IDAHO DEPARTMENT OF WATER RESOURCES 7/22/2020
Proof Report

Water Permit 47-7846

Owner Type	**Name and Address**
Current Owner	BETTY JEANE HERZINGER 408 11TH AVE N BUHL, ID 83316
Current Owner	VERNON L HERZINGER 408 11TH AVE N BUHL, ID 83316

Status: Lapsed

Source **Tributary**

Beneficial Use	**From**	**To**	**Diversion Rate**	**Volume**

Source and Point(s) of Diversion

Place Of Use

Conditions of Approval:

Comments:

Dates and Other Information
Water District Number: TBD
Mitigation Plan: False

Combined Use Limits
N/A

SubCase:
N/A

Water Supply Bank:
N/A

[redacted]

Form 204
4/86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only
$15 FEE Receipted by Hm
Date 9/9/88
Receipt # C002573

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof of beneficial use for a water right permit

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of a water right under the provisions of Section 42-204, Idaho Code.

Permit No. 47-07846

Name(s) of Permit Holder: VernonL. Herzinger Betty Jeane Herzinger

Post Office Address: 408 11th Avenue North

Buhl, Idaho 83316 Telephone No. 543 5694

Date Proof is Due: October 1, 1988

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

Prelimary enjinerring work, permits from Twin Falls Zoning, Army Corp Of Enginers Fish and Game etc. Work necessary to getting a minor license from F E R C

Costing $ 22,000.00

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

loss of exemption status due to the Tulilip Tribes of Washington v. FERC May 10, 1984
Had to apply for a minor license which was not granted until 9-29- 86
Idaho Power appealed to FERC to rescing license and that was not settled until 3-3-88

Permit holder(s) request an extension to October 1, , 19 93.
(1 yr. minimum)

Betty Jeane Herzinger
(Signature)*

*IF OTHER THAN PERMIT HOLDER, POWER OF ATTORNEY MUST BE SUPPLIED.

FEE: $15.00

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to April 1, 1992.

Signed this 24th day of October, 1988.

L. Glen Saxton
Chief, Operations Bureau

47-07846

47-7846

RECEIVED
SEP 29 1986
Department of Water Resources

Southern

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Vernon L. & Betty J. Herzinger Project No. 7211-

ORDER ISSUING LICENSE
(Minor Project)

(Issued September 22, 1986)

Vernon L. & Betty J. Herzinger have filed a license application under Part I of the Federal Power Act (Act) to construct, operate, and maintain the Twin Eagle Power Project, located in Twin Falls County, Idaho, on the Salmon Falls Creek. The project would occupy lands of the United States under the jurisdiction of the Bureau of Land Management.

Notice of the application has been published. The motions to intervene that have been granted and the comments and protests filed by agencies and individuals have been fully considered in determining whether to issue this license, as discussed below.

Idaho Power Company (IPC) asked that a need for project power be shown. The need for project power and its economic feasibility are discussed in the attached Environmental Assessment (EA). The Commission has also discussed these issues raised by IPC in the recent license order for the Horseshoe Bend Project No. 5376. 36 FERC ¶61,135 (1986). The project is potentially feasible so long as its projected levelized cost is less than the long-term levelized alternative energy cost of any utility in the region that can be served by the project. The staff has identified projected levelized alternative energy costs in the region of 60.4 mills/kWh. Since the levelized cost of energy from the project is estimated to be 50.5 mills/kWh, the staff is reasonably confident that there will be a market for the project power at a price sufficient to support the project's construction and operation.

Summary of Findings

An EA was issued for this project. Background information, analysis of impacts, support for related license articles, and the basis for a finding of no significant impact on the environment are contained in the EA attached to this order. Issuance of this license is not a major federal action significantly affecting the quality of the human environment.

The design of this project is consistent with the engineering standards governing dam safety. The project will be safe if constructed, operated, and maintained in accordance with the requirements of this license. Analysis of related issues is provided in the Safety and Design Assessment attached to this order.

The Director, Office of Hydropower Licensing, concludes that the project would not conflict with any planned or authorized development, and would be best adapted to comprehensive development of the waterway for beneficial public uses.

orders:

is license is issued to Vernon L. & Betty J. Herzinger for a period of 50 years, effective the first day of the ich this order is issued, to construct, operate, and e Twin Eagle Power Project. This license is subject to and conditions of the Act, which is incorporated by as part of this license, and subject to the regulations the Co ssion issues under the provision of the Act.

(B) The project consists of:

(1) All lands, to the extent of the licensee's interests in those lands, enclosed by the project boundary shown by Exhibit G:

Exhibit G-	FERC No. 7211-	Showing
1	17	Project Boundary
2	18	Project Lands

(2) Project works consisting of: (a) a 195-foot-long, 12-foot-high concrete-core rockfill dam having spillway crest elevation 2937 feet and having a fish ladder; (b) a reservoir having a surface area of 2.13-acres and a gross storage volume of 10 acre-feet at spillway crest elevation; (c) a screened reinforced-concrete intake structure along the left (west) bank; (d) an 862-foot-long, 96-inch-diameter corrugated-metal-pipe penstock; (e) a powerhouse containing five generating units each rated at 80-kW operated at a head of 26.5 feet and at a flow of 52 cfs; (f) a tailrace; (g) a 1,000-foot-long, 34.5-kV underground transmission line; (h) a 0.67-mile-long, 20-foot-wide gravel-surface access road; and (i) appurtenant facilities.

The project works generally described above are more specifically shown and described by those portions of Exhibits A and F recommended for approval in the attached Safety and Design Assessment.

(3) All of the structures, fixtures, equipment or facilities used to operate or maintain the project and located within the project boundary, all portable property that may be employed in connection with the project and located within or outside the project boundary, and all riparian or other rights that are necessary or appropriate in the operation or maintenance of the project.

(C) The Exhibit G described above and those sections of Exhibits A and F recommended for approval in the attached Safety and Design Assessment are approved and made part of the license.

(D) The following sections of the Act are waived and excluded from the license for this minor project:

4(b), except the second sentence; 4(e), insofar as it relates to approval of plans by the Chief of Engineers and the Secretary of the Army; 6, insofar as it relates to public notice and to the acceptance and expression in the license of terms and conditions of the Act that are waived here; 10(c), insofar as it relates to depreciation reserves; 10(d); 10(f); 14, except insofar as the power of condemnation is reserved; 15; 16; 19; 20; and 22.

(E) This license is subject to the articles set forth in Form L-17, (October 1975), entitled "Terms and Conditions of License for Unconstructed Minor Project Affecting Lands of the United States." This license is also subject to the following additional articles.

