RECEIVED
MAY 29 2018
DEPARTMENT OF
WATER RESOURCES

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Attorney General

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Attorneys for the Idaho Water Resource Board

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF LICENSE NO. 37-7842 IN THE NAME OF THE IDAHO WATER RESOURCE BOARD	)	**AFFIDAVIT OF ANN Y. VONDE**

STATE OF IDAHO)
) ss
COUNTY OF ADA)

ANN Y. VONDE, being first duly sworn upon her oath, deposes and state that:

1. I am a Deputy Attorney General in the Idaho Office of the Attorney General and one of the attorneys of record for the Idaho Water Resource Board in the above-entitled proceedings.

2. The following is based upon my personal knowledge.
3. Attached hereto as the individual exhibits identified below are true and correct copies of the following:
    a. Exhibit A: a true and correct copy of the Petitioner's First Amended Petition for Hearing, and Petition for Declaratory Ruling dated September 8, 2017 filed in this matter that I printed from IDWR's website at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/zvsg01_.pdf.
    b. Exhibit B: a true and correct copy of the IWRB's Discovery Requests to Petitioners served on April 18, 2018 the original of which was retained in IWRB's files.
    c. Exhibit C: a true and correct copy of the Petitioner's Response to IWRB's Discovery Requests to Petitioners that was served by Petitioners on the IWRB on May 21, 2018.
    d. Exhibit D: a true and correct copy of Water Right License 37-07943 that I printed from IDWR's website at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/6f9t01_.PDF.
    e. Exhibit E: a true and correct copy of Amendment of Permit 37-21297 that I printed from IDWR's website at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/xpnw01_.pdf
    f. Exhibit F: a true and correct copy of the Order of Partial Decrees for Subcases 37-07857, 37-07865, and 37-07922 that I printed from IDWR's website at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/f7bv01_.PDF

g. Exhibit G: a true and correct copy of the Partial Decree for Water Right 37-07889 that I printed from IDWR's website at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/901z01_.PDF

h. Exhibit H: a true and correct copy of the Partial Decree for Water Right 37-07916 that I printed from IDWR's website at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/901q01_.PDF

i. Exhibit I: a true and correct copy of the Partial Decree for Water Right 37-08096 that I printed from the IDWR website at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/690y01_.PDF

j. Exhibit J: a true and correct copy of the Partial Decree for Water Right 37-08251 that I printed from the IDWR website at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/902x01_.PDF

k. Exhibit K: a true and correct copy of the Partial Decree for Water Right 37-07863 that I printed from the IDWR website at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/8vgn01_.PDF

l. Exhibit L: a true and correct copy of the Partial Decree for Water Right 37-07911 that I printed from the IDWR website at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/8vgz01_.PDF

m. Exhibit M: a true and correct copy of the Final Order in the Matter for Applications for Permit Nos. 37-08113 and 37-08262 in the Name of Shorock Hydro Inc. dated June 30, 1994 that I printed from the IDWR website at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/3sdf01_.PDF

Further your affiant sayeth naught.

DATED this 29th day of May, 2018.

ANN Y. VONDE

SUBSCRIBED AND SWORN to before me this 29th day of May, 2018.

MELINDA BOULDIN NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Residing at: Boise, ID
My commission expires: 12.8.22

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of May, 2018, I caused to be served a true and correct copy of the foregoing AFFIDAVIT OF ANN Y. VONDE by placing a copy thereof in the manner listed below:

1. Original to:

Director Spackman Idaho Department of Water Resources PO Box 83720 Boise ID 83720-0098	☐ U.S. Mail, postage prepaid ☒ Hand Delivery ☐ Federal Express ☐ Email: ☐ Statehouse Mail

2. Copies to

Joesph F. James Brown and James 125 Fifth Avenue West Gooding ID 83330	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☒Email: joe@jamesmvlaw.com
Water District #37 Kevin Lakey 107 W 1st Shoshone ID 83352	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Email: ☐ Statehouse Mail

ANN Y. VONDE
Deputy Attorney General

EXHIBIT A

RECEIVED
SEP 11 2017
DEPARTMENT OF
WATER RESOURCES

JOSEPH F. JAMES
JAMES LAW OFFICE PLLC
125 Fifth Avenue West
Gooding, Idaho 83330
Telephone: (208) 934-8414
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Idaho State Bar No. 5771

Attorneys for Petitioners

Rec'd by email
9/8/17

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF LICENSE NO. 37-07842 IN THE NAME OF THE IDAHO WATER RESOURCES BOARD	)))))	FIRST AMENDED PETITION FOR HEARING, AND PETITION FOR DECLARATORY RULING *(IC § 42-1701A(3); IDAPA 37.01.01.400; IDAPA 37.01.01 et seq.)*

COME NOW, Petitioners, William Arkoosh, the Estate of Vernon Ravenscroft, Koyle Hydro, Inc., Koosh, Inc., and Shorock Hydro, Inc., by and through their attorney, Joseph F. James, of James Law Office PLLC, and hereby petitions to the Idaho Department of Water Resources (hereinafter "Department") for a hearing on its order dated July 14, 2017, providing notice of issuance of License No. 37-7842, and for its ruling on the applicability of Idaho statutes, administrative rules and administrative orders on the subject permit, and further state and represent as follows:

1. Petitioners are interested in this matter as owners of permits and water rights for hydropower purposes on the Little Wood River or Malad River downstream from the point of diversion for Permit No. 37-07842. William Arkoosh is the owner of WR No. 37-7943 and Permit No. 37-21297. The Estate of Vernon Ravenscroft is the owner of WR No. 37-7857, WR No. 37-7865, and WR No. 37-7922. Koyle Hydro, Inc. is the owner of WR No. 37-7889, and

WR No. 37-7916. Koosh, Inc. is the owner of WR No. 37-8096, and WR No. 37-8251. Shorock Hydro, Inc. is the owner of WR No. 37-7863,WR No. 37-7911, Permit No. 37-8113, and Permit No. 37-8262.

2. This petition is brought pursuant to Idaho Code § 42-1701 A(3) and the Department of Water Resources Rules of Procedure, IDAPA 37.01.01.400; IDAPA 37.01.01.*et seq*. In filing this petition for hearing and petition for declaratory ruling, Petitioners reserve the right to file with a District Court an original action or actions to contest the Departments action.

3. Petitioners reserve the right to amend the grounds for relief set forth herein. Petitioners set forth their initial grounds and facts in support of this petition as follows:

(a) An application was filed on July 2, 1980 seeking a permit to divert 800 cfs from the Little Wood and Big Wood Rivers for purposes of ground water recharge. The application denoted the point of diversion as the SW¼ of SE¼ of Section 24, Township 4 S, Range 19 E, located within Lincoln County. However, neither the Little Wood nor the Big Wood Rivers flow though Section 24, Township 4 S, Range 19 E, Lincoln County. The application proposed diverting the water through the use of the Dietrich and Richfield canal systems. The Dietrich canal diverts from the Little Wood River in Section 25, Township 4 S, Range 19 E, Lincoln County.

(b) The application was incomplete as to the description of the proposed place of use, but did include a drawing indicating that the water would be diverted from the Little Wood River through the Dietrich Canal to a recharge site southeast of Richfield, Idaho. The published notice of application for water right clarified that the possible recharge sites were located within Sections 15, 16, 21, 22 and 28, Township 5 S, Range 19 E, Lincoln County.

(c) The application indicated that five years were required for completion of the works and application of the water for recharge. The application was approved on June 2,1982, under Permit No. 37-07842, with a completion and submission of beneficial use deadline of June 1, 1987. A request for extension of time was submitted on June 1, 1987, which was returned by the Department to the applicant on July 16, 1987, for additional information. The Department approved the request for extension on October 4, 1989, extending the completion and proof of beneficial use deadline to June 1, 1992.

(d) The Department sent a notice of proof of beneficial use due on March 31, 1992, providing notice that proof of beneficial use had to be submitted no later than June 1, 1992. Proof of beneficial use was not timely submitted and the Department sent a lapsed notice on June 5, 1992.

(e) The Department received proof of beneficial use on June 15, 1992 which indicated that a total of 300 cfs of surface water had been diverted from the Snake River. The Department returned the proof of beneficial use form to the applicants on June 15, 1992, stating that the proof was unacceptable, informing the permit holder that the permit was still lapsed, and informing the permit holder that the priority date would be penalized one day for every day that the proof was not submitted. On July 9, 1992, the Department received a beneficial use field report regarding the permit, but did not receive the original proof of beneficial use form.

(f) The Department informed the permit holders that they could not continue licensing until it received the original proof of beneficial use form. On July 23, 1992, the Department again provided notice that they could not process the permit without an original proof of beneficial use form. On July 27, 1992, the Department received the original proof of beneficial use form. However, the form had been altered with Permit No. 37-07842 being redacted and Permit No. 01-0705 added by interlineation.

(g) Permit No. 01-07054 is a permit to divert water from the Snake River through the Milner-Gooding Canal for purposes of recharge northwest of Shoshone, Idaho.

(h) The proof of beneficial use, again, indicated a total of 300 cfs of ground water had been diverted from the Snake River. The beneficial use field report also denoted the source as the Snake River, provided a point of diversion different from the application, as well as different place of use. The beneficial field report also denoted that the water was diverted through the Milner-Gooding Canal and not the Dietrich Canal.

(i) The Department initially accepted the amended proof of beneficial use and beneficial use field report. The Department entered its order reinstating the permit and advancing the priority date to August 25, 1990 on the 29th day of July, 1992. On further review, the Department determined that the beneficial use field report was not acceptable, and informed applicants.

(j) The applicants provided an amended beneficial use field report on October 19, 1993. The Department determined that the amended beneficial use field report was still not acceptable and returned it to the applicants on

October 21, 1993. On November 29, 1993, the Department received another amended beneficial field report denoting both Permit No. 01-07054 and Permit No. 37-07842 with a total diversion of 300 cfs. This time, the beneficial use field report indicated the source as the Snake River/Big Wood River but did not include the Little Wood River. The field report indicated a diversion point distinct from application for Permit No. 37- 07842.

(k) The Department entered a reinstatement order, regarding both Permit No. 01-07054 and Permit No. 37-07842, on December 1, 1993. Though 546 days had passed from the time the permit had lapsed until receipt of a Proof of Beneficial Use acceptable to the Department, it failed to further advance the priority date in recognition of the continuing lapse.

(l) In correspondence dated January 7, 1999, Dan McFadden, Chairman of the Lower Snake River Aquifer Recharge District, offered to assign Permit No. 01-07054 and Permit No. 37-07842 to the Idaho Water Resources Board.

