

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

7/21/2020

Water Application 47-7760

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DAN D HUDSON , ZZ

Status: Closed

<u>Source</u>	<u>Tributary</u>
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<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

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

CECIL D. ANDRUS
GOVERNOR

RECEIVED

KEITH HIGGINSON
DIRECTOR

April 29, 1993

MAY 04 1993

Department of Water Resources
Southern Region Office

Dan D Hudson
21876 South West Regal Court
Aloha, OR 97006

RE: Permit No. 47-07760

Dear Permit Holder:

Enclosed is a copy of the denied request for extension of time which you submitted to the department in connection with the above referenced permit. Section 42-204, Idaho Code, provides that only one extension of time based on due diligence can be granted. Please note that one extension has already been granted on October 24, 1988 for due diligence.

Within one year of the time you actually intend to develop and beneficially use the water, I suggest that you file a new application. Since Idaho is now under a mandatory permit procedure to develop a water right, the new application will provide an additional period of time for development, although the priority date will be later in time.

Please feel free to contact any of our regional offices if you wish assistance in completion of the new application.

Sincerely,

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

C: IDWR - Regional Office

47-07760

RECEIVED

APR 26 1993

Department of Water Resources

For Office Use Only
\$15 Fee Received by CA
Date 4-26-93
Receipt No. CO27320

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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 water right under the provisions of Section 42-204, Idaho Code.

Permit No. 47-07760

Name(s) of Permit Holder: Dan D. Hudson

Mailing Address: 21876 South West Regal Court Aloha, Oregon 97006

Date Proof is Due May 1, 1993 Telephone No. (503) 649-8260

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".)

The Permit Holder has been performing feasibility analyzes, and water
Quantity and quality testing, preparatory to filing for a perliminary
permit, to study the project site, from the Federal Energy Regulatory
Commission Costing \$3,500.00

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

The Permit Holder is concerned about his ability to obtain the necessary
Corps of Engineers 404 Permit and Idaho Health and Welfare, Department
of Environmental Quality Water Qaality Certificate.

Permit holder(s) request an extension to May 1, 19 95.

FEE: \$15.00

Dan D. Hudson
(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be DENIED pursuant to Section 42-204, Idaho Code, which only authorizes one extension of time based on due diligence.

Signed this 30TH day April, 19 93

R. Keith Higginson
R. Keith Higginson, Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED
JUN 30 1983
Department of Water Resources
Tampa Bay District Office

To appropriate the public waters of the State of Idaho

Name of applicant Dan D. Hudson Phone 543-6882

Post office address Route #3 Box 363, Buhl, ID 83316

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

3. Location of point of diversion is SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 32 Township 9S

Range 14E B.M. Twin Falls County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 150 cfs for Power purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 150 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Concrete check dam, earth ditch to
penstock & 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 _____ to _____ inclusive.
(Month/Day) (Month/Day)

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: SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 32 Township 9S

Range 14E B.M.

(2) Amount of power to be generated: 238 horsepower under 20 feet of head.

