

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

11/25/2019

Water Application 37-7781

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	IDAHO POWER CO C/O KRESTA DAVIS-BUTTS PO BOX 70 BOISE, ID 83707 (208) 388-2602

Status: Denied

<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

Application Denied Date: 3/22/1993  
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

R. KEITH HIGGINSON  
DIRECTOR

RECEIVED

DEC 16 1992

Department of Water Resources  
Southern Region Office

December 15, 1992

Idaho Power Company  
PO Box 70  
Boise, ID 83707

Re: Application for Permit No. 37-07781

Gentlemen:

Enclosed is a copy of the order rejecting the above referenced application for permit.

Section 42-1701A(3), Idaho Code, provides that any person aggrieved by a denial by the Director is entitled to a hearing. A written petition stating the grounds for contesting the action and requesting a hearing must be received within 15 days after the receipt of the denial.

If you have any questions or if we can be of any assistance, please feel free to contact the Department.

Sincerely,

L. Glen Saxton  
Chief, Water Allocations Bureau

Enclosure

C: IDWR - Regional Office

37-7781

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR )  
PERMIT NO. 37-7781 IN THE NAME OF )  
IDAHO POWER COMPANY )  
\_\_\_\_\_ )

ORDER

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

FINDINGS OF FACT

1. On May 30, 1979, Idaho Power Company (applicant) filed Application for Permit No. 37-7781 (application) with the department proposing the diversion and use of 100 cubic feet per second of water from the Malad River tributary to the Snake River to be used year-round for fish propagation purposes.

2. Review of the application shows that the last correspondence in connection with the proposed project was in 1981 and that there has been no activity toward project development since that time.

3. On August 17, 1992, the department corresponded with the applicant and requested information from the applicant to show that the applicant was still interested in the project. The applicant did not respond to the department and did not indicate any continuing interest.

4. On October 7, 1992, the department sent to the applicant an Order to Show Cause why the department should not reject the application. The applicant did not respond to the order and did not show cause.

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

CONCLUSIONS OF LAW

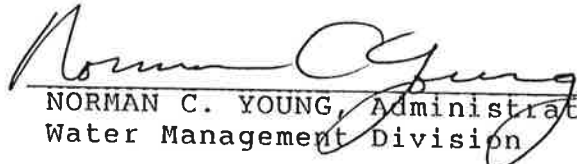
1. Section 42-203A, Idaho Code, provides that the Director may reject an application for permit which is speculative.

2. Application for Permit No. 37-7781 has become speculative and should be rejected pursuant to provisions of Section 42-203A, Idaho Code.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Permit No. 37-7781 in the name of Idaho Power Company is **REJECTED** pursuant to the provisions of Section 42-203A, Idaho Code.

Dated this 14<sup>TH</sup> day of DECEMBER, 1992.

  
NORMAN C. YOUNG, Administrator  
Water Management Division

RECEIVED

October 7, 1992

OCT 09 1992

Department of Water Resources  
Southern Region Office

Idaho Power Company  
P.O. Box 70  
Boise, ID 83707

Re: Application for Permit No. 37-07781

Gentlemen:

Enclosed is a copy of an order to show cause. If you have not responded within 20 days of the date of the order, the Department will take action to reject the permit.

If you have any questions or if I can be of any further assistance, please feel free to contact me.

Sincerely,

L. Glen Saxton  
Chief, Water Allocation Bureau

Enclosure

C: IDWR - Regional Office

37-07781

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR )  
PERMIT NO. 37-7781 IN THE NAME OF )  
IDAHO POWER COMPANY )  
\_\_\_\_\_ )

ORDER TO  
SHOW CAUSE

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

FINDINGS OF FACT

1. On May 30, 1979, Idaho Power Company (applicant) filed Application for Permit No. 37-7781 (application) with the department proposing the diversion and use of 100 cubic feet per second of water from the Malad River tributary to the Snake River to be used year-round for fish propagation purposes.

2. Review of the application shows that the last correspondence in connection with the proposed project was in 1981 and that there has been no activity toward project development since that time.

3. On August 17, 1992, the department corresponded with the applicant and requested information from the applicant to show that the applicant was still interested in the project. The applicant did not respond to the department and did not indicate any continuing interest.

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

CONCLUSIONS OF LAW

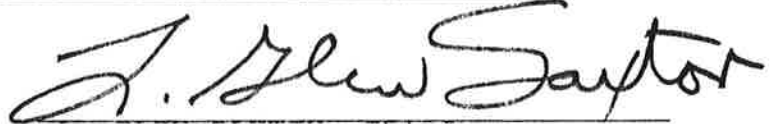
1. Section 42-203A, Idaho Code, provides that the Director may reject an application for permit which is speculative.

2. Application for Permit No. 37-7781 has become speculative and should be rejected pursuant to provisions of Section 42-203A, Idaho Code.

ORDER

IT IS THEREFORE, hereby ORDERED that the applicant is required to SHOW CAUSE within twenty (20) days of the date of this order why the department should not REJECT Application for Permit No. 37-7781 pursuant to the provisions of Section 42-203A, Idaho Code.

Dated this 7<sup>th</sup> day of October, 1992.