(m) In its review conducted in order to advise the Idaho Water Resources Board, the Department indicated that both Permit No. 01-07054 and Permit No. 37-07842 had filed proof of beneficial use for diversion rate of 300 cfs each. This indication was incorrect. The Proof of Beneficial Use form, as well as the Beneficial Use Field Report indicated a combined total of 300 cfs, with the water coming from the Snake River via the Milner-Gooding Canal.

(n) On March 19, 1999, the Idaho Water Resources Board agreed to accept assignment of Permit No. 37-07842.

(o) A Memo to the Department's file dated October 1999, indicates that recharge under Permit No. 01-07054 from the Snake River through the Milner-Gooding Canal could be confirmed and that a license had been prepared for signature. However, regarding Permit No. 37-07842, the Department determined that there did not appear to be any application toward beneficial use. The Department's file indicates, based on the Department's conversation with Dan McFadden of the Lower Snake River Aquifer Recharge District, that no ground water recharge had ever taken place from the Little Wood River via the Dietrich Canal. The Department's file indicates, pursuant to a conversation with Paul Castelin of the Technical Services Bureau, no recharge from the Little Wood or Big Wood River had taken place prior to October 1999. The Department's internal review in October1999 concluded that there had been no beneficial use to date and that the permit should be routed for extension or reinstatement processing. This conclusion was further supported by the correspondence from the Big Wood Canal Company and American Falls Reservoir District #2 of November 1999, which clarified that all recharge water from 1986 through

1995 was Snake River water delivered via the Milner-Gooding Canal.

(p) Though the Department's file contained a proof of beneficial use form and beneficial use field report, which had not been withdrawn, and though the "undeveloped" portion of any permit reverts to the State of Idaho upon lapse, the Idaho Water Resources Board adopted a resolution asking the Director to extend the proof date regarding the "undeveloped" portion of the permit. An order was entered on April 3, 2000 extending the proof date for the permit until June 1, 2004.

(q) On August 25, 2004, the Idaho Water Resources Board again requested an extension of time to submit proof of beneficial use resulting in another extension to June 1, 2009. In April, 2006, Idaho Water Resources Board applied to lease Permit No. 37-07842 to the Water Supply Bank in the amount of 800 cfs.

(r) On June 1, 2009, the Idaho Water Resources Board filed a request for extension of time in which to submit proof of beneficial use. The request described work that had been completed regarding diversion of water from the Milner-Gooding Canal for purposes of recharge northwest of Shoshone, Idaho. The request for extension did not describe any work that had been completed for the development of Permit No. 37-07842. Further, the request did not set forth a showing that the additional time was needed based upon the status of the plans, authorization, construction fund appropriations, construction, or any arrangements which are found to be requisite to completion of construction as required by Idaho Code § 42-204(4). On September 2, 2010, the Department approved the request for extension of time and extended the time within which to submit proof to June 1, 2014.

(s) A Petition for Hearing, and Petition for Declaratory Ruling was filed on September 22, 2010. Said petition challenged the September 2, 2010 action of the Department, in approving an extension of time to submit proof of beneficial use for permit no 37-7842, and requested the Department examine the extent of beneficial use occurring during the development period . The present petition is brought by the same water right holders, or their successors in interest, as the September 22, 2010 petition.

(t) That on November 30, 2011, James Cefalo, hearing officer for the Department, issued his recommended order wherein he concluded the Department erred in issuing its September 2, 2012 order for an extension of time in which to submit proof of beneficial use and granted Petitioner's Motion for Summary Judgment. The hearing officer further indicated that "[t]he Department will investigate the extent of beneficial use occurring prior to June 1, 1992 as part of the licensing process. If IWRB or the

Petitioners disagree with the Department's determination of beneficial use occurring within the authorized development period, the proper venue to raise arguments regarding the true extent of beneficial use would be within the licensing process." The interim Director of the Idaho Department of Water Resources adopted the Recommended Order as a Final Order on February 28, 2012.

(u) As part of the licensing process, Department conducted a review of Permit No. 37-7842. A Memorandum dated October 29, 2014 by Michele Edl, of the Department, indicates that even though the proof of beneficial use submitted to the Department asserted that recharge occurred North of Shoshone, Ms. Edl concluded that little, if any, of the source water for that event could be attributed to the Big or Little Wood Rivers and that the water came from the Snake River through the Gooding Milner Canal. Thereafter, the Department focused on the potential recharge through diverting Little Wood water through the Dietrich Canal to a site adjacent to said canal. However, this site was developed for purposes of flood control many years prior to the formation of the Lower Snake Aquifer Recharge District or the filing of application for permit 37-7842.

(v) That the proposed place of use adjacent to the Dietrich Canal is owned by the Bureau of Land Management and the only agreement in place for use of the site, either during the developmental period or presently, is for flood control. Also, the proposed recharge site adjacent to the Dietrich Canal was, neither at the time of the development period nor presently, an approved managed aquifer recharge site.

(w) Records for the Big Wood Canal Company merely indicate that excess water was channeled into the Dietrich Canal during the developmental period. However, no records indicate that water was actually diverted from the pre-existing diversion off the Dietrich Canal to the proposed Dietrich recharge site. Further, there is no indication that water was ever diverted through the Dietrich Canal pursuant to permit number 37-7842, rather than for simple flood control.

(x) The Department issued its Notice of Issuance of License Number 37-7842 on July 14, 2017. The license provides for the diversion at a rate of 250 cfs, at a total diversion volume of 13,900 af from the Little Wood River for the purposes of ground water recharge with a priority date of August 25, 1980.

4. Pursuant to Idaho Code § 67-5255 and § 67-5232, that any person may petition an agency to declaratory rulings as to the applicability of any statutory provision, or any rule administered by the agency, as well as any rule issued by the agency.

5. Pursuant to Idaho Code § 42-202(1), an application for a permit to divert water must set forth all facts necessary to show the location, nature and amount of use of water and specifically must set forth the source of the water supply, location of the point of diversion, a description of the ditch, channel, or other diversion work. See also, I.D.A.P.A.37.03.08.03.

6. An application must be accompanied by a plan and a map of the proposed works and showing the proposed place of use. I.C. § 42-202(4).

7. Petitioners seek a declaratory ruling as to the applicability of Idaho Code § 42-202 to the evidence before the Department regarding License No. 37-07842 and seek the Director's determination that the subject application was deficient.

8. Pursuant to Idaho Code § 42-219(1), upon receipt of all evidence regarding a permit, the Department is required to conduct an examination to determine if the law has been fully complied with. "In the event that the Department shall find that the application has not fully complied with the law and the condition of the permit, any issuance of license for that portion of the use which is in accordance with the permit, or may refuse issuance of a license and void the permit." I.C. § 42-219(8).

9. Petitioners seek a declaratory ruling as to the applicability of Idaho Code § 42-217 and Idaho Code § 42-219 to the evidence before the Department regarding License No. 37-07842 and seek the Director's determination that water was not put to beneficial use in the time period allowed under the permit.

10. Pursuant to Idaho Code § 42-218a, when reinstating a lapsed permit for failure to submit proof of beneficial use, and when the case of satisfactory proof is received by the Department after sixty (60) days of the lapse of the permit, the Department may, upon a showing of reasonable cause reinstate the permit. I.C. § 42-218a.

11. In reinstating a lapsed permit, in the case when satisfactory proof is received by the Department after sixty (60) days of the lapse, the Department must advance the priority date of the permit to the date of satisfactory proof of beneficial use was received.

12. Petitioners seek a declaratory ruling as to the applicability of Idaho Code § 42-218a to the evidence before the Department regarding License No. 37-07842 and seek the Director's determination that the priority date for License No. 37-07842 was not accurately advanced following lapse and restatement.

WHEREFORE, Petitioners request that:

1. That the Department fix a time and place for hearing;

2. Notice to be given as required by law;

3. The Department issue its ruling on the applicability of Idaho statutes, administrative rules and administrative orders on the subject permit;

4. That the Department issue its ruling determining that the subject application was deficient

5. That the Department issue its ruling determining that water under Permit No. 37-07842 was not put to beneficial use in the prescribed period and lapsed;

6. That the Department issue its ruling that the priority date of License No. 37-07842 was not accurately advanced following lapse and restatement;

7. **For such other relief as the Department deems just in the premises.**

DATED this 8th day of September, 2017.

JAMES LAW OFFICE

By: Joseph F. James

Joseph F. James

CERTIFICATE OF SERVICE

I certify that on September 8, 2017, I mailed a true and correct copy, postage prepaid, of the foregoing First Amended Petition for Hearing, and Petition for Declaratory Ruling, to the persons listed below:

Gary Spackman, Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

State of Idaho
Idaho Water Resource Board
P.O Box 83720
Boise, ID 83720-0098

Water District #37
Kevin Lakey
107 W. 1st
Shoshone, ID 83352

Ann Y. Vonde
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

Cara Wilkins

EXHIBIT B

ORIGINAL

LAWRENCE G. WASDEN
Attorney General

DARRELL G. EARLY
Deputy Attorney General
Chief, Natural Resources Division

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Attorneys for the Idaho Water Resource Board

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF LICENSE NO. 37-7842 IN THE NAME OF THE IDAHO WATER RESOURCE BOARD	)	**IWRB'S DISCOVERY REQUESTS TO PETITIONERS**

INTRODUCTION

This document contains the interrogatories, requests for admission, and requests for production being submitted to William Arkoosh, the Estate of Vernon Ravenscroft, Koyle Hydro Inc., and Shorock Hydro Inc. ("Petitioners") by the Idaho Water Resource Board ("IWRB"). These interrogatories, requests for admission, and requests for production are made pursuant to and are governed by I.R.C.P. 26, 33, and 34 and by Rule 524 of the Rules of Procedure of the Idaho Department of Water Resources. IDAPA 37.01.01.524.

ORIGINAL

GENERAL INSTRUCTIONS

1. Unless otherwise indicated, these interrogatories and requests for production refer to water right permit no. 37-7842.
2. These interrogatories and requests for production are deemed continuing in nature, and your responses are to be supplemented as additional information as knowledge becomes available or known to you as provided in Rule 26(e) of the Idaho Rules of Civil Procedure.
3. Any reference herein to an individual, partnership, corporation, or other entity, shall include the present and past agents, employees, representatives, and assigns of that individual or entity.
4. If you withhold any information, in whole or in part, which is called for in an interrogatory or request for production on the ground that it is subject to attorney-client privilege or other privilege, identify each person or entity having knowledge of the basis for each claim of privilege or other objection.
5. If, for reasons other than alleged privilege, you do not provide a complete response to any interrogatory or request for production, state with respect to such interrogatory or request for production that a complete response is not provided and state the reason for the incomplete response.
6. Serve the original written answers to these interrogatories and response to requests with a copy of the notice of serving on Ann Y. Vonde, Office of the Attorney General, Natural Resources Division, P.O. Box 83720, Boise, Idaho 83720-0010.