Article 201. The licensee shall pay the United States the following annual charge, effective the first day of the month in which this license is issued:

a. For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. The authorized installed capacity for that purpose is 533 horsepower.

b. For the purpose of recompensing the United States for the use, occupancy, and enjoyment of 17.16 acres of its lands, a reasonable annual charge as determined by the Commission in accordance with its regulations, in effect from time to time.

Article 301. The licensee shall commence construction of project works within two years from the issuance date of the license and shall complete construction of the project within four years from the issuance date of the license.

Article 302. The licensee shall at least 60 days prior to start of construction, submit one copy to the Commission's Regional Director and two copies to the Director, Division of Inspections, of the final contract drawings and specifications for pertinent features of the project, such as water retention structures, powerhouse, and water conveyance structures. The Director, Division of Inspections, may require changes in the plans and specifications to assure a safe and adequate project.

Article 303. The licensee shall within 90 days of completion of construction file with the Commission, for approval, revised Exhibits A, F, and G to describe and show the project as built.

Article 401. The licensee, prior to any future construction at the project, shall consult with the Idaho State Historic Preservation Officer (SHPO) and the Bureau of Land Management (BLM) about the need for a cultural resources survey and salvage work. Documentation of the nature and extent of consultation, including a cultural

resources management plan, a schedule to conduct any necessary investigation before construction, and a copy of a letter from the SHPO and BLM accepting the plan, shall be filed with the Commission 6 months before any construction activity. The licensee shall make available funds in a reasonable amount for any required work. If any previously unrecorded archeological or historic sites are discovered during the construction or development of any project works or associated facilities, construction activity in the vicinity shall be halted, a qualified archeologist shall be consulted to determine the significance of the sites, and the licensee shall consult with the SHPO and BLM to develop a mitigative plan for the protection of significant archeological or historic resources. If the licensee and the SHPO and BLM cannot agree on the amount of money to be expended on archeological or historical work related to the project, the Commission reserves the right to require the licensee, at its own expense, to conduct any necessary work.

Article 402. Licensee shall, after consultation with the Idaho Department of Fish and Game, prepare and file with the Commission, within 1 year from the date of issuance of this license, a detailed, site-specific plan to control erosion, dust, and slope stability, and to minimize the quantity of sediment or other potential water pollutants resulting from construction and operation of the project, including spoil disposal areas and maintenance dredging. The plan shall also include: functional design drawings and map locations of control measures; an implementation schedule; monitoring and maintenance programs for project construction and operation; provisions for periodic review of the plan and for making any necessary revisions to the plan. As part of the plan licensee shall install remote sensors on the penstock to shut off flow in the event of a penstock failure.

In the event that the licensee does not concur with any agency recommendations, licensee shall provide a discussion of the reasons for not concurring based on actural site geological, soil, and groundwater conditions. The Commission reserves the right to require changes to the plan. Unless the Director, Office of Hydropower Licensing, directs otherwise, the licensee may commence ground disturbing or spoil-producing activities at the project 90 days after filing the above plan.

Article 403. The licensee shall, within 3 months after issuance of this license, file for Commission approval functional design drawings of the intake structure fish screens and fish ladder for the Salmon Falls Creek Project, prepared after consultation with the Idaho Department of Fish and Game and the U.S. Fish and Wildlife Service. Agency comments on the design drawings shall be included in the filing. Licensee shall file as-built drawings with the Commission within 6 months after completion of construction.

Article 404. The licensee shall discharge from the Salmon Falls Creek Project, a continuous minimum flow according to the following schedule: May 1 through July 31 - 15 cubic feet per second (cfs), August 1 through April 30 - 10 cfs, as measured immediately downstream from the project dam, or inflow to the reservoir, whichever is less,

for protection and enhancement of fish and wildlife resources of Salmon Falls Creek.

These flows may be temporarily modified if required by operating emergencies beyond the control of the licensee, and for short periods upon mutual agreement between the licensee and the Idaho Department of Fish and Game.

Article 405. The Commission reserves the authority to order, upon its own motion or upon the recommendation of Federal or State fish and wildlife agencies or affected Indian Tribes, alterations of project structures and operations to take into account to the fullest extent practicable at each stage of the decision-making process the regional fish and wildlife program developed and amended pursuant to the Pacific Northwest Electric Power Planning and Conservation Act.

Article 406. (a) In accordance with the provisions of this article, the licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain other types of use and occupancy, without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensee shall also have continuing responsibility to supervise and control the uses and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, cancelling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The types of use and occupancy of project lands and waters for which the licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 water craft at a time and where said facility is intended to serve singlefamily type dwellings; and (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the uses and occupancies for which it grants permission are maintained in good

repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program. The Commission reserves the right to require the licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The licensee may convey easements or right-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges and roads for which all necessary state and federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir. No later than January 31 of each year, the licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary state and federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certificates or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary federal and state approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge

of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 45 days before conveying any interest in project lands under this paragraph (d), the licensee must submit a letter to the Director, Office of Hydropower Licensing, stating its intent federal or state agency official consulted, and any federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraphs (c) or (d) of this article:

(1) Before conveying the interest, the licensee shall consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include covenants running with the land adequate to ensure that: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project.

(4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this

article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

(g) The authority granted to the licensee under this article shall not apply to any part of the public lands and reservations of the United States included within the project boundary.

(F) This order is issued under authority delegated to the Director and is final unless appealed under Rule 1902 to the Commission by any party within 30 days from the issuance date of this order. Filing an appeal does not stay the effective date of this order or any date specified in this order. The licensee's failure to appeal this order shall constitute acceptance of the license.

Richard T. Hunt

Richard T. Hunt
Director, Office of
Hydropower Licensing

ENVIRONMENTAL ASSESSMENT
DIVISION OF ENVIRONMENTAL ANALYSIS, OFFICE OF HYDROPOWER LICENSING
FEDERAL ENERGY REGULATORY COMMISSION

February 28, 1986
(Date)

Project Name: Salmon Falls Creek FERC No. 7211 - 002

A. APPLICATION

1. Application Type: Minor License Date Filed: 9 / 24 / 84

2. Applicant: Vernon L. and Betty J. Herzinger

3. Water Body: Salmon Falls Creek River Basin: Snake R.

4. Nearest city or town: Buhl, Idaho

5. County: Twin Falls State: Idaho

6. Federal Lands Affected (If yes, specify land management agency.)
___ No X Yes: Bureau of Land Management (agency); acreage = 17.16

B. RESOURCE DEVELOPMENT

1. Purpose: The proposed project would provide an estimated average of 2,600,000 kilowatt hours (kWh) of electrical energy per year to the Idaho Power Company, or another northwest utility.