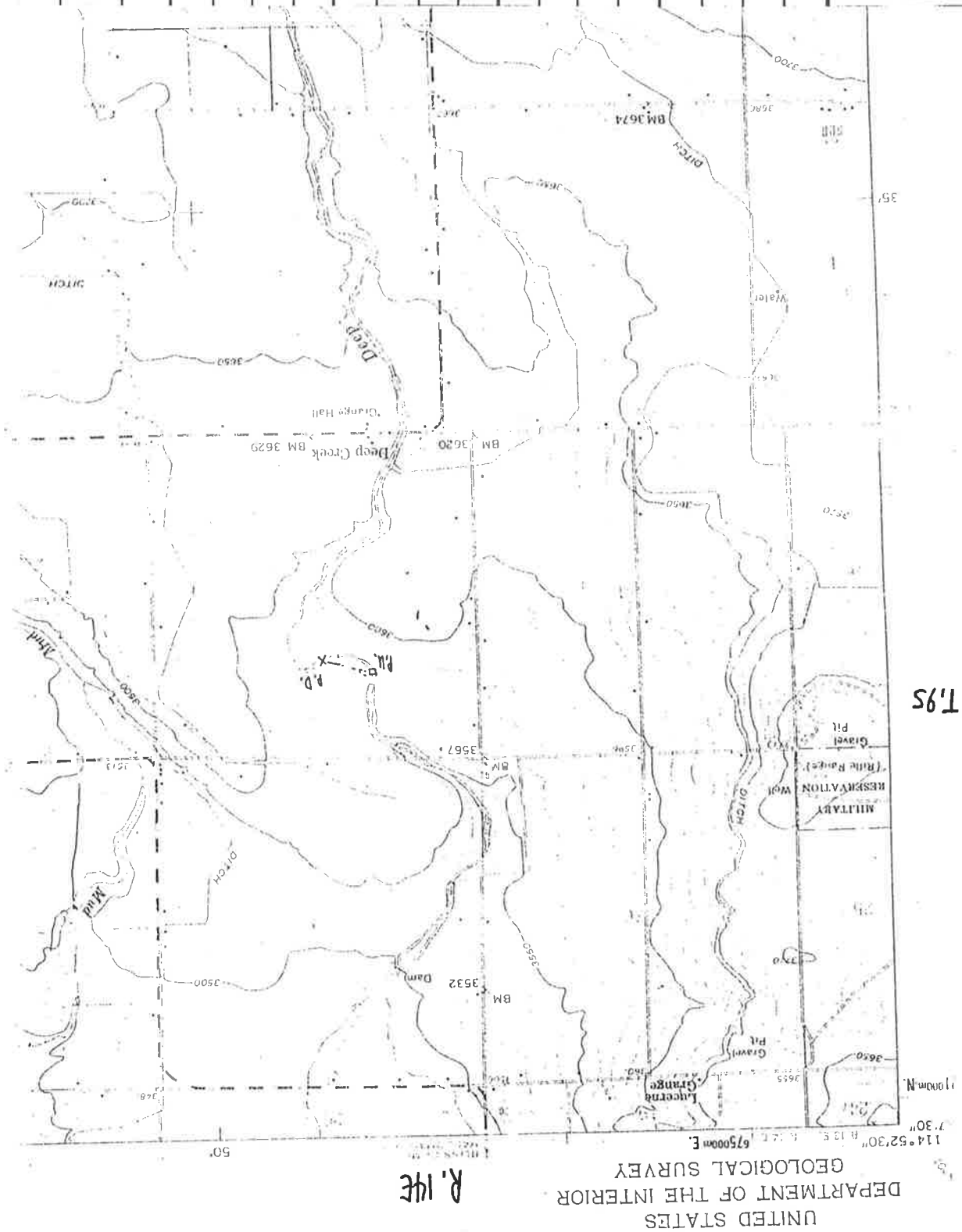
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
served _____