INSTRUCTIONS FOR INTERROGATORIES

1. Provide answers to these interrogatories by fully setting forth each interrogatory followed by an answer or objection to each interrogatory under oath in accordance with I.R.C.P. 33 and Rule 524 of the Rules of Procedure of the Idaho Department of Water Resources. IDAPA 37-0101.524.

INSTRUCTIONS FOR REQUESTS FOR PRODUCTION

1. Please produce the documents and things for inspection and copying at the Office of the Attorney General, Natural Resources Division, 700 W. State, Boise, Idaho. Inspection and copying will be conducted by the undersigned attorneys or their agents and will continue from time to time and from day to day until completed.
2. If you will make the original copies of the requested documents available at a subsequent time requested by the State of Idaho, upon reasonable notice, then the requests for production of documents may be satisfied by mailing true, correct, and legible copies of each and every requested document to Ann Y. Vonde Office of the Attorney General, Natural Resources Division, P.O. Box 83720, Boise, Idaho 83720-0010 within the prescribed time.
3. Each document requested to be produced shall be provided in a manner which preserves its sequential relationship with other documents being produced and shall include the file folder and folder tabs associated with its file location. If the file location is not apparent on the folder and tabs, the document shall be accompanied by information indicating from where the file was taken and such additional information as is necessary to enable the State of Idaho to determine the documents' original pre-production location.
4. Provide the documents in accordance with I.R.C.P. 34 and Rule 524 of the Rules of Procedure of the Idaho Department of Water Resources. IDAPA 37.101.524.

DEFINITIONS

In answering these interrogatories and requests for production, all terms used retain their normal meaning. The following terms, in addition to their commonly understood definitions, shall have the following meanings:

1. The term "petitioners" refers to William Arkoosh, the Estate of Vernon Ravenscroft, Koyle Hydro Inc., and Shorock Hydro Inc.
2. The term "data," as used in this document, refers to measurements, estimates, and observations made for the purposes of establishing and quantifying application for permit

no. 37-7842. The term "data" includes all files prepared in conjunction with application for permit no. 37-7842.

3. The term "document" shall be defined in the broadest possible manner and shall, at a minimum, mean any original or copy of words or information, whether produced in original or copy form by printing, typing, recording, retrieval from electronic storage, manual reproduction, or other process regardless of the form. The term "document includes, but is not limited to, writings, agreements, communication, correspondence, electronic mail messages, reports, telegrams, memoranda, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, diaries, records, maps, charts, plans, drawings, sketches, photographs, graphs, notes, summaries or records of meetings, conferences or congressional hearings, summaries or reports of investigations or negotiations, opinions or reports of consultants, drafts of any document, phono-records, printouts from electronic storage or other data compilations from which information can be obtained or translated, if necessary, by the applicant through detection devices into reasonably usable form, marginal comments appearing on any document and all other writing.

4. The term "identify" means:

    a. As to documents, give the date of each such document, the addresser's name, position, and address, the addressee's name, position, and address, any file, index or other identification number, title and general character of the document, and specify the name, address, and position of the person or persons having custody and control thereof. Alternatively, the document may be appended to your answer.

    b. As to a person or entity, give the full name, business address and telephone number, home address and telephone number, the person's current employment, position, and duties, the person's relationship to the applicant and the person's educational background.

c. As to conversations, including telephone communications or meetings give:

   i. The date, place, and time such communication occurred;

   ii. The identity of each and every person between whom the communication was transmitted, who was present or who participated in the conversation, and any other person(s) who have knowledge of such communication;

   iii. The place at which such communication occurred, or in the case of telephone conversations, the location of each party; and

   iv. A detailed statement of the substance of what was discussed or what actions were taken.

d. As to administrative, judicial, or congressional proceedings give:

   i. The caption of the proceedings;

   ii. The administrative or judicial tribunal or the name of congressional committee or subcommittee, including the business address and phone number; and

   iii. The date(s) a witness provided testimony.

e. The term "rely," "relies," or "relied" when used in a request for all documents relied upon in the preparation of an answer or response refers, not only to documents containing information supporting the answer or response, but also all documents reviewed, obtained, or prepared by the applicant or its employees, agents, or contractors in the course of preparing its answer or response.

INTERROGATORIES

Interrogatory No. 1

Please identify every person who you expect to call as a fact witness in this proceeding and for each such person, describe the substance of his or her expected testimony.

Interrogatory No. 2

Please identify every person who you expect to call as an expert witness in this matter and for each such person identified, state the subject matter on which the expert is expected to testify, the

substance of the opinions to which the expert is expected to testify, and the underlying facts and data upon which the expert opinions are based.

Interrogatory No. 3

Please describe with particularity the factual basis for your petition for hearing on the July 17, 2017 Notice of Issuance of License No. 37-7842 ("July 17 Order") including every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 4

Please describe with particularity the factual basis for your statement in your petition for hearing that: "water under Permit 37-07842 was not put to beneficial use in the prescribed period and lapsed" including every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 5

Please describe how, pursuant to I.C. § 42-1701A(3), you are "aggrieved" by the issuance of water right license 37-7842 including every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 6

If you contend that the priority date listed on the water right license 37-7842 issued by the July 17 Order was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 7

If you contend that the diversion rate and/or volume limitation listed on the water right license 37-7842 issued by the July 17 Order was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 8

If you contend that the source listed on the water right license 37-7842 issued by the July 17 Order was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 9

If you contend that the place of use listed on the water right license 37-7842 issued by the July 17 Order was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 10

If you contend that the points(s) of diversion listed on the water right license 37-7842 issued by the July 17 Order were inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 11

If you contend that any of the conditions of approval listed on the water right license 37-7842 issued by the July 17 Order were inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 12

If you contend that the water right license 37-7842 issued by the July 17 Order was inadequate, insufficient, inaccurate, or otherwise incorrect in any way other than those ways listed in your answers to Interrogatories 6–12, please describe in what additional way(s) it was inadequate, insufficient, inaccurate, or otherwise incorrect and describe the basis for each contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 13

If you contend that the water right license review memorandum by Michele Edl dated October 29, 2014 was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 14

If you contend that the place of use listed in the proof of beneficial use submitted by water right examiner Gerald Martens to the Idaho Department of Water Resources ("IDWR") on November 24, 1993 for permit 37-7842 (see Attachment A) was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 15

If you contend that the source(s) of water listed in the proof of beneficial use submitted by water right examiner Gerald Martens to IDWR on November 24, 1993 for permit 37-7842 (see Attachment A) was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 16

If you contend that the point(s) of diversion listed in the proof of beneficial use submitted by water right examiner Gerald Martens to IDWR on November 24, 1993 for permit 37-7842 (see Attachment A) was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 17

If you contend that the diversion rate and/or volume limitation listed in the proof of beneficial use submitted by water right examiner Gerald Martens to IDWR on November 24, 1993 for permit 37-7842 (see Attachment A) was inadequate, insufficient, inaccurate, or otherwise

incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 18

If you contend that any of the data, documentation, or other attachments provided by water right examiner Gerald Martens to IDWR on November 24, 1993 for permit 37-7842 (see Attachment A) were inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 19

If you contend that the analysis for determining the quantity of recharge occurring under permit 37-7842 provided by Gerald Martens to IDWR on November 24, 1993 (see Attachment A) was inadequate, insufficient, inaccurate or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 20

If you contend that proof of beneficial use submitted by Gerald Martens to IDWR on November 24, 1993 was inadequate, insufficient, inaccurate or otherwise incorrect in any way(s) other than those listed in your answers to Interrogatories 14–19, please describe in what additional way(s) it was inadequate, insufficient, inaccurate or otherwise incorrect and describe the basis for each contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 21

If you contend that any other information, documentation, representation, or analysis regarding proof of beneficial use submitted by Gerald Martens to IDWR prior to November 24, 1993 for water right permit 37-7842 was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Interrogatory No. 22

Please provides details, including name, address, and phone number of any individual that may have information, facts, documents, or other knowledge of the issues you intend to raise in the hearing.

Interrogatory No. 23

Identify all persons who assisted in the preparation of the responses to these Interrogatories and Requests for Production.

REQUESTS FOR ADMISSION

Request for Admission No. 1

Admit that water right 37-7943 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7943.

Request for Admission No. 2

Admit that water right 37-21297 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-21297.

Request for Admission No. 3

Admit that water right 37-7857 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7857.

Request for Admission No. 4

Admit that water right 37-7865 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7865.

Request for Admission No. 5

Admit that water right 37-7922 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7922.

Request for Admission No. 6

Admit that water right 37-7889 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7889.

Request for Admission No. 7

Admit that water right 37-7916 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7916.

Request for Admission No. 8

Admit that water right 37-8096 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-8096.

Request for Admission No. 9

Admit that water right 37-8251 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-8251.

Request for Admission No. 10

Admit that water right 37-7869 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7869.

Request for Admission No. 11

Admit that water right 37-7911 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7911.

Request for Admission No. 12

Admit that water right 37-8113 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-8113.

Request for Admission No. 13

Admit that water right 37-8262 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-8262.

REQUESTS FOR PRODUCTION

Request for Production No. 1

Produce all documents identified in response to or relied on in preparing your responses to the interrogatories above.

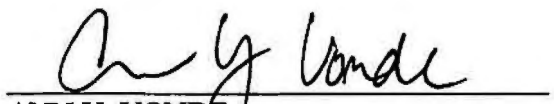
Request for Production No. 2

Produce all documents and exhibits you intend to rely upon at hearing in this matter or at any other stage of this proceeding.

Request for Production No. 3

For each person identified in your response to Interrogatory No. 2 as an expert witness, produce: a complete statement of all opinions to be expressed and the basis and reasons therefore; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; any qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

DATED this 18th day of April, 2018.



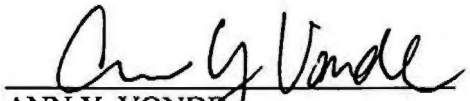
ANN Y. VONDE
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of April 2018, I caused to be served a true and correct copy of the foregoing IWRB DISCOVERY REQUESTS TO PETITIONERS by placing a copy thereof in the manner listed below:

1.

Joseph F. James Brown and James 125 Fifth Avenue West Gooding ID 83330	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☒Email: joe@brownjames.com



ANN Y. VONDE
Deputy Attorney General

BHM Engineers, Inc.
ENGINEERS/SURVEYORS/PLANNERS

IN THE FIELDS OF:
PLANNING
SURVEYING
HIGHWAYS
WATER
SEWAGE
STRUCTURAL
SUBDIVISIONS
BRIDGES
ENVIRONMENTAL
QUALITY CONTROL
CONSTRUCTION MNGMT.