2. Need for power: There is at this time no conclusive evidence to support an opinion that growth in the demand for electric power and energy (due to population growth, continuing demand for additional amenities, etc) will not continue. Given positive load growth and an existing resource base, a reliability need for additional resources can at any time be projected to exist at some time in the future for any power system. Additional resources would have to be obtained for any system at some point in time in order to meet projected additional load requirements with the same degree of reliability established by an existing criterion for reliability of the system. Timing of the need would vary in different systems dependent upon, among other things, the rates of load growth, the load characteristics, the available existing power resources and the reliability criteria established for each system.

Installation of a power resource prior to the existence of a reliability need can be justified if early installation of the resource will over it's operating life provide benefits relative to operation of the system with the most likely alternative resource installed to meet the reliability need when it occurs. The early installation of a hydroelectric resource and the use of hydroelectric energy to displace more expensive thermal energy generation coupled with the incremental deferral of a thermal capacity alternative can produce economic benefits. Fossil fuel conservation and reduced atmospheric impacts of fossil fuel combustion are additional benefits of hydroelectric displacement and deferral of the thermal generation.

The Northwest Power Planning Council (Council), in the 1985 Northwest Conservation and Electric Power Plan (Plan), projects a regional need for additional power resources by 1992 based on a mid-high growth rate forecast and by 1996 based on a mid-low growth rate forecast (the two equally likely and most probable growth rate scenarios). The Bonneville Power Administration forecast released in December 1984 and the Pacific

Northwest Utilities Conference Committee forecast issued in March 1985 show regional energy deficits for mid-range load forecasts in the 1997-1998 and 1995-1996 periods, respectively. Individual systems within the region also indicate resource deficits exist prior to the regional deficits.

Staff's economic analyses show that benefits are possible through installation of the project and therefore show a need for the project. From the time the project goes on line until needed to serve load directly, it will be available to off-load existing fossil-fueled electric generating plants located in the Pacific Northwest, California and the Southwest, and thereby, to conserve nonrenewable resources, and to reduce the emission of noxious byproducts caused by the combustion of fossil fuels.

3. Hydroelectric power and resource utilization: We have made an independent study of the hydropower potential of the Salmon Falls Creek Water Power Project. Our study found that the applicant's proposed installed capacity, estimated average annual generation, selection of size and type of generation units, and construction cost estimate are reasonable.

The project's five units would total 400 kilowatts (kW) and generate an estimated average of 2,600,000 kWh at an annual plant factor of 74 percent. The project would operate run-of-river with a hydraulic capacity of 260 cubic feet per second (cfs) which corresponds to the 10 percent flow exceedance.

Power generated by the project would be sold to the Idaho Power Company or another northwest utility. The project is economically feasible based on fuel savings from off-loading existing coalfired steam electric plants in the Pacific Northwest until 2002 and producing equivalent power from a steam electric plant thereafter.

The Idaho Department of Fish and Game recommends the following instream flows: May 1 through July 31 - 15 cfs, remainder of year - 10 cfs.

The minimum flows were incorporated into the estimates of annual generation and the project's economics. The 400-kW capacity will make good use of the flow and head of the site.

The project does not conflict with any proposed or existing developments of Salmon Falls Creek, makes good use of the flow and fall of the creek, and will be best adapted to the comprehensive development of Salmon Falls Creek upon compliance with the terms and conditions of the license.

C. PROPOSED PROJECT AND ALTERNATIVES

1. Description of the proposed action: Applicant proposes to construct: (1) a 195-foot-long, 12-foot-high concrete-core rockfill dam having a spillway crest elevation of 2937 feet, with an integral fish ladder; (2) a reservoir with a surface area of 2.13 acres and a gross storage volume of 10 acre-feet at spillway crest elevation; (3) a screened reinforced-concrete intake structure on the left (west) bank; (4) an 862-foot-long, 96-inch-diameter corrugated-metal-pipe penstock; (5) a powerhouse containing five generating units each rated at 80-kW, at a head of 26.5 feet and at a flow of 52 cfs; (6) a 1,000-foot-long, 34.5-kilovolt (kV) underground transmission line; and (7) a 0.67-mile-long, 20-foot-wide gravel-surface access road.

2. Applicant's Proposed Mitigative Measures

a. Construction: (1) minimal vegetative clearing outside of the construction area; (2) instream work would be conducted behind a cofferdam during low-flow periods; (3) slopes in cut banks would be trimmed to allow passage of wildlife; and (4) spoil piles and construction debris would be removed and disturbed areas revegetated (Herzinger, 1984).

b. Operation: (1) a minimum flow of 10 to 15 cfs would be provided in the bypassed reach; (2) operation of a proposed fish ladder would allow fish passage past the project site; and (3) a raptor roosting structure would by installed on the power pole proposed at the project (Herzinger, 1984).

3. Section 4(e) Conditions

___ Pursuant to Section 4(e) of the Federal Power Act, the Federal land management agency has provided terms and conditions by letter dated: ___/___/___ (Attachment _____).

Remarks: _____

4. Alternatives to the Proposed Action

a. _X_ No other reasonable action alternatives have been found.

___ Action alternative: _____

b. Alternative of no action: denial of the license application. Power that would have been developed would be provided by non-renewable fuels.

D. AFFECTED ENVIRONMENT

1. Brief descriptions of the resources are given below.

a. Geology and Soils

Significant features include: a steep-walled canyon and high-gradient stream.

b. Streamflow

low flow: 58 cfs; flow parameter: monthly average - July
high flow: 251 cfs; flow parameter: monthly average - October
average flow: 162 cfs; Remarks: _____

c. Water Quality

The existing water quality conditions are: fair to poor because of the lack of a minimum flow from an upstream storage reservoir, and the inflow of turbid waters from irrigation canals. During the summer irrigation season, water quality conditions can be characterized by dissolved oxygen levels in the range of 8 to 9 milligrams per liter, high pH levels (9.0), and visibility less than 1 foot.

d. Fisheries

Anadromous: _X_ None ___ Species include: _____

Resident: ___ None _X_ Species include: rainbow trout (Salmo gairdneri), brown trout (S. trutta), chiselmouth (Acrocheilus alutecus), suckers (Catostomus, sp.), smallmouth bass (Micropterus dolomieui).

Significant features include: relatively narrow riparian zone

e. Vegetation

Cover Type	Dominant Species
Riparian	Willows (Salix, sp.), Wild rose (Rosa, sp.), currant (Ribes, sp.), rabbitbrush (Chrysothamnus, sp.)

Significant features include: relatively narrow riparian zone.

f. Wildlife

Species inhabiting the project area include: mule deer (Odocoileus hemionus hemionus), jackrabbit (Lepus, sp.), coyote (Canis latrans), ground squirrel (Spermophilus, sp.), Swainson's hawk (Buteo swainsoni), ferruginous hawk (B. regalis), red-tailed hawk (B. jamaicensis), rough-legged hawk (B. lagopus), and American kestrel (Falco sparverius).