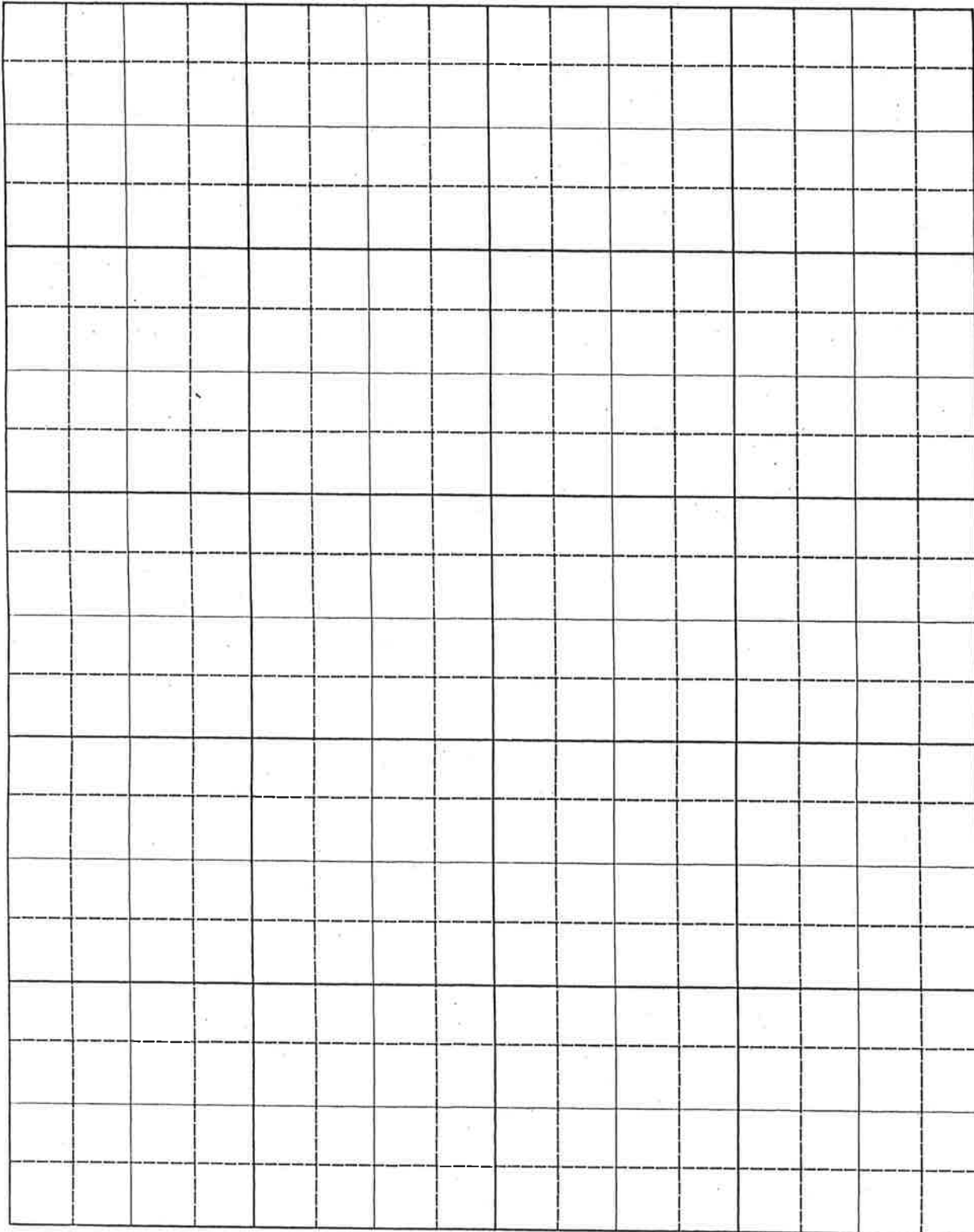
(5) If water is to be used for other purposes describe: _____

47-7760

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

[illegible]

71. 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.

Alan R. Hudson
(Applicant)

10/1/1981

Received by JS Date 10-1-81 Time 11:30 am
Preliminary check by TGB Fee \$ 1475.00 # 18784
Receipted by marpa Date 10/1/81
Publication prepared by marpa Date 10/1/81
Published in Times news
Publication dates 10/8 + 10/15/81
Publication approved marpa Date 10/5/81
Protests filed by: None

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by ADM RC

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. 47-7760, 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 May 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: An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.

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 either upstream or downstream 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.

Witness my hand this 23rd day of May, 1983.

J. Glen Sayton
Chief, Operations Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESRECEIVED
JAN 1984
Department of Water Resources
Bozeman District Office

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

Comes now Dan D. Hudsonof (address) Route #3 Box 479, Buhl, ID 83316, and represents to the
Director of the Idaho Department of Water Resources:That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho
No. 47-7760, and requests that the permit and permit map be changed as follows:

1. Point of diversion: 1/4 1/4, Section , Township , Range , B.M.,
County of . Other points of diversion: No Change

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.) No Change

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

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
9S	14E	32					X												

Total number of acres to be irrigated =

4. a. Who owns the property at the point of diversion? Permit Holder
- b. Who owns the land to be irrigated or the place of use? Dix Hudson
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: easement from permit holder's brother (copy attached)

Show 40-acre subdivisions, townships, ranges and ditches.

A hand-drawn sketch on graph paper. The sketch includes a vertical line with an arrow pointing upwards, labeled "R. 14E". To the left of this line is the label "T.95". Further left, there is a small square labeled "PU". A curved line starts from the "PU" area, goes down and to the right, passing through a point labeled "PD", and then continues downwards. The number "32" is written near the bottom of this curved line.

Signed at Twin Falls, this 25th day of July, 19 83.