November 24, 1993

State of Idaho
Department of Water Resources
1301 North Orchard St.
Statehouse Mail
Boise, ID 83702

RECEIVED
NOV 29 1993
Department of Water Resources

ATTN: L. Glenn Saxton

RE: Permits 01-07054 & 37-07842

Dear Mr. Saxton:

The following is in response to your letter of October 21, 1993 and following a review of all known available information.

1. I have attached a map showing all major features and all measuring stations.

2. Attached is a summary of all flow records which are utilized to compute the recharge quantity and maximum potential recharge quantity from each source, Snake Rive and Bigwood River.

3. Measuring stations have been located on the exhibit and daily flow rates are provided.

4. All flow data has been consolidated onto a single sheet in a much more legible format with clarification foot notes.

5. All discharged water receded from the surface within a few hours of discharge from the Milner Gooding Canal. No water ran-off into any other surface canal, stream or other means of conveyance.

1139 Falls Ave. E., Suite B • Twin Falls, Idaho 83301 • (208) 734-4888 • FAX 734-6049
Westside Office Building, 5th St. and 1st. Ave., Ketchum, Idaho 83340, (208) 726-4479

ATTACHMENT A

Please excuse the delay in responding to your letter. Collecting all the data and assembling it into a more reasonable format took more time than I anticipated.

Please call if there are any questions.

Respectfully yours,

EHM ENGINEERS, INC.

Gerald L. Martens, P.E.

GLM:bn

cc: John Lemoyne
Dick Onieda

Form 219
6/92

RECEIVED
NOV 29 1993
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 01-07054 37-07842

1. Owner: Lower Snake River Recharge District Phone No. 837-4887

Current Address: Box 48, Hagerman, Idaho

2. Accompanied by: Gerald Martens EXAM DATE :

Address: 1139 Falls Ave. E, Twin Falls, Idaho Phone No. 734-4888

Relationship to Permit Holder: None

3. Source: Snake River/Big Wood River tributary to See Narrative

B. OVERLAP REVIEW

1. Other water rights with the same place of use: None

2. Other water rights with the same point of diversion: None

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		SE	NE		22	5S	17E	Lincoln	7.5 minute quadrange

2. Place(s) of Use: Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5S	17E	22			X	X			X	X	X	X		X		X	X		

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable.

See attached exhibits and recharge structure plans.

Scale: 1" = _____.

____ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

____ Aerial Photo Attached (required for irrigation of 10+ acres)

____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
N/A					

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Milner Gooding Canal Measuring Stations 56 and 57						

2. **Measurements:** Water measured in concrete flume above and below diversion. Diversion quantity is mathematical difference. Upstream flow measured at Milner Gooding Canal Diversion Structure 56. Downstream measurement at Milner Gooding Canal Structure No. 57. Rating curves have been established for both locations. See attached letter.

E. NARRATIVE/REMARKS/COMMENTS

Measurement flow records for April 1986, as prepared by Big Wood Canal Company. Attached are flow records.

The Big Wood Canal Co-mingles water from Snake River and Bigwood River upstream of diversion. District routinely replaces water from one source with water from other sources. At time of proof of Beneficial Use Report the Bigwood water was supplementing Snake River flows to facilitate flows measured at diversion.

Division agreement between Lower Snake River Recharge District and Bureau of Land Management attached for your information.

Attached is a flow summary sheet that tabulates the recharge rate of flow and the maximum potential contribution to total recharge from each potential source.

this document already in file below

Have conditions of permit approval been met? X yes ___ no

F. FLOW CALCULATIONS ____ Additional Computation Sheets Attached

Measured Method:

See Section E.

G. VOLUME CALCULATIONS N/A

1. Volume Calculations for Irrigation:

$V_{I.R}$ = (Acres Irrigated) x (Irrigation Requirement) = _____

$V_{D.R.}$ = [Diversion Rate (cfs)] x (Days in Irrigation Season) x 1.9835 = _____

V = Smaller of $V_{I.R.}$ and $V_{D.R.}$ = _____

2. Volume Calculations for Other Uses:

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Groundwater Recharge	1-1	12-31	300 CFS	
		Totals:	300 CFS	

2. Recommended Amendments

___ Change P.D. as reflected above ___ Add P.D. as reflected above ___ None

___ Change P.U. as reflected above ___ Add P.U. as reflected above ___ Other

I. AUTHENTICATION

Field Examiner's Name GERALD MARTENS Date 11/24/93

Reviewer _____ Date _____

PROFESSIONAL ENGINEER REGISTERED SEAL STATE OF IDAHO GERALD L. MARTENS

EHM Engineers Inc.
1139 Falls Ave. E
Twin Falls, Idaho 83301

Re: Water permit # 37-07842

Dear Mr. Martins:

Enclosed find copy of the record for water diverted into the recharge area from the Milner-Gooding canal North of Shoshone, Idaho.
The method used for caculating this discharge is as follows.
Measuring Station # 56 above the concrete flume on the Milner-Gooding canal was measured, Measuring station # 57 below the recharge diversion was also measured, the difference is the caculated amount of water diverted into the recharge area.
Rating curves were established for both of the measuring stations on the Milner-Gooding canal.
I sincerely hope this will satifisy the requirments for permit # 37-07842.

Sincerely

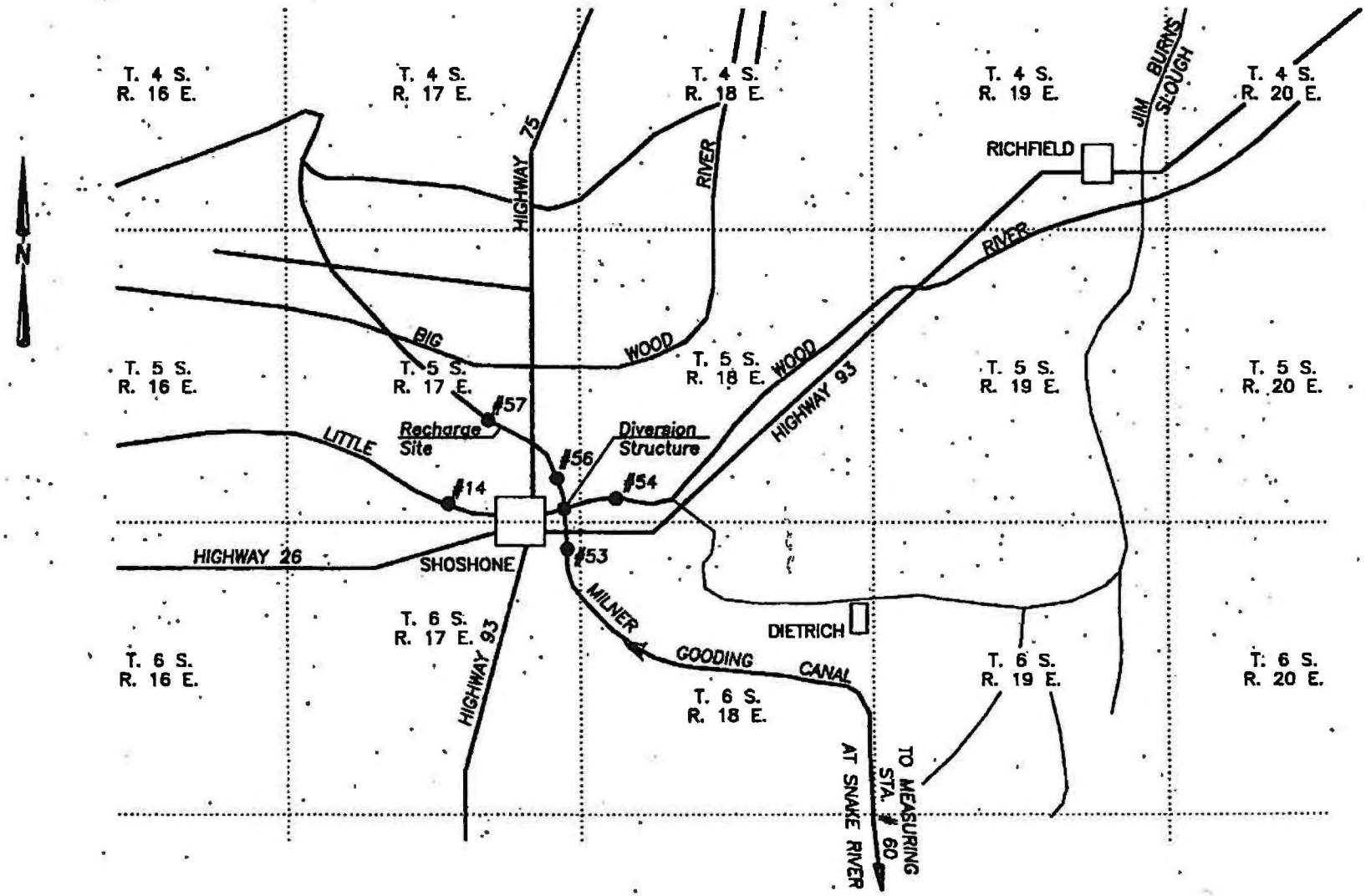
Reid J Newby
P.O. Box N
Shoshone, Idaho 83352

APRIL 1986

	No X	No Y	No Z	+ or Rchg	No 21	No 43	Rcvd		
		6/26/92							
							93 ft	to 100	1
									2
		This is a Copy of Big Wood Canal Co.							3
		Record for April 1986 Water into							4
		Recharge.							5
		Yellow is in C.F.S Each Day.							6
								252	7
								260	8
								260	9
		For Permit # 37-07842						265	10
							2.61	265	11
							2.50	261	12
								270	13
								275	14
		[illegible]	[illegible]	.47	[illegible]	[illegible]		2.44	252	15
		[illegible]	[illegible]	.41	[illegible]	[illegible]		2.56	259	16
		[illegible]	2.05	.55	.47	29	+171	273	7.31	[illegible]	2.04	19	2.40	223	17
		178	[illegible]	[illegible]	[illegible]	[illegible]	+102	322	[illegible]	2190	[illegible]	18	3.34	310	18
		221	2.20	.41	.51	21	+144	280	7.18	1117	1.98	17	3.54	342	19
															20
		216	2.40	94	.57	36	+101	276	7.04	1980	2.10	20	3.34	342	21
1982	1.20	178	2.54	111	.64	42	+40	254	6.48	1922	2.08	19	3.41	350	22
1910	1.24	188	2.54	111	.74	51	+41	220	6.76	1724	2.07	19	3.48	360	23
1026	1.12	160	2.60	119	.72	49	+7	190	6.24	1337	2.07	19	3.75	396	24
1042	1.40	226	2.60	119	.76	53	+61	186	6.44	1476	2.07	19	3.74	394	25
467	1.40	226	2.60	119	.76	53	+69	250	6.53	1541	2.07	19	3.32	340	26
527	1.70	312	2.60	119	.77	54			6.58	1579	2.22	22			27
527	1.70	312	2.60	119	.77	54	+154	192	6.58	1579	2.22	22	4.50	466	28
562	1.61	276	2.65	126	.80	57	+108	159	6.01	1189	2.21	21	4.48	465	29
587	1.50	250	2.70	132	.83	61	+72	157	5.94	1147	2.20	21	4.44	459	30
								279							31