Significant features include: _____

g. Archeological

_X_ There are no known prehistoric sites in the project impact areas.
___ Known sites occur within the project impact areas. Description: _____

Remarks: By letters dated January 24, 1983, and September 27, 1984, the State of Idaho SHPO states that the proposed project would have no effect on archeological or historical resources.

h. Historical

_X_ There are no sites of historical significance in the project impact areas.
___ The areas contain sites of historical significance. Description: _____

The structures described above are: ___ listed on the National Register.
___ eligible for listing.
___ not listed on the National Register.

Remarks: See above remarks (g).

i. Visual Quality

The significant visual features of the area include: a deeply incised canyon with vertical rock walls.

j. Recreation

The existing recreational use(s) of the area include: fishing, hunting, hiking, and rock climbing.

k. Land Use

Land use in the project area includes: wildlife habitat and grazing in close proximity to Salmon Falls Creek, and irrigated agriculture in surrounding areas.

l. Socioeconomics

The economic and social well-being of the area is influenced by: agricultural and livestock production.

m. Ambient noise quality is: low noise levels except in close proximity to intense agricultural activities.

n. Ambient air quality is: few air pollutants except for dust in the vicinity of agricultural activities.

o. Other resources include: _____

E. CONSULTATION AND COMPLIANCE

1. Fish and Wildlife Consultation (Fish & Wildlife Coordination Act)
   (a) Fish & Wildlife Service (FWS): _X_ Yes ___ No (b) State(s): _X_ Yes ___ No
   (c) National Marine Fisheries Service (NMFS): ___ Yes _X_ No
   (d) Remarks: _____

2. Terms and Conditions for Exemptions from Licensing [18 CFR §4.106(b) or 4.94(b)]
   ___ The agencies listed below have provided terms and conditions for the proposed project (Attachment _____).
   _X_ Not applicable

Agency	Date of Letter
	/ /
	/ /
	/ /
	/ /

3. Section 7 Consultation (Endangered Species Act)
   (a) _X_ Listed Species: The bald eagle (Haliaeetus leucocephalus), peregrine falcon (Falco peregrinus), and whooping crane (Grus americana) may occasionally pass through the project area.
   (b) _X_ Not required. ___ Required; completed (date): / /
   (c) Remarks: The Department of the Interior, by letter dated 8/5/85, states that special terms and conditions for endangered species are not required for this project.

4. Section 401 Certification (Clean Water Act)
   ___ Not Required _X_ Received ___ Waived ___ Requested: 9 / 13 /85 (date of letter)

5. Cultural Resource Consultation (Historic Preservation Act)
   (a) Register Status: _X_ None ___ Potentially Eligible ___ Eligible or Listed
   (b) State Historic Preservation Officer (SHPO): _X_ Yes ___ No
   (c) National Park Service (NPS): ___ Yes _X_ No
   (d) Council: _X_ Not required ___ Completed (date): / /
   (e) Further consultation requirements: ___ Yes _X_ Not required
   (f) Remarks: _____

6. Recreation Consultation [Federal Power Act, §10(a)]
   (a) U.S. Owners _X_ Yes ___ No (b) NPS: ___ Yes _X_ No
   (c) State(s): ___ Yes _X_ No (d) Remarks: _____

7. Wild and Scenic Rivers (Wild and Scenic Rivers Act)
   (a) Status: _X_ None. ___ Listed. Determination completed: / /
   Administering agency: _____
   (b) Remarks: _____

F. COMMENTS

1. The following entities provided comments on the application in response to the public notice dated 6 / 5 / 85 .

Commenting Entity	Date of Letter
Idaho Department of Health and Welfare	7 / 1 / 85
Idaho Department of Fish and Game *	8 / 2 / 85
Idaho Power Company *	8 / 2 / 85
Department of the Interior	8 / 5 / 85
	/ /

* Indicates an intervention

2. The Applicant responded to the comments by letters dated 9 / 5 / 85 and 9/24/85.

G. DISCUSSION OF ENVIRONMENTAL ISSUES

Mitigative measures recommended by Staff are in addition to those proposed by the applicant, Section C(2), and those conditions identified in Sections C(3) and E(2), as appropriate. There are three issues addressed below.

1. Issue: Need for cultural resources survey; buried archeological or historic sites discovered during construction could be affected, and significant cultural information lost.

Comments: The Department of the Interior (Interior), by letter dated 8/5/85, states that a cultural resource survey must be conducted in the project area, since the project would occupy lands administered by the Bureau of Land Management (BLM). Interior further states that the survey must be conducted by an archeologist with a current BLM Cultural Resource Use Permit.

Applicant's Response: The applicant, by letter dated 9/24/85, states that a land use permit from BLM has been applied for, and that BLM has conducted the necessary studies, including an archeological survey.

Conclusions and Recommendations: Interior's requirement for a cultural resource survey has been satisfied by a survey conducted by BLM. In addition, the SHPO stated in letters dated 1/24/83 and 9/27/84, that the project would have no effect on cultural resources. The licensee, however, should have construction personnel monitor ground-disturbing activities associated with construction to determine if buried archeological or historical sites are present in these areas. Construction activity in the vicinity of any discovered site should be halted, the SHPO consulted concerning the significance of such sites and necessary avoidance or mitigative measures, and measures necessary to protect significant archeological or historical sites should be implemented.

2. Issue: Miscellaneous mitigative measures recommended by Idaho Department of Fish and Game (DFG) as terms and conditions.

Comments: The DFG recommends in its 8/2/85 petition to intervene that 22 conditions for the protection and enhancement of fish and wildlife resources be included in any license issued.

Applicant's Response: The applicant states in its 9/5/85 response to the DFG petition that it would agree with most of the DFG conditions, including the minimum instream flow in the bypassed reach, although does not totally agree with three of the conditions. The three conditions include requirements to: install self-cleaning, 1/4-inch mesh fish screens; install remote sensors on the penstock to shut off flow in the event of a penstock failure; and allow DFG to approve the powerhouse location.

Conclusions and Recommendations: Most of the 22 conditions recommended by DFG are standard mitigative measures for project construction and operation, which the applicant has agreed to implement. The design of the fish screen is not yet finalized; thus, the licensee should consult with the DFG and U.S. Fish and Wildlife Service in the design of the screens and fish ladder, and file functional designs for Commission approval. The minimum instream flow should be specified by special article. Other conditions recommended by DFG do not require specific license articles.

3. Issue: The proposed project's consistency with the Columbia River Basin Fish and Wildlife Program (Program).

Comments: The Northwest Power Planning Council's Program, established pursuant to Section 4(h) of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, contains a framework for assessing the impacts of new hydroelectric development on fish and wildlife resources, and lists mitigative measures that should be implemented for any new development.

Applicant's Response: The applicant, in additional information filed on March 8, 1985, states its belief that the proposed project and associated mitigative measures would be consistent with the Program.

