and should be removed from active department files and records.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides that the Director may reject an application for permit which is speculative.

2. The application has become speculative in nature and should be rejected pursuant to Section 42-203A, Idaho Code.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Application for Permit No. 47-08165 in the name of H.E.E.D. Co. is **REJECTED** pursuant to the provisions of Section 42-203A, Idaho Code.

Dated this 9<sup>th</sup> day of November, 1994.

L. Glen Saxton

L. GLEN SAXTON, Chief  
Water Allocation Bureau

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 9<sup>th</sup> day of November, 1994,  
I mailed a true and correct copy, postage prepaid, of the foregoing  
**PRELIMINARY ORDER** to the following:

H.E.E.D. Company  
c/o Gary Miller  
P.O. Box 923  
Twin Falls, ID 83303

Paul R. Welch  
Rt. 5 Box 8780  
Twin Falls, ID 83303

Twin Falls Co. Parks & Rec.  
634 Addison Ave. E.  
Twin Falls, ID 83303

Paul C. Victor  
Rt. 2  
2378 N 2700 E  
Twin Falls, ID 83301

Gene D. Larsen  
Rt. 4 Box 7664  
Twin Falls, ID 83301

Orval & Ileen Burr  
Rt 4. Box 7665  
Idaho Falls, ID 83301

Margurite Wells  
Rt. 4 Box 7666  
Twin Falls, ID 83301

Id. Dept. of Fish & Game  
P.O. Box 428  
Jerome, ID 83338

Dwight & Myrna Bell  
751 2nd Ave. N  
Twin Falls, ID 83301

  
JULIE L. YARBROUGH  
Senior Secretary

Ident. No. 47-08165

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

AMENDED APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: H.E.E.D. CO. 208-733-7141  
Address: P.O. BOX 923  
TWIN FALLS, ID 83303
2. Source: DEADMANS GULCH Trib. to: ROCK CR.
3. Location of point of diversion:  

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
10S	17E	18	SW	NW	SE		TWIN FALLS
4. Water will be used for the following purposes:  

Purpose	From	To	CFS	(or)	AFA
POWER	01/01	12/31	25.000		
5. Total quantity appropriated is:  
25.000 CFS (and/or) AFA
6. Proposed diverting works:
  - a. Description of ditches, flumes, pumps, headgates, etc.  
DIVERSION DAM WITH PIPELINE AND PENSTOCK TO POWER PLANT.
  - b. Height of storage dam feet; active reservoir capacity  
acre-feet; total reservoir capacity acre-feet; period of  
year when water will be diverted to storage: to inclusive.
  - c. Proposed well diameter is inches; proposed depth of well is  
feet.
  - d. Is groundwater with a temperature greater than 90F being sought? NO
7. Time required for the completion of the works and application of  
the water to the proposed beneficial use is 5 years.
8. Description of proposed uses:  
HYDROPOWER PRODUCTION



9. Description of place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
10S	17E	17	SW NW		POWER	

10. Describe any other water rights used for the same purposes.  
47-07568

11. a. Who owns the property at the point of diversion?  
BOB WELCH  
b. Who owns the land to be irrigated or place of use?  
APPLICANT  
c. If the property is owned by a person other than the applicant,  
describe the arrangement enabling the applicant to make this filing.  
EASEMENT TO BE OBTAINED

12. Remarks:  
WATER WILL BE DIVERTED FROM DEADMANS GULCH TO SUPPLEMENT FLOWS TO  
AN EXISTING HYDRO-GENERATING FACILTY ON SLAUGHTERHOUSE GULCH.

13. Map of proposed point of diversion and place of use attached? [ ]

BE IT KNOWN that the undersigned hereby makes application for permit to  
appropriate the public waters of the State of Idaho as herein set forth.

  
Applicant

Received by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_

Fee \$ \_\_\_\_\_ Receipted by \_\_\_\_\_ # \_\_\_\_\_ Date \_\_\_\_\_

Publication prepared by \_\_\_\_\_ Date \_\_\_\_\_ Published in \_\_\_\_\_

Publication approved \_\_\_\_\_ Date \_\_\_\_\_

Ident. No. 47-08165

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

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feet.
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the water to the proposed beneficial use is 5 years.
8. Description of proposed uses:  
HYDROPOWER GENERATION

9. Description of place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
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47-07568

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BOB WELCH

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AN EXISTING HYDRO-GENERATING FACILTY ON SLAUGHTERHOUSE GULCH.

13. Map of proposed point of diversion and place of use attached? [X]

BE IT KNOWN that the undersigned hereby makes application for permit to  
appropriate the public waters of the State of Idaho as herein set forth.

H.G.E.D. Co.  
Jay Miller V.P.  
Applicant

Received by TB Date 3/24/89 Time 2:00 Preliminary check by \_\_\_\_\_

Fee \$ 475<sup>00</sup> Receipted by TB # S006667 Date 3/24/89  
ID. Statesman, Post Register

Publication prepared by M. Baldwin Date 5/5/89 Published in Times News  
LOWISTEN TRIBUNE

Publication approved M. Baldwin Date 6/12/89