1985

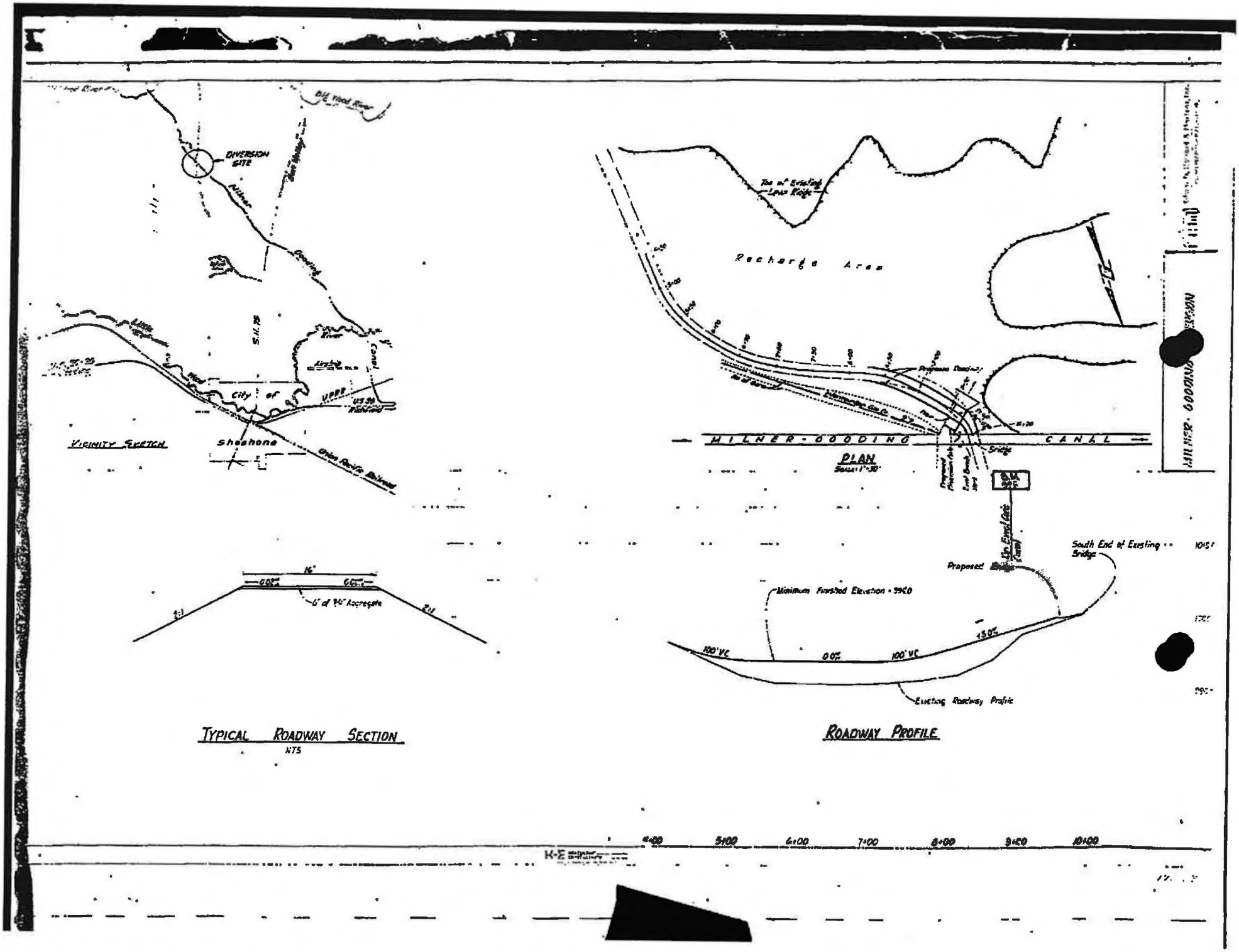
Exhibit For
Lower Snake River Aquifer Recharge
Permit No's. 01-07054 & 37-07842



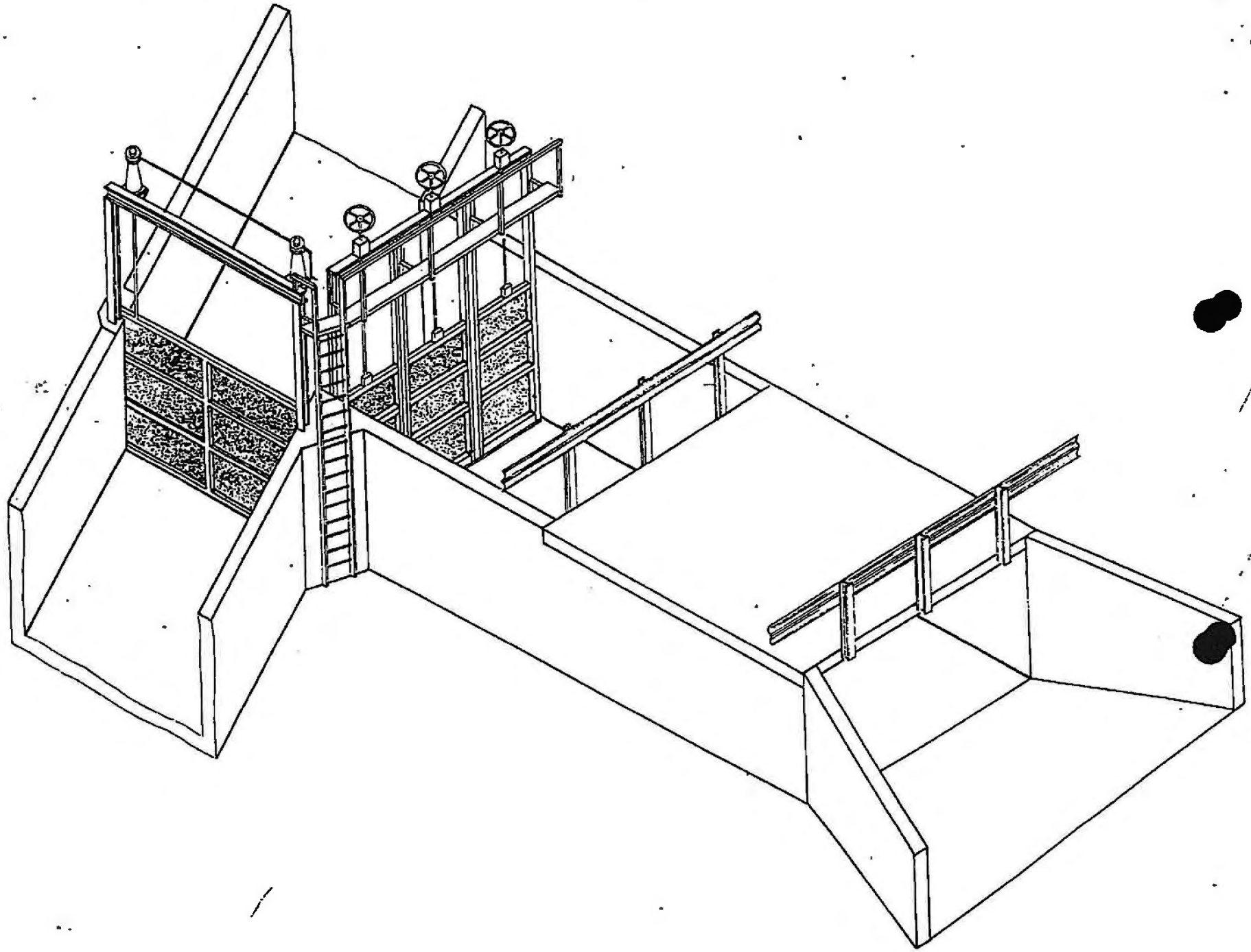
Summary of Recharge
Records for
Lower Snake River Recharge
Permit No. 01-07054 & 37-07842