Conclusions and Recommendations: The mitigative measures proposed by the applicant, and those recommended by Staff, will protect and enhance fish and wildlife resources in the project vicinity, and satisfy the intent of the Program that adequate mitigation be provided. In keeping with recent Commission practice, however, a license article should be provided that reserves the Commission the authority to order, where practical, alterations of project structures and operations to take into account the Program.

H. SUMMARY OF ENVIRONMENTAL IMPACTS

1. Assessment of adverse and beneficial impacts expected from the project as proposed by the Applicant (P); the proposed project with Staff's recommended mitigation (Ps) [Section G]; and any other alternative considered (A). *

Resource	Impact P	Ps	A	Remarks
a. Geology/Soils	1AS			
b. Streamflow	1AL			
c. Water quality: Temperature	0			
Dissolved oxygen	0			
Turbidity and sedimentation	1AS			
Other:				
d. Fisheries: Anadromous	0			
Resident	1BL			(d) The proposed fish ladder would provide resident fish access to upriver habitat.
e. Vegetation	1AL			
f. Wildlife	1AS			
g. Archeological	0			
h. Historical	0			
i. Visual quality	1AS			
j. Recreation	1AS			
k. Land use	0			
l. Socioeconomics	1BS			(l) Construction activities would provide additional employment opportunities in the area.
m. Noise quality	1AS			
n. Air quality	1AS			

* For licenses, the assessment reflects the adoption of any Federal land management agency 4(e) conditions, in addition to the Applicant's proposed mitigation. For exemptions, the assessments reflect any terms and conditions set by the agencies, in addition to the Applicant's proposed mitigation. Assessment symbols indicate the following impact levels:

0 = No impact; 1 = Minor impact; 2 = Substantial impact; 3 = Major impact;
A = Adverse; B = Beneficial; L = Long-term impact; S = Short-term impact.

(e.g., 1BL = Minor, beneficial, long-term impact)

2. Impacts of the No-action Alternative
The natural resources of the project site would remain in their present state.

3. Recommended Alternative (including proposed, required, and recommended mitigative measures): X Proposed Project ___ Alternative action ___ No action

4. Reason(s) for the Selection of the Preferred Alternative
The proposed project would provide a renewable source of energy with minimal impact on the surrounding environment.

I. SUMMARY OF UNAVOIDABLE ADVERSE ENVIRONMENTAL IMPACTS AND BENEFICIAL IMPACTS
Project construction would require the clearing of 1.05 acres of vegetation for the reservoir, the pipeline, access road, and powerhouse. Construction activities would likely produce increased soil erosion and turbidity in Salmon Falls Creek, and temporarily reduce visual quality, air quality, and noise quality in the immediate area. Most of the vegetation cleared for project facilities would not be replaced during project operation, although vegetation would be allowed to return around the project reservoir. Project operation would reduce flows and in turn aquatic habitat in about 900 feet of Salmon Falls Creek. Beneficial impacts would include the generation of construction jobs and related economic benefits in the area, and the provision of a fish ladder at the site to allow resident fish to utilize upriver habitat.

J. CONCLUSION

X Finding of No Significant Impact. Approval of the recommended alternative [H(3)] would not constitute a major Federal action significantly affecting the quality of the human environment; therefore, an Environmental Impact Statement (EIS) will not be prepared.

___ Intent to Prepare an EIS. Approval of the recommended alternative [H(3)] would constitute a major Federal action significantly affecting the quality of the human environment; therefore, an Environmental Impact Statement will be prepared.

K. LIST OF PREPARERS

Name	Position Title
Peter S. Foote	Fishery Biologist (Coordinator)
Michael Keane	Civil Engineer
Martin Thorpe	Electrical Engineers

L. LITERATURE CITED

1. Herzinger, V.L. and B.J. 1984. Application for minor license, Salmon Falls Creek Project, Twin Falls County , Idaho. September 1984.

2. Columbia River Inter-Tribal Fish Commission, Couer D' Alene Tribe, Idaho Department of Fish and Game, National Marine Fisheries Service, Shoshone Bannock Tribe, and U.S. Fish and Wildlife Service. 1985. Interim categorization of proposed hydroelectric projects in the Pacific Northwest based on their potential impacts to fish and wildlife resources: Idaho. March 1985. 1 of 4 volumes for Idaho, Montana, Washington, and Oregon. 341 pages.

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Attachment A

Cumulative Impact Analysis for FERC Project No. 7211-002

A. Salmon Falls Creek Basin

Salmon Falls Creek is a tributary of the Upper Snake River Basin, which is defined as an area from Weiser, Idaho, upstream to headwaters in Yellowstone National Park, Wyoming (Figure 1). Salmon Falls Creek drains an area of about 2,120 square miles above Salmon Falls Dam and an area of about 510 square miles below the dam. The proposed project is located about 3 miles upstream from the confluence with the Snake River in a steep-sided (500 feet deep and 250 feet wide), isolated canyon that is typical of many creeks that empty into the Snake River in the area.

Flow releases from Salmon Falls Dam, an existing concrete arch irrigation dam completed in 1911, control the flow of Salmon Falls Creek through the project area. Water is obtained from Salmon Falls Reservoir, Salmon Falls Creek, the Snake River, natural springs and other tributaries in the area in support of the agricultural activities. During the irrigation season, flow in Salmon Falls Creek below the dam is reduced to seepage, return irrigation spills, and influent from springs and runoff in the watershed. The agricultural-irrigation-return water seriously degrades the quality of the creek in the vicinity of the project area, where water quality is rated fair to poor by the Idaho Department of Health and Welfare.

The Salmon Falls Creek Basin in the vicinity of the project area is distinct from the Upper Snake River Basin because the environmental resources are very different from resources identified for the Upper Snake River Basin. While visual quality, recreation, and raptors have been identified as important resources for the mainstem Upper Snake River and its short, ancillary tributaries, this is not the case for the Salmon Falls Creek Basin. The Salmon Falls Creek Basin suffers serious water quality degradation during much of the year as a result of agricultural activities, and this, in turn, affects the environmental resources of the basin.

B. Proposed and Existing Hydroelectric Development

The proposed project would require the reconstruction of a breached dam that was destroyed by a 1984 flood at the site. The new dam will be 6 feet higher than the old dam with a crest elevation of 17 feet above the streambed.