Witness my hand this 3rd day of January

Chief, Operations Bureau

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

OCT 3 1988

REQUEST FOR EXTENSION OF TIME

Department of Water Resources
Southern Region Office
To provide additional time in which to submit proof of beneficial use for a water right permit

JUL 19 1988

Department of Water Resources

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. 47-7760Name(s) of Permit Holder: DAN D. HUDSONPost Office Address: 21876 SW Regal Ct. Aloha, Or. 97006Telephone No. (503) 649-8260Date Proof is Due: FERC PERMIT ISSUED 4/11/83IDAHO POWER CONTRACT SIGNED BY IUPUC ORDER 6/3/86

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

TO LEVEL AREA FOR POWER CANAL; ENGINEERING DESIGN, SURVEYS & PLANS PREPARED FOR CONSTRUCTION (ENCL); APPROVALS FOR PROJECT FROM IDAHO DEPT. OF FISH & GAME & US FISH & WILDLIFE SERVICE (CC TO IDWR); OBTAINED 404 PERMIT FROM CORPOF ENGINEERS (CC IDWR); OBTAINED FERC EXEMPTION & FIRM ENERGY AGREEMENT FROM IDAHO POWER CO.
Costing \$ 20,500.00

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

ATTACHED IS A LETTER TO FERC DATED DEC 10, 1987 which outlines the reasons we have been unable to complete the project. This situation lead to a loss of a "reasonable" contract with Idaho power Co. at this time.

Permit holder(s) request an extension to Sept 1, 1993.

(1 yr. minimum)

Dan D. Hudson

(Signature)*

FEE: \$15.00

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

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 May 1, 1993. IT IS FURTHER ORDERED that the permit be reinstated nad the priority advanced to November 19, 1981, pursuant to Sec. 42-218a, Idaho Code.

Signed this 24th day of October, 1988.

J. Glen Saxton
Chief, Operations Bureau

47-7760

Draft New Agreement
Received 1/5/85

AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 1985, by and between DAN D. HUDSON of Twin Falls County, Idaho, hereinafter called "Hudson", and the TWIN FALLS CANAL COMPANY, a non-profit irrigation company with their principal place of business in Twin Falls, Idaho, hereinafter called "TFCC";

W I T N E S S E T H

WHEREAS, the parties previously entered a similar agreement dated February 16th, 1982, and now seek to amend said agreement; and

WHEREAS, on October 1, 1981, Hudson filed Application for Permit No. 47-7760 to develop power utilizing 150 c/f/s of water of Deep Creek in Twin Falls County; and

WHEREAS, the application was not protested by TFCC, but it would appear that Hudson must obtain the permission of TFCC because a substantial part of the water in Deep Creek is diverted into said stream by TFCC and Idaho Code §42-205 and the Department of Water Resource's memorandum of September 8, 1981, dictated that TFCC's written permission be obtained, which permission was obtained in the February 16, 1982, agreement; and

WHEREAS, the parties now wish their agreement to be amended; and

WHEREAS, the parties have considered the issue and the parties now delineate their agreement in writing;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the parties hereto agree as follows:

1. The agreement of February 16, 1982, is in all respects revoked and of no further force and effect, and the total agreement of parties is contained herein.

2. That TFCC hereby gives their permission to Hudson for his development pursuant to Application for Permit No. 47-7760.

3. After meeting all traditional irrigation and stockwater requirements of Company stockholders during the irrigation season, TFCC agrees to use best efforts to divert

any other water to be used for power pursuant to Permits No. 01-7063 and 01-7071/47-7798 down Lateral 10 for use at the end of Lateral 10. TFCC agrees to also use best efforts to divert all water into Lateral 10 during the non-irrigation season, but if TFCC is forced by TFCC stockholders, TFCC's Lateral 10 developer, or by court or administrative agency order to divert water down Lateral 9 in the non-irrigation season to meet the traditional rights of TFCC stockholders or strict compliance with Permits No. 01-7063 and 01-7071/47-7798, Hudson agrees that 20 c/f/s may be so diverted as traditional flow for stockwater purposes, but Hudson reserves the right to contest the beneficial use thereof by TFCC in a forum of proper jurisdiction.

4. Hudson may use this agreement as evidence of permission from TFCC to locate said plant as proposed in Application for Permit No. 47-7760. Said permit, if issued by the Department of Water Resources, shall be deemed conditional by this agreement, as follows:

- (a) Hudson agrees that his application is in all respects subordinate to the provisions of Article 3 hereof.
- (b) Hudson also acknowledges that TFCC in no way guarantees that any of TFCC water will be available for Hudson's use.
- (c) Hudson shall be responsible for any water quality problems that are a result of Hudson's operation.
- (d) TFCC does not herein grant any land permissions that are the property of TFCC.