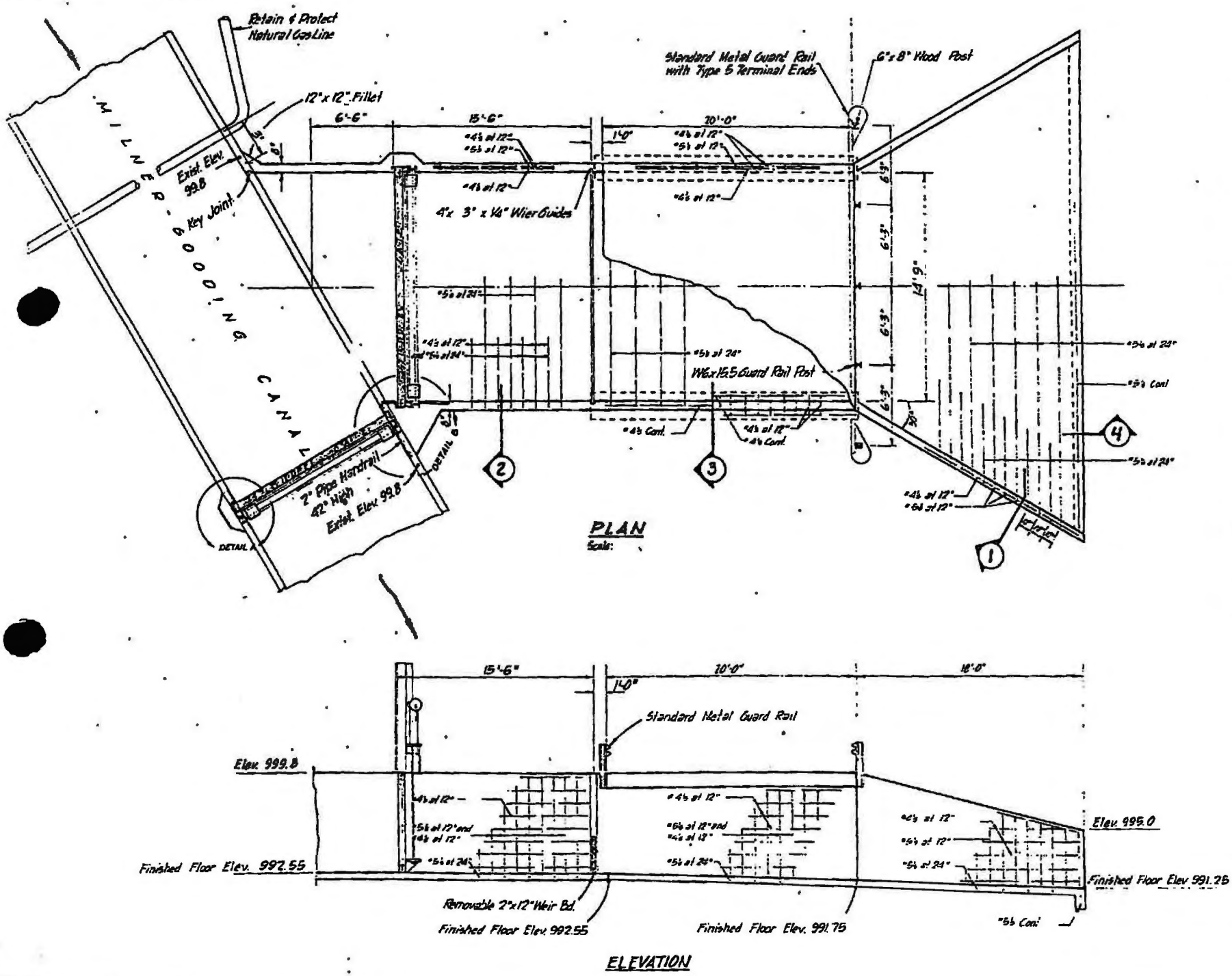
	MEASURING STAT ON								
DATE	JBS	14	53	54	56	57	RECHARGE	MAX POSSIBLE RECHARGE FROM BIG WOOD	MAX POSSIBLE RECHARGE FROM SNAKE RIVE
04-07-86			220		252	252	0		
04-08-86						260	260	260	
04-09-86		646	425		432	260	172	172	
04-10-86			401		448	265	183	183	
04-11-86	97	692	472		460	265	195	195	97
04-12-86	57		472			261	261	261	57
04-13-86	62					270	270	270	62
04-14-86	66	717	486	787	486	275	211	211	66
04-15-86	52	681	485	721	482	252	230	230	52
04-16-86	57	659	479	689	470	239	231	231	57
04-17-86	43	636	405	674	496	223	273	273	43
04-18-86	40	604	614	628	632	310	322	322	40
04-19-86	73	556	596	564	618	342	276	276	73
04-20-86	142		596	563			---	---	142
04-21-86	141	615	596	651	618	342	276	276	141
04-22-86	50	526	585	544	604	350	254	254	50
04-23-86	221	454	566	544	580	360	220	220	220
04-24-86	213	596	572	636	586	396	190	190	190
04-25-86	168	560	563	585	580	394	186	186	168
04-26-86	181	500	644	524	654	340	314	314	181
04-27-86	172		644	530				---	172
04-28-86	165	615	696	537	648	466	182	182	165
04-29-86	158	580	670	503	626	465	161	161	158
04-30-86	142	506	661	420	616	459	157	157	142

JBS - Jimmy Byrnes Slough
All flows in CFS as recorded by Bigwood Canal Co.
Recharge = 56-57
Max Recharge (from Snake River): Total discharge but not to exceed flow at M.S. 53. M.S.
Max Recharge (from Big Wood River): Total discharge from JBS but not to exceed total dishcarge.
Measuring stations 14+56 should approximately total measuring stations 53+54



DIVERSION SITE
Big Wood River
Milner
Gooding
S.H. 75
Little
Wood
River
Canal
Airship
City of
Shoshone
US 93
Richfield
Union Pacific Railroad
VICINITY SKETCH
Toe of Existing Lava Ridge
Recharge Area
Proposed Roadway
MILNER - GOODING CANAL
Bridge
PLAN
Scale: 1"=30'
South End of Existing Bridge
Proposed Bridge
Minimum Finished Elevation = 3960
100' VC
0.0%
100' VC
+5.0%
Existing Roadway Profile
ROADWAY PROFILE
16'
0.02%
6" of 3/4" Aggregate
2:1
2:1
TYPICAL ROADWAY SECTION
NTS
4+00
5+00
6+00
7+00
8+00
9+00
10+00
K-E





Retain & Protect Natural Gas Line
12" x 12" Fillet
MILNER-GOODING CANAL
Exist. Elev. 99.8
Key Joint
6'-6"
15'-6"
20'-0"
1'-0"
Standard Metal Guard Rail with Type 5 Terminal Ends
6" x 8" Wood Post
4" x 3" x 1/4" Wier Guides
W6x15.5 Guard Rail Post
14'-9"
2" Pipe Handrail 42" High
Exist. Elev. 99.8
DETAIL A
DETAIL B
PLAN
Scale:
15'-6"
20'-0"
18'-0"
1'-0"
Standard Metal Guard Rail
Elev. 999.8
Elev. 995.0
Finished Floor Elev. 992.55
Finished Floor Elev. 991.25
Removable 2" x 12" Weir Bd.
Finished Floor Elev. 992.55
Finished Floor Elev. 991.75
ELEVATION

Bouldin, Melinda

From: Bouldin, Melinda
Sent: Wednesday, April 18, 2018 9:27 AM
To: 'joe@brownjameslaw.com'
Subject: 37-7842 Discovery Requests
Attachments: Notice of Service .pdf; IWRB's Discovery Requ.pdf

Attached please find IWRB's discovery requests and notice of service of same.

Respectfully,

Melinda Bouldin
Legal Secretary
Natural Resources Division
Office of the Attorney General
700 West State Street
Joe R. Williams Building
2nd Floor
PO Box 83720
Boise, ID 83720
Telephone (direct line) 208.334.4544 Facsimile 208.854.8072
Email: melinda.bouldin@ag.idaho.gov

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EXHIBIT C

JOSEPH F. JAMES
JAMES LAW OFFICE PLLC
125 Fifth Avenue West
Gooding, Idaho 83330
Telephone: (208) 934-8414
Facsimile: (208) 934-4420
Idaho State Bar No. 5771
joe@jamesmvlaw.com

Attorneys for Petitioners

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF LICENSE NO. 37-07842 IN THE NAME OF THE IDAHO WATER RESOURCES BOARD	))))))	PETITIONER'S RESPONSE TO IWRB'S DISCOVERY REQUESTS TO PETITIONERS

COMES NOW, William Arkoosh, the Estate of Vernon Ravenscroft, Koyle Hydro Inc., and Shorock Hydro Inc. ("Petitioners), by and through its attorney, Joseph F. James, of James Law Office, PLLC, and hereby responds to IWRB'S Discovery Requests to Petitioners ("IWRB") as follows:

INTERROGATORIES

Interrogatory No. 1

Please identify every person who you expect to call as a fact witness in this proceeding and for each such person, describe the substance of his or her expected testimony.

Response to Interrogatory No. 1:

Petitioners state that they have not made a final determination as to whom they may call as a witness in this matter. Petitioners may call those individuals with knowledge or information

pertaining to this litigation and would expect those individuals would testify in accordance with their knowledge or information. Petitioners may call those individuals listed by Respondent as having knowledge, or listed by Respondent as a potential witness, and Petitioners may call to testify those individuals listed herein. See also Response to Interrogatories No. 3 and No. 22. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 2

Please identify every person who you expect to call as an expert witness in this matter and for each such person identified, state the subject matter on which the expert is expected to testify, the substance of the opinions to which the expert is expected to testify, and the underlying facts and data upon which the expert opinions are based.

Response to Interrogatory No. 2:

Petitioners object to Interrogatory No. 2 to the extent it seeks the disclosure of expert witnesses prior to the deadline set forth in the Director's scheduling order. Without waiving said objection, Petitioners state that they have not made a final determination as to whom they may call as an expert witness in this matter. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 3

Please describe with particularity the factual basis for your petition for hearing on the July 17, 2017 Notice of Issuance of License No. 37-7842 ("July 17 Order") including every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 3:

Petitioners object to Interrogatory No. 3 in that said interrogatory is generally over broad and unduly burdensome. Further, said interrogatory is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that

supports, contradicts, or in any material way pertains to" the petition, and on the basis that interrogatories are designed to elicit basic facts of the case. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: An application was filed on July 2, 1980 seeking a permit to divert 800 cfs from the Little Wood and Big Wood Rivers for purposes of ground water recharge. The application denoted the point of diversion as the SW¼ of SE¼ of Section 24, Township 4 S, Range 19 E, located within Lincoln County. However, neither the Little Wood nor the Big Wood Rivers flow though Section 24, Township 4 S, Range 19 E, Lincoln County. The application proposed diverting the water through the use of the Dietrich and Richfield canal systems. The Dietrich canal diverts from the Little Wood River in Section 25, Township 4 S, Range 19 E, Lincoln County. The application was incomplete as to the description of the proposed place of use, but did include a drawing indicating that the water would be diverted from the Little Wood River through the Dietrich Canal to a recharge site southeast of Richfield, Idaho. The published notice of application for water right clarified that the possible recharge sites were located within Sections 15, 16, 21, 22 and 28, Township 5 S, Range 19 E, Lincoln County. The application indicated that five years were required for completion of the works and application of the water for recharge. The application was approved on June 2, 1982, under Permit No. 37-07842, with a completion and submission of beneficial use deadline of June 1, 1987. A request for extension of time was submitted on June 1, 1987, which was returned by the Department to the applicant on July 16, 1987, for additional information. The Department approved the request for extension on October 4, 1989, extending the completion and proof of beneficial use deadline to June 1, 1992. The Department sent a notice of proof of beneficial use due on March 31, 1992, providing notice

that proof of beneficial use had to be submitted no later than June 1, 1992. Proof of beneficial use was not timely submitted and the Department sent a lapsed notice on June 5, 1992. The Department received proof of beneficial use on June 15, 1992 which indicated that a total of 300 cfs of surface water had been diverted from the Snake River. The Department returned the proof of beneficial use form to the applicants on June 15, 1992, stating that the proof was unacceptable, informing the permit holder that the permit was still lapsed, and informing the permit holder that the priority date would be penalized one day for every day that the proof was not submitted. On July 9, 1992, the Department received a beneficial use field report regarding the permit, but did not receive the original proof of beneficial use form. The Department informed the permit holders that they could not continue licensing until it received the original proof of beneficial use form. On July 23, 1992, the Department again provided notice that they could not process the permit without an original proof of beneficial use form. On July 27, 1992, the Department received the original proof of beneficial use form. However, the form had been altered with Permit No. 37-07842 being redacted and Permit No. 01-0705 added by interlineation. Permit No. 01-07054 is a permit to divert water from the Snake River through the Milner-Gooding Canal for purposes of recharge northwest of Shoshone, Idaho. The proof of beneficial use, again, indicated a total of 300 cfs of ground water had been diverted from the Snake River. There were two field examiner's reports submitted. Both reports were completed by the same examiner, Gerald Martens. One was signed by Mr. Martens on July 6, 1992 and submitted with a Proof of Beneficial Use statement on July 27, 1992. The second was signed on November 24, 1993 and received by IDWR on November 29, 1993. Neither report was complete. The reports were inaccurate and Mr. Martens mislabeled two of the columns in his spreadsheet. The first