There are no hydropower facilities located on the mainstem of Salmon Falls Creek, however, there are four irrigation diversion pumping sites located in the creek between the project site and Castle Ford Crossing, which is located about 10 miles upstream. There are also two irrigation ditches that return a large volume of agricultural waste water into the creek about 2.5 miles upstream from the project site. There are four licensed hydroelectric projects in the vicinity of the proposed project: the Lateral No. 10 (FERC No. 6250), a water source on Deep Creek; Deep Creek (FERC No. 6788), a creek adjacent to Salmon Falls Creek; Magic Water Company (FERC No. 7923), a conduit placed on returning irrigation waters; and Box Canyon (FERC No. 6543), a conduit discharge from Clear Springs Trout Company (Figure 1). These projects do not divert water from Salmon Falls Creek, rather they utilize agriculturally-diverted-return waters obtained from other sources or use water obtained from natural springs.

C. Target Resources

A target resource is defined as an important resource that could be adversely affected by two or more proposed hydroelectric projects. Waterfowl and fishery resources (both potential and existing), were identified by Staff as the target resources for the Salmon Falls Creek Basin and the project area.

The identification of fishery and waterfowl resources as target resources was developed from reviewing existing hydropower projects constructed in the Salmon Falls Creek Basin and comments received by federal and state natural resource agencies and the public concerning the project. A discussion of the importance of these resources follows.

Large numbers of migratory waterfowl overwinter in areas upstream from the project site because springs flowing into the stream keep it ice-free, a situation that is similar to conditions on the nearby Upper Snake River (Thousand Springs Area). A combined total of about 5,000 pintail (20 percent of numbers observed) and mallard ducks (80 percent of numbers observed) were observed annually on the creek during the winters of 1970-1975 (personal communication, Bob Bell, Regional Fishery Manager, Idaho Department of Fish and Game). Most of the waterfowl were observed in a ponded portion of Salmon Falls Creek about 10 miles upstream from the project site. A natural landslide blocked a portion of the creek to form the pond.

Salmon Falls Creek contains both warmwater and coldwater fish species. The species of concern are rainbow trout, brown trout, and smallmouth bass. These species are found in various locations throughout the entire length of the creek wherever there is appropriate habitat, and especially in those areas where water quality is not a limiting factor. The stream section immediately below the dam and between Lilly Grade road crossing offers the best salmonid habitat.

Some recreational fishing occurs throughout the area for the species indicated above but access to much of the creek is difficult because of the steep canyon walls and poor road conditions and the fishery does not compare with that found on the nearby Upper Snake River where trophy-sized rainbow trout are captured by anglers. These two factors combined with poor water quality found in much of the lower reach of the creek, limits recreational fishing. However, any improvement in water quality could change this scenario and a larger recreational fishery could develop and similarly, resident fish species produced in Salmon Falls Creek could increase the numbers of fish recruited to the Upper Snake River. Federal and state efforts to improve degraded habitat in two nearby streams, Rock Creek and Cedar Draw Creek, have greatly improved water quality and provide concrete examples of how Salmon Falls Creek may eventually reach its potential.

D. Cumulative Impacts to Target Resources

A review of the proposed Salmon Falls Creek Project, the four existing hydropower projects and the four diversions in the project area indicates that the proposed project would not contribute to cumulative adverse impacts on the fishery resources and waterfowl. The proposed project would not operate in concert with the existing hydropower projects to cause a further reduction in water quality. The installation of the proposed project would not affect the four irrigation diversions and water quality would remain the same with or without the project. Waterfowl overwintering in the area is normally concentrated some distance upstream from the project site and would not be impacted by project operation. Similarly, waterfowl occurring in the area would be minimally impacted by the construction of transmission lines since the project would primarily use existing lines. The new transmission line from the powerhouse to the existing line would be buried.

The poor water quality at the site continues to affect and limit the fishery resources, both from the perspective of habitat availability and from the standpoint of developing a recreational fishery. These factors, in conjunction with poor access to the site, lead fishermen to pursue better quality fishing areas located nearby on the Upper Snake River. The proposed release of minimum flows into the 900-foot bypassed reach should maintain the severely limited fishery resources presently found at the project site. A 1985 report prepared by various fish and wildlife agencies and groups (Columbia River Inter-Tribal Fish Commission et al., 1985) places Salmon Falls Creek in a 2A category which indicates that significant adverse effects to fish and wildlife could be reduced to an insignificant level if proper mitigative procedures are implemented. The main concern expressed by Idaho Department of Fish and Game is that the creek remain accessible to various fish species, so that in the future, whenever water quality improves, the habitat will be available to support these fishery resources. There are presently no anadromous fish species utilizing the creek.

For these reasons, Staff concludes that the operation of the Salmon Falls Creek Project would have no potential for causing cumulative adverse impacts on the fishery resources in the project area. Furthermore, the project has the potential of enhancing the development of future fisheries programs in the creek. The installation of the proposed fish ladder makes the heretofore inaccessible 30-mile reach of creek between the project site and Salmon Falls Dam available for use by existing fishery resources. In addition, the 2.13-acre pond created by the dam may also provide a supplemental resting area for migratory waterfowl using Salmon Falls Creek.

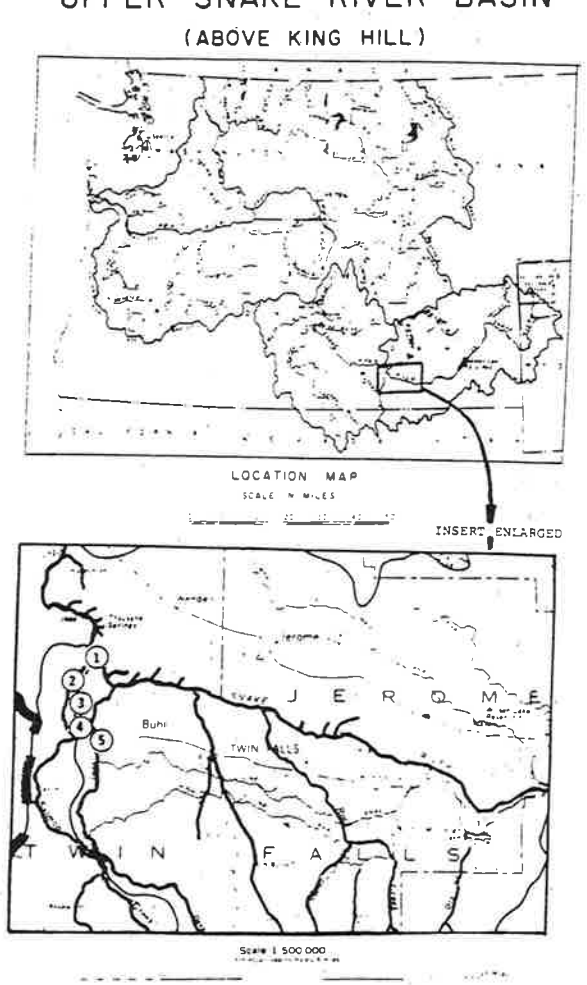


Figure 1. Location of Salmon Falls Creek (FERC No. 7211) and other hydroelectric projects on Salmon Falls and Deep Creeks (Source: Staff).