5. Prior to initiating construction, Hudson will obtain TFCC's consent to the final proposed construction and operational plans so that TFCC may protect all existing stockholders.

6. Hudson agrees to indemnify and hold TFCC harmless, (including attorney's fees) from any claim or claims of third parties brought by reason of Hudson's operation pursuant to Application for Permit No. 47-7760.

7. Hudson agrees not to assign Permit No. 47-7760 without TFCC's permission.

8. The parties hereto bind themselves, their heirs, successors and assigns.

RECEIVED

APR 17 1985

AGREEMENT

Department of Water Resources
Boise, Idaho 83725

THIS AGREEMENT, made and entered into this 16 day of Feb, 1982, by and between Dan D. Hudson of Twin Falls County, Idaho, hereinafter called "Hudson", and the Twin Falls Canal Company, a non-profit irrigation company with their principal place of business in Twin Falls, Idaho, hereinafter called "TFCC";

W I T N E S S E T H:

WHEREAS, on October 1, 1981, Hudson filed Application for Permit No. 47-7760 to develop power utilizing 150 c/f/s of water of Deep Creek in Twin Falls County; and

WHEREAS, the application was not protested by TFCC, but it would appear that Hudson must obtain the permission of TFCC because a substantial part of the water in Deep Creek is diverted into said stream by TFCC and Idaho Code § 42-205 and the Department of Water Resource's memorandum of September 8, 1981 would dictate that TFCC's written permission be obtained; and

WHEREAS, the parties have considered the issue and the parties now wish to delineate their agreement in writing;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the parties hereto agree as follows:

1. That TFCC hereby gives their permission to Hudson for his development pursuant to Application No. 47-7760.

2. Hudson may use this agreement as evidence of permission from TFCC to locate said plant as proposed in Application for Permit No. 47-7760. Said permit if issued by the Department of Water Resources shall be deemed conditioned by this agreement, as follows:

- (a) Hudson agrees that his application is in all respects subordinate to (1) traditional diversions by TFCC upstream from Hudson's point of diversion, (2) Application for Permit No. 01-7063 as filed by TFCC, and (3) to any subsequent applications of TFCC to utilize water traditionally diverted into Lateral No. 9 for power purposes as well as irrigation and stock water.

- (b) Hudson also acknowledges that TFCC in no way guarantees that any of TFCC water will be available for Hudson's use.
- (c) Hudson shall be responsible for any water quality problems that are a result of Hudson's operation.
- (d) TFCC does not grant any land permissions that are the property of TFCC.

3. Prior to initiating construction, Hudson will obtain TFCC's consent to the final proposed construction and operational plans so that TFCC may protect all existing stockholders.

4. Hudson agrees to indemnify and hold TFCC harmless, (including attorney's fees) from any claim or claims of third parties brought by reason of Hudson's operation pursuant to Application No. 47-7760.

5. Hudson agrees not to assign Permit No. 47-7760 without TFCC's permission.

6. The parties hereto bind themselves, their heirs, successors and assigns.

IN WITNESS WHEREOF, the parties have executed this agreement in triplicate the day and year first above written.

Dan D. Hudson
Dan D. Hudson

TWIN FALLS CANAL COMPANY

By: Maurice Klaas
Maurice Klaas, President

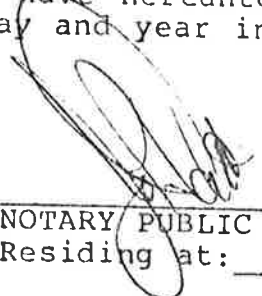
ATTEST:

Robert Fickert
Secretary

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this 1 day of April, 1982, before me, a Notary Public, in and for said County and State, personally appeared Dan D. Hudson, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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

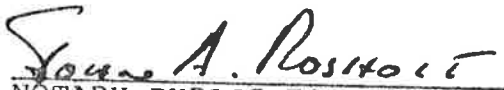


NOTARY PUBLIC FOR IDAHO
Residing at: Buhl

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this 16 day of FEB, 1982, before me, a Notary Public, in and for said County and State, personally appeared Maurice Klaas and Robert Reichert known to me to be the President and Secretary, respectively, of the Twin Falls Canal Company, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

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



NOTARY PUBLIC FOR IDAHO
Residing at: Twin Falls