beneficial use field report also denoted the source as the Snake River, provided a point of diversion different from the application, as well as different place of use. The beneficial field report also denoted that the water was diverted through the Milner-Gooding Canal and not the Dietrich Canal. The Department initially accepted the amended proof of beneficial use and beneficial use field report. The Department entered its order reinstating the permit and advancing the priority date to August 25, 1990 on the 29th day of July, 1992. On further review, the Department determined that the beneficial use field report was not acceptable, and informed applicants. The applicants provided an amended beneficial use field report on October 19, 1993. The Department determined that the amended beneficial use field report was still not acceptable and returned it to the applicants on October 21, 1993. On November 29, 1993, the Department received a second beneficial field report denoting both Permit No. 01-07054 and Permit No. 37-07842 with a total diversion of 300 cfs. This time, the beneficial use field report indicated the source as the Snake River/Big Wood River but did not include the Little Wood River. The field report indicated a diversion point distinct from application for Permit No. 37- 07842. For water from the Little Wood River to be the source water for the event on which Mr. Martens based his recommendations in the field reports, he would have needed to confirm that the flow in the Little Wood River was greater than the flow in the Milner-Gooding Canal. That was not the case. The quantity of water flowing in the Milner-Gooding Canal at the time excluded a reversal of the flow through the bifurcation. The water arriving at the Shoshone recharge site in April and May of 1986 was from the Snake River. The Department entered a reinstatement order, regarding both Permit No. 01-07054 and Permit No. 37-07842, on December 1, 1993. Though 546 days had passed from the time the permit had lapsed until receipt of a Proof of Beneficial Use acceptable to the

Department, it failed to further advance the priority date in recognition of the continuing lapse. In correspondence dated January 7, 1999, Dan McFadden, Chairman of the Lower Snake River Aquifer Recharge District, offered to assign Permit No. 01-07054 and Permit No. 37-07842 to the Idaho Water Resources Board. In its review conducted in order to advise the Idaho Water Resources Board, the Department indicated that both Permit No. 01-07054 and Permit No. 37-07842 had filed proof of beneficial use for diversion rate of 300 cfs each. This indication was incorrect. The Proof of Beneficial Use form, as well as the Beneficial Use Field Report indicated a combined total of 300 cfs, with the water coming from the Snake River via the Milner-Gooding Canal. On March 19, 1999, the Idaho Water Resources Board agreed to accept assignment of Permit No. 37-07842. A Memo to the Department's file dated October 1999, indicates that recharge under Permit No. 01-07054 from the Snake River through the Milner-Gooding Canal could be confirmed and that a license had been prepared for signature. However, regarding Permit No. 37-07842, the Department determined that there did not appear to be any application toward beneficial use. The Department's file indicates, based on the Department's conversation with Dan McFadden of the Lower Snake River Aquifer Recharge District, that no ground water recharge had ever taken place from the Little Wood River via the Dietrich Canal. The Department's file indicates, pursuant to a conversation with Paul Castelin of the Technical Services Bureau, no recharge from the Little Wood or Big Wood River had taken place prior to October 1999. The Department's internal review in October 1999 concluded that there had been no beneficial use to date and that the permit should be routed for extension or reinstatement processing. This conclusion was further supported by the correspondence from the Big Wood Canal Company and American Falls Reservoir District #2 of November 1999, which clarified that all recharge water from

1986 through 1995 was Snake River water delivered via the Milner-Gooding Canal. Though the Department's file contained a proof of beneficial use form and beneficial use field report, which had not been withdrawn, and though the "undeveloped" portion of any permit reverts to the State of Idaho upon lapse, the Idaho Water Resources Board adopted a resolution asking the Director to extend the proof date regarding the "undeveloped" portion of the permit. An order was entered on April 3, 2000 extending the proof date for the permit until June 1, 2004. On August 25, 2004, the Idaho Water Resources Board again requested an extension of time to submit proof of beneficial use resulting in another extension to June 1, 2009. In April, 2006, Idaho Water Resources Board applied to lease Permit No. 37-07842 to the Water Supply Bank in the amount of 800 cfs. On June 1, 2009, the Idaho Water Resources Board filed a request for extension of time in which to submit proof of beneficial use. The request described work that had been completed regarding diversion of water from the Milner-Gooding Canal for purposes of recharge northwest of Shoshone, Idaho. The request for extension did not describe any work that had been completed for the development of Permit No. 37-07842. Further, the request did not set forth a showing that the additional time was needed based upon the status of the plans, authorization, construction fund appropriations, construction, or any arrangements which are found to be requisite to completion of construction as required by Idaho Code § 42-204(4). On September 2, 2010, the Department approved the request for extension of time and extended the time within which to submit proof to June 1, 2014. A Petition for Hearing, and Petition for Declaratory Ruling was filed on September 22, 2010. Said petition challenged the September 2, 2010 action of the Department, in approving an extension of time to submit proof of beneficial use for permit no 37-7842, and requested the Department examine the extent of beneficial use occurring during the development period.

The present petition before the Director is brought by the same water right holders, or their successors in interest, as the September 22, 2010 petition. That on November 30, 2011, James Cefalo, hearing officer for the Department, issued his recommended order wherein he concluded the Department erred in issuing its September 2, 2012 order for an extension of time in which to submit proof of beneficial use and granted Petitioner's Motion for Summary Judgment. The hearing officer further indicated that "[t]he Department will investigate the extent of beneficial use occurring prior to June 1, 1992 as part of the licensing process. If IWRB or the Petitioners disagree with the Department's determination of beneficial use occurring within the authorized development period, the proper venue to raise arguments regarding the true extent of beneficial use would be within the licensing process." The interim Director of the Idaho Department of Water Resources adopted the Recommended Order as a Final Order on February 28, 2012. As part of the licensing process, the Department conducted a review of Permit No. 37-7842. A Memorandum dated October 29, 2014 by Michele Edl, of the Department, indicates that even though the proof of beneficial use submitted to the Department asserted that recharge occurred north of Shoshone, Ms. Edl concluded that little, if any, of the source water for that event could be attributed to the Big or Little Wood Rivers and that the water came from the Snake River through the Gooding Milner Canal. Thereafter, the Department focused on the potential recharge through diverting Little Wood water through the Dietrich Canal to a site adjacent to said canal. However, this site was developed for purposes of flood control many years prior to the formation of the Lower Snake Aquifer Recharge District or the filing of application for permit 37-7842. That the proposed place of use adjacent to the Dietrich Canal is owned by the Bureau of Land Management and the only agreement in place for use of the site, either during the developmental period or presently, is for flood

control. Also, the proposed recharge site adjacent to the Dietrich Canal was, neither at the time of the development period nor presently, an approved managed aquifer recharge site. Records for the Big Wood Canal Company merely indicate that excess water was channeled into the Dietrich Canal during the developmental period. However, no records indicate that water was actually diverted from the pre-existing diversion off the Dietrich Canal to the proposed Dietrich recharge site. Further, there is no indication that water was ever diverted through the Dietrich Canal pursuant to permit number 37-7842, rather than for simple flood control. The Department issued its Notice of Issuance of License Number 37-7842 on July 14, 2017. The license provides for the diversion at a rate of 250 cfs, at a total diversion volume of 13,900 af from the Little Wood River for the purposes of ground water recharge with a priority date of August 25, 1980. The Department's actions, in issuing Water Right License No. 37-7842, will result in damages and injuries to Petitioners. See also Petitioners' First Amended Petition for Hearing, and Petition for Declaratory Ruling. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 4

Please describe with particularity the factual basis for your statement in your petition for hearing that: "water under Permit 37-07842 was not put to beneficial use in the prescribed prove up period and lapsed" including every fact and evely document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 4:

Petitioners object to Interrogatory No. 4 in that said interrogatory is generally over broad and unduly burdensome. Further, said interrogatory is unduly burdensome and oppressive, in that

said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to" the statement of fact contained in the Petition, and on the basis that interrogatories are designed to elicit basic facts of the case. Additionally, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: Water under Permit 37-07842 was not put to beneficial use in the prescribed prove up period and lapsed. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 5

Please describe how, pursuant to LC. § 42-1701A(3), you are "aggrieved" by the issuance of water right license 37-7842 including every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 5:

Petitioners object to Interrogatory No. 5 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 5 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is vague and ambiguous, and the Petitioners are unsure of Respondent's definition of "it." Additionally, Petitioners state that said interrogatory is oppressive by

repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: The Department's actions, in issuing Water Right License No. 37-7842, will result in damages and injuries to Petitioners. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 6

If you contend that the priority date listed on the water right license 37-7842 issued by the July 17 Order was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 6:

Petitioners object to Interrogatory No. 6 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 6 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: The priority date for License No. 37-07842 was not accurately advanced following lapse and restatement. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 7

If you contend that the diversion rate and/or volume limitation listed on the water right license 37-7842 issued by the July 17 Order was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 7:

Petitioners object to Interrogatory No. 7 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 7 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: No water was put to beneficial use, under Permit 37-07842, in the prescribed prove up period. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 8

If you contend that the source listed on the water right license 37-7842 issued by the July 17 Order was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that

supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 8:

Petitioners object to Interrogatory No. 8 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 8 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: No water was diverted from the Little Wood River and put to beneficial use, under Permit 37-07842, in the prescribed prove up period. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 9

If you contend that the place of use listed on the water right license 37-7842 issued by the July 17 Order was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 9:

Petitioners object to Interrogatory No. 9 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 9 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that

supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: No water was put to beneficial use at the place of use listed on the Water Right License 37-7842, or at the place of use listed on the Beneficial Use Field Report, in the prescribed prove up period. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 10

If you contend that the points(s) of diversion listed on the water right license 37-7842 issued by the July 17 Order were inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 10:

Petitioners object to Interrogatory No. 10 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 10 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following

facts: No water was diverted from the Little Wood River at the points of diversion listed on the Water Right License 37-7842, or at the points of diversion listed on the Beneficial Use Field Report, pursuant to Permit 37-07842, in the prescribed prove up period. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 11

If you contend that any of the conditions of approval listed on the water right license 37-7842 issued by the July 17 Order were inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 11:

Petitioners object to Interrogatory No. 11 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 11 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is vague and ambiguous, and the Petitioners are unsure of Respondent's definition of "it". Additionally, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the facts listed in Petitioners' Responses to Interrogatories 3-10. Further, the burden is on Respondent to prove that water under Permit 37-07842 was put to

beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Responses to Interrogatories No. 3-10. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 12

If you contend that the water right license 37-7842 issued by the July 17 Order was inadequate, insufficient, inaccurate, or otherwise incorrect in any way other than those ways listed in your answers to Interrogatories 6-12, please describe in what additional way(s) it was inadequate, insufficient, inaccurate, or otherwise incorrect and describe the basis for each contention and identify every fact and every document that supports, contradicts, or in any material way pe1iains to it.