SAFETY AND DESIGN ASSESSMENT
SALMON FALLS CREEK WATER POWER PROJECT
FERC NO. 7211-002 - IDAHO

I. EVALUATION OF DESIGN, CONSTRUCTION AND PERFORMANCE

The Salmon Falls Creek project would consist of a diversion dam, intake structure, penstock and powerhouse.

The proposed rockfill diversion structure, with concrete cut-off wall, will be approximately 12 feet high and 195 feet long. The reinforced concrete intake structure, 56-foot by 10-foot by 10-foot, will be located on the western abutment and will divert flows impounded by the diversion dam into the 96 inch diameter corrugated metal penstock. The 862-foot-long penstock parallels the creek to the powerhouse where it manifolds to five 30-inch diameter branches. The manifold branches connect to five fixed blade axial turbines and induction generators which will be housed within the reinforced concrete and steel frame powerhouse. Diverted flows are returned to the creek upon exiting the powerhouse. Flows not diverted will pass through the fish ladder or over the dam.

The project is classified as having low hazard potential. The reservoir created by the small diversion dam will have a gross volume of 10 acre-feet and a surface area of 2.13 acres. The proposed project structures would impound a small amount of water and their failure would not endanger downstream life or property. It is concluded that the project will be safe and adequate upon compliance with the terms and conditions of the license.

Our review indicates that there are no engineering problems which would make construction, operation or maintenance of the project infeasable.

Construction of the project is estimated to be completed within 8 months from the date the license is issued. Article 301 would provide the license adequate time to initiate and complete construction.

II. EXHIBITS

The following portions of Exhibit A and the following Exhibit F drawings conform to the Commission's rules and regulations and should be included in the license.

Exhibit A. Pages A-1 thru A-5 of the application filed September 24, 1984.

Exhibit F Drawing	FERC No. 7211-	Description
1	1	Project Plan - Dam and Fishladder Sections
2	2	Head Works Plan
3	3	Intake Structure
4	4	Powerhouse Details
5	5	Electrical One-line Diagram

Form L-17
(October, 1975)

FEDERAL ENERGY REGULATORY COMMISSION

TERMS AND CONDITIONS OF LICENSE FOR UNCONSTRUCTED MINOR PROJECT AFFECTING LANDS OF THE UNITED STATES

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in proje works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase i cost, in an adverse environmental impact, or in impairment of

the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Upon the completion of the project, or at such other time as the Commission may direct, the Licensee shall submit to the Commission for approval revised exhibits insofar as necessary to show any divergence from or variations in the project area and project boundary as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the exhibits approved by the Commission, together with a statement in writing setting forth the reasons which in the opinion of the Licensee necessitated or justified variation in or divergence from the approved exhibits. Such revised exhibits shall, if and when approved by the Commission, be made a part of the license under the provisions of Article 2 hereof.

Article 4. The construction, operation, and maintenance of the project and any work incidental to additions or alterations shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of the project and for any subsequent alterations to the project. Construction of the project works or any feature or alteration thereof shall not be initiated until the program of inspection for the project works or any such feature thereof has been approved by said representative. The Licensee shall also furnish to said representative such further information as he may require concerning the construction, operation, and maintenance of the project, and of any alteration thereof, and shall notify him of the date upon which work will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall allow said representative and other

officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative.

The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 7. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 8. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 9. The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

Article 10. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 11. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 12. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use,

free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 13. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: Provided, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 14. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 15. The Licensee shall consult with the appropriate State and Federal agencies and, within one year of the date of issuance of this license, shall submit for Commission approval a plan for clearing the reservoir area. Further, the Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may

die during operations of the project shall be removed. Upon approval of the clearing plan all clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 16. Timber on lands of the United States cut, used, or destroyed in the construction and maintenance of the project works, or in the clearing of said lands, shall be paid for, and the resulting slash and debris disposed of, in accordance with the requirements of the agency of the United States having jurisdiction over said lands. Payment for merchantable timber shall be at current stumpage rates, and payment for young growth timber below merchantable size shall be at current damage appraisal values. However, the agency of the United States having jurisdiction may sell or dispose of the merchantable timber to others than the Licensee: Provided, That timber so sold or disposed of shall be cut and removed from the area prior to, or without undue interference with, clearing operations of the Licensee and in coordination with the Licensee's project construction schedules. Such sale or disposal to others shall not relieve the Licensee of responsibility for the clearing and disposal of all slash and debris from project lands.

Article 17. The Licensee shall do everything reasonably within its power, and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon the request of officers of the agency concerned, to prevent, to make advance preparations for suppression of, and to suppress fires on the lands to be occupied or used under the license. The Licensee shall be liable for and shall pay the costs incurred by the United States in suppressing fires caused from the construction, operation, or maintenance of the project works or of the works appurtenant or accessory thereto under the license.

Article 18. The Licensee shall interpose no objection to, and shall in no way prevent, the use by the agency of the United States having jurisdiction over the lands of the United States affected, or by persons or corporations occupying lands of the United States under permit, of water for fire suppression from any stream,

conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license, or the use by said parties of water for sanitary and domestic purposes from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license.

Article 19. The Licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

Article 20. The Licensee shall allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across those project lands which are lands of the United States such conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other routes or means of transportation and communication as are not inconsistent with the enjoyment of said lands by the Licensee for the purposes of the license. This license shall not be construed as conferring upon the Licensee any right of use, occupancy, or enjoyment of the lands of the United States other than for the construction, operation, and maintenance of the project as stated in the license.

Article 21. In the construction and maintenance of the project, the location and standards of roads and trails on lands of the United States and other uses of lands of the United States, including the location and condition of quarries, borrow pits, and spoil disposal areas, shall be subject to the approval of the department or agency of the United States having supervision over the lands involved.

Article 22. The Licensee shall make provision, or shall bear the reasonable cost, as determined by the agency of the United States affected, of making provision for avoiding inductive interference between any project

transmission line or other project facility constructed, operated, or maintained under the license, and any radio installation, telephone line, or other communication facility installed or constructed before or after construction of such project transmission line or other project facility and owned, operated, or used by such agency of the United States in administering the lands under its jurisdiction.

Article 23. The Licensee shall make use of the Commission's guidelines and other recognized guidelines for treatment of transmission line rights-of-way, and shall clear such portions of transmission line rights-of-way across lands of the United States as are designated by the officer of the United States in charge of the lands; shall keep the areas so designated clear of new growth, all refuse, and inflammable material to the satisfaction of such officer; shall trim all branches of trees in contact with or liable to contact the transmission lines; shall cut and remove all dead or leaning trees which might fall in contact with the transmission lines; and shall take such other precautions against fire as may be required by such officer. No fires for the burning of waste material shall be set except with the prior written consent of the officer of the United States in charge of the lands as to time and place.