L. GLEN SAXTON, Chief  
Water Allocation Bureau

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

RECEIVED

MAY 30 1979

To appropriate the public waters of the State of Idaho

Department of Water Resources  
Southern District Office

1. Name of applicant IDAHO POWER COMPANY Phone (208) 383-2200

Post office address P O Box 70, Boise, Idaho 83707

2. Source of water supply from those springs on the Malad River located at which is a tributary of Snake River

3. Location of point of diversion is the point of diversion NE 1/4 of NE 1/4 of Section 35 Township 6 South

Range 13 E B.M. Gooding County, additional points of diversion if any:

N W 1/4 NE 1/4 Sec 35 T6S R13E Per letter from R.W. Stahman 11-7-1980

4. Water will be used for the following purposes:

Amount 100 for fish propagation purposes from Jan 1 to Dec 31 (both dates inclusive)

Amount for purposes from to (both dates inclusive)

Amount for purposes from to (both dates inclusive)

Amount for purposes from to (both dates inclusive)

5. Total quantity to be appropriated:

a. 100 cubic feet per second and/or b. acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. small earthen dam to collect water from the springs diverting said water into a pipe which would then carry it down to the place of use.

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.

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: NE 1/4 of NE 1/4 of Section 34 Township 6 South Range 13 E B.M.

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

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

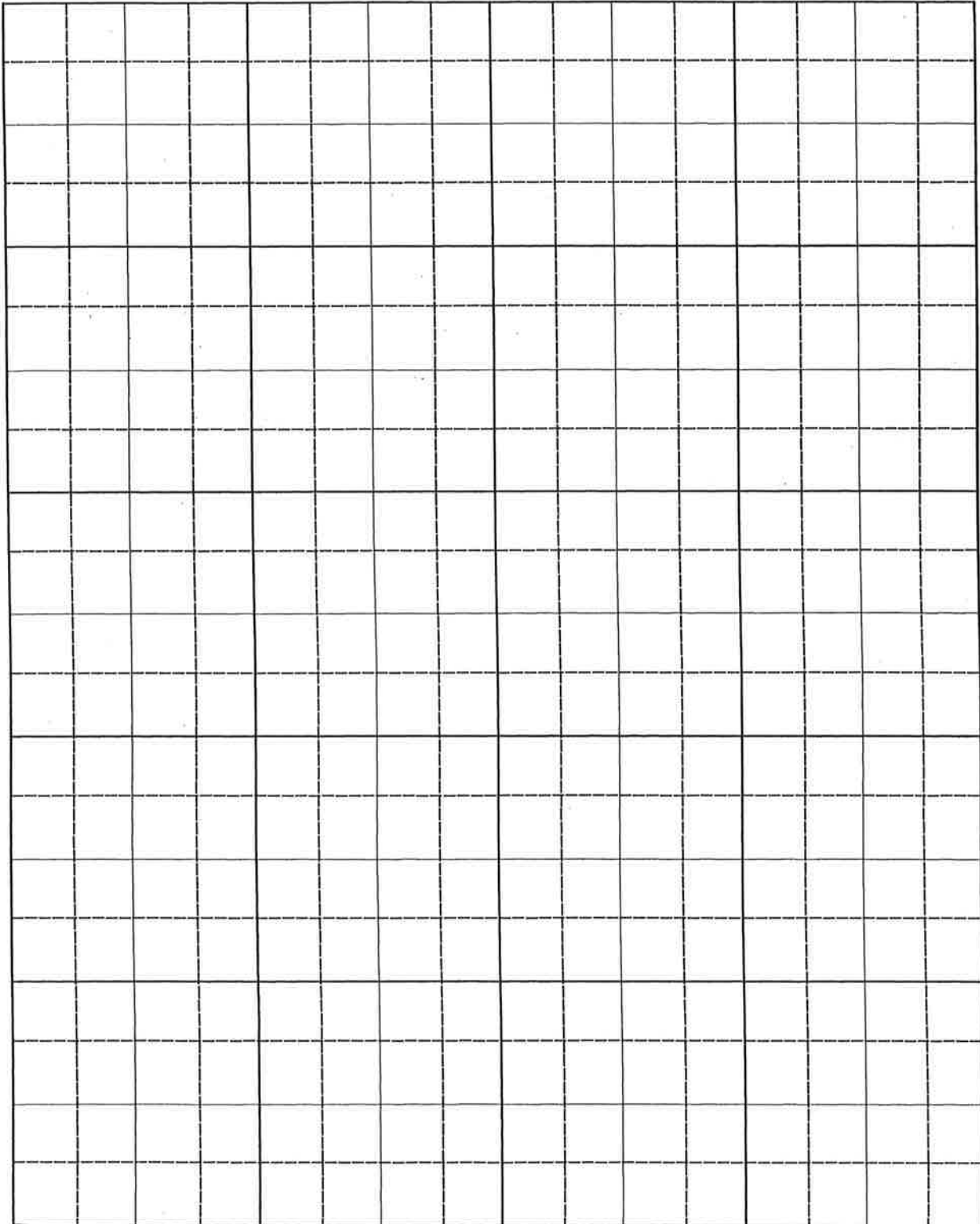
(4) Name of municipality to be served, or number of families to be supplied with domestic water

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

37-7781



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.

  
(Applicant)

Received by marya Date 5/30/79 Time 4:30 pm  
Preliminary check by \_\_\_\_\_ Fee \$ 625.00  
Receipted by marya Date 6/1/79 # 13212  
Publication prepared by ADM Date 6/6/79  
Published in Gooding Co. Leader  
Publication dates 6/21 + 6/28/79  
Publication approved marya Date 6-13-79  
Protests filed by: peter lewter - james s. laurie -  
lillian d. lewter - thomas/charlotte lewter  
Copies of protests forwarded by marya  
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. \_\_\_\_\_, and said application is hereby \_\_\_\_\_.

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 \_\_\_\_\_, 19 \_\_\_\_.
- 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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Director

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

[illegible]

**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 Applicant

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

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing

### 10. Remarks

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page.