Article 24. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission

may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 25. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 26. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

Form 202
3/78

Ident. No. 47-7846

RECEIVED
OCT 12 1983
Department of Water Resources
Southern Idaho District Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Vernon L. &/or Betty Jeane Herzinger Phone 543-6031 or 5694

   Post office address 408 11th Ave. North, Buhl, ID 83316

2. Source of water supply Salmon Falls Creek which is a tributary of Snake River

3. Location of point of diversion is NE ¼ of SW ¼ of Section 1 Township 9S

   Range 13E B.M. Twin Falls County, additional points of diversion if any: ____

4. Water will be used for the following purposes:

   Amount 200 cfs (cfs or acre-feet per annum) for Power purposes from Jan 1 to Dec 31 (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

5. Total quantity to be appropriated:

   a. 200 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. Existing check dam, penstock 500' to generator

   b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

   Period of year when water will be diverted to storage _____ (Month/Day) to _____ (Month/Day) inclusive.

   c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years *(minimum 1 year – maximum 5 years).*

8. Description of proposed uses:
   a. If water is **not** for irrigation:
      (1) Give the place of use of water: NE ¼ of SW ¼ of Section 1 Township 9S

      Range 13E B.M.

      (2) Amount of power to be generated: 345 horsepower under 20 feet of head.

      (3) List number of each kind of livestock to be watered _____

      (4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.

      (5) If water is to be used for other purposes describe: _____

47-7846

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes as described above. _____

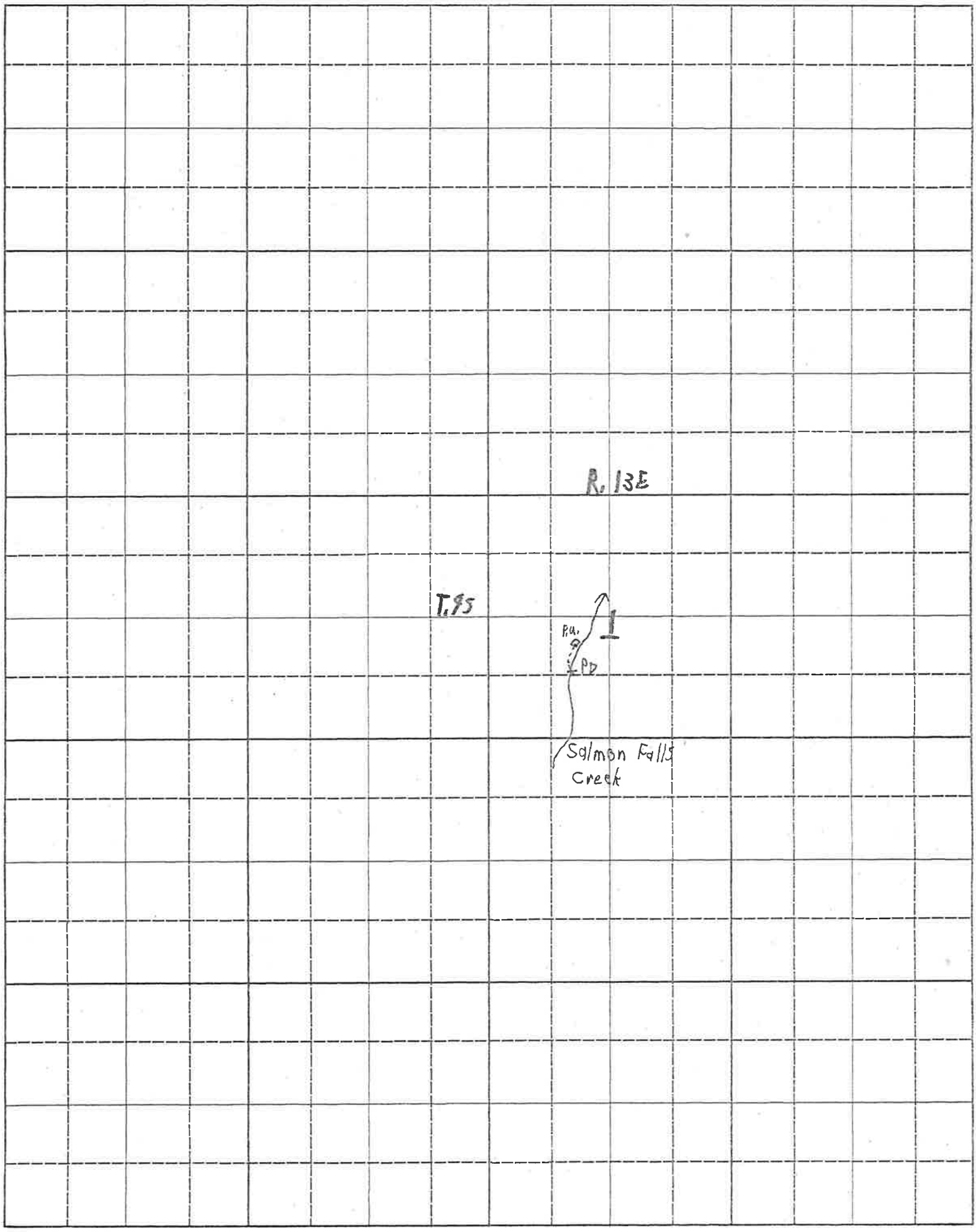
9. a. Who owns the property at the point of diversion U. S. Government

b. Who owns the land to be irrigated or place of use "

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Applicant has right of way for existing check dam. Right of way for penstock & generator has been applied for.

10. Remarks _____

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

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.

Vernon L Hemingway

(Applicant)

Proposed Priority 1/13/1983

Received by JP Date 1-12-83 Time 11:33 am

Preliminary check by ADM Fee $ 1725.00

Receipted by marya Date 1/13/83 # 23925

Publication prepared by marya Date 1/27/83

Published in times news

Publication dates ~~2/3 & 2/10/83~~ 2/10 & 2/17/83

Publication approved marya Date 2/4/83

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for (approval) denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 47-7846, 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 October 1, 19 88.

   c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

   d. Other:

The permit holder shall either install a measuring device or an access port or provide a certified measurement or computation of flow based upon system design to be prepared by a professional engineer.

The issuance of this permit in no way grants any right-of-way or easement across the land of another.

This permit is subject to the provisions of Sections 42-205 through 42-210, Idaho Code, restricting the sale, transfer, assignment, or mortgage of this permit. Failure to comply with these provisions is cause for immediate cancellation of this permit.

Use of water under this permit is subordinated to future diversion of water for irrigation or other consumptive beneficial uses.

This permit does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.

Diversion and use of water under this permit shall not interfere with diversions under existing water rights.

Witness my hand this 12th day of October, 1983.

L. Glen Saxton
Chief, Operations Bureau

DM