Response to Interrogatory No. 12:

Petitioners object to Interrogatory No. 12 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 12 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is generally vague and ambiguous, and is vague and ambiguous in that Interrogatory No. 12 asks Petitioners to describe how the July 17 Order was inadequate, insufficient, inaccurate, or otherwise incorrect in any way other than those ways listed in Petitioners' Response to Interrogatory No. 12. Additionally, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the facts listed in Petitioners' Responses to Interrogatories 3-10. Further, the burden is on Respondent to

prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Responses to Interrogatories No. 3-10. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 13

If you contend that the water right license review memorandum by Michele Edl dated October 29, 2014 was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 13:

Petitioners object to Interrogatory No. 13 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 13 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: No water was diverted from the Little Wood River to the Dietrich Canal, and no water was diverted from the from the Dietrich Canal, pursuant to Permit 37-7842, in the prescribed prove up period. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 14

If you contend that the place of use listed in the proof of beneficial use submitted by water right examiner Gerald Martens to the Idaho Department of Water Resources ("IDWR") on November 24, 1993 for permit 37-7842 (see Attachment A) was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 14:

Petitioners object to Interrogatory No. 14 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 14 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: Neither field report submitted by Gerald Martens confirmed application of water from the Little Wood River to beneficial use under Permit 37-07842. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 15

If you contend that the source(s) of water listed in the proof of beneficial use submitted by water right examiner Gerald Martens to IDWR on November 24, 1993 for permit 37-7842

(see Attachment A) was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that suppo1is, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 15:

Petitioners object to Interrogatory No. 15 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 15 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: Neither field report submitted by Gerald Martens confirmed application of water from the Little Wood River to beneficial use under Permit 37-07842. The source water for the event described therein was the Snake River. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 16

If you contend that the point(s) of diversion listed in the proof of beneficial use submitted by water right examiner Gerald Martens to IDWR on November 24, 1993 for permit 37-7842 (see Attachment A) was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 16:

Petitioners object to Interrogatory No. 16 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 16 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: Neither field report submitted by Gerald Martens confirmed application of water from the Little Wood River to beneficial use under Permit 37-07842. The common name for the point of diversion listed on the field report is the bifurcation and the quantity of water flowing in the Milner-Gooding Canal at the time of the event described in the field report excluded a reversal of the flow through the bifurcation and any diversion from the Little Wood River. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 17

If you contend that the diversion rate and/or volume limitation listed in the proof of beneficial use submitted by water right examiner Gerald Martens to IDWR on November 24, 1993 for permit 37-7842 (see Attachment A) was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify

every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 17:

Petitioners object to Interrogatory No. 17 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 17 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: Neither field report submitted by Gerald Martens confirmed application of water from the Little Wood River to beneficial use under Permit 37-07842. The diversion rate and volume limitation listed on the proof of beneficial use form submitted by water right examiner Gerald Martens should have been zero in that no water from the Little Wood River was put to beneficial use under Permit 37-07842. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 18

If you contend that any of the data, documentation, or other attachments provided by water right examiner Gerald Martens to IDWR on November 24, 1993 for permit 37-7842 (see Attachment A were inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that

supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 18:

Petitioners object to Interrogatory No. 18 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 18 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: Neither field report submitted by Gerald Martens confirmed application of water from the Little Wood River to beneficial use under Permit 37-07842. Neither report was complete. The reports were inaccurate and Mr. Martens mislabeled two of the columns in his spreadsheet. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 19

If you contend that the analysis for determining the quantity of recharge occurring under permit 37-7842 provided by Gerald Martens to IDWR on November 24, 1993 (see Attachment A) was inadequate, insufficient, inaccurate or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 19:

Petitioners object to Interrogatory No. 19 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 19 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the following facts: Neither field report submitted by Gerald Martens confirmed application of water from the Little Wood River to beneficial use under Permit 37-07842. A proper analysis of the quantity of recharge occurring under permit 37-7842 should have been zero, or none, in that no water from the Little Wood River was put to beneficial use under Permit 37-07842. The burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Interrogatory No. 3. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 20

If you contend that proof of beneficial use submitted by Gerald Martens to IDWR on November 24, 1993 was inadequate, insufficient, inaccurate or otherwise incorrect in any way(s) other than those listed in your answers to Interrogatories 14-19, please describe in what additional way(s) it was inadequate, insufficient, inaccurate or otherwise incorrect and describe the basis for each contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 20:

Petitioners object to Interrogatory No. 20 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 20 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the facts set forth in Response to Interrogatory No. 3. Further, the burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 21

If you contend that any other information, documentation, representation, or analysis regarding proof of beneficial use submitted by Gerald Martens to IDWR prior to November 24, 1993 for water right permit 37-7842 was inadequate, insufficient, inaccurate, or otherwise incorrect in any way, please describe the basis for this contention and identify every fact and every document that supports, contradicts, or in any material way pertains to it.

Response to Interrogatory No. 21:

Petitioners object to Interrogatory No. 21 in that said interrogatory is generally over broad and unduly burdensome. Interrogatory No. 21 is unduly burdensome and oppressive, in that said interrogatory asks Petitioners to identify in detail "every fact and every document that

supports, contradicts, or in any material way pertains to it" and on the basis that interrogatories are designed to elicit basic facts of the case. Further, Petitioners state that said interrogatory is generally vague and ambiguous, and is vague and ambiguous in that Petitioners are unable to identify what "other information" the interrogatory is directed to. Additionally, Petitioners state that said interrogatory is oppressive by repetition. Without waiving said objection, Petitioners state that they have not yet completed their investigation and that they presently rely on the facts set forth in Response to Interrogatory No. 3. Further, the burden is on Respondent to prove that water under Permit 37-07842 was put to beneficial use in the prescribed prove up period, and that all requirements of the law have been fully satisfied. See also Response to Request for Production No. 2. Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 22

Please provides details, including name, address, and phone number of any individual that may have information, facts, documents, or other knowledge of the issues you intend to raise in the hearing.

Response to Interrogatory No. 22:

Petitioners object to Interrogatory No. 22 in that said interrogatory is generally over broad and unduly burdensome. Without waiving said objection, Petitioners sate that they have not yet completed their investigation regarding who may have factual knowledge of this case. To date, Petitioners state they have identified the following individuals who may have knowledge of the facts of this case: William Arkoosh (Petitioner), Allan Ravenscroft (of the Estate of Vernon Ravenscroft, Petitioner), Alan Koyle (of Koyle Hydro, Inc.,

Petitioner), Mitch Arkoosh (of Koosh, Inc., Petitioner), Jack Straubhar (of Shorock Hydro, Inc., Petitioner), John LeMoyne (formerly with the Lower Snake Aquifer Recharge District "LSARD"), Dan McFadden (formerly with LSARD), Earl Hardy (formerly with LSARD), Thorlief Rangen (formerly with the LSARD), John W. Jones Jr. (formerly with LSARD), Gerald Martens (EHM Engineers Inc.), Michele Edl (IDWR), Paul Castelin (formerly with IDWR), L. Glen Saxton (formerly with IDWR), Lynn Harmon (formerly with the Big Wood Canal Company "BWCC"), Dave Stephenson (BWCC), Jane Sabala (BWCC), Kevin Lakey (District 37 Watermaster). Petitioners will supplement, as necessary, as discovery is ongoing.

Interrogatory No. 23

Identify all persons who assisted in the preparation of the responses to these Interrogatories and Requests for Production.

Response to Interrogatory No. 23:

Joseph F. James, of James Law Office, PLLC. Documents were obtained from the files of the Idaho Department of Water Resources.

REQUESTS FOR ADMISSION

Request for Admission No. 1

Admit that water right 37-7943 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7943.

Response to Request for Admission No. 1:

Petitioners admit that Water Right License 37-7943 includes a condition of approval that the rights for the use of water confirmed in the license shall be junior and subordinate to all rights for

the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No. 1.

Request for Admission No. 2

Admit that water right 37-21297 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-21297.

Response to Request for Admission No. 2:

Petitioners admit that Water Right Permit 37-21297 includes a condition of approval that the rights for the use of water confirmed in the license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No. 2.

Request for Admission No. 3

Admit that water right 37-7857 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7857.

Response to Request for Admission No. 3:

Petitioners admit that Water Right Decree 37-7857 includes a condition of approval that the rights for the use of water confirmed in the license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No. 3.

Request for Admission No. 4

Admit that water right 37-7865 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7865.

Response to Request for Admission No. 4:

Petitioners admit that Water Right Decree 37-7865 includes a condition of approval that the rights for the use of water confirmed in the license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No. 4.

Request for Admission No. 5

Admit that water right 37-7922 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7922.

Response to Request for Admission No. 5:

Petitioners admit that Water Right Decree 37-7922 includes a condition of approval that the rights for the use of water confirmed in the license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No. 5.

Request for Admission No. 6

Admit that water right 37-7889 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the

priority date of right 37-7889.

Response to Request for Admission No. 6:

Petitioners admit that Water Right Decree 37-7889 includes a condition of approval that the rights for the use of water confirmed in the license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No. 6.

Request for Admission No. 7

Admit that water right 37-7916 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7916.

Response to Request for Admission No. 7:

Petitioners admit that Water Right Decree 37-7916 includes a condition of approval that the rights for the use of water confirmed in the license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No.7.

Request for Admission No. 8

Admit that water right 37-8096 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-8096.

Response to Request for Admission No. 8:

Petitioners admit that Water Right Decree 37-8096 includes a condition of approval that the

rights for the use of water confirmed in the license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No. 8.

Request for Admission No. 9

Admit that water right 37-8251 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-8251.

Response to Request for Admission No. 9:

Petitioners admit that Water Right Decree 37-8251 includes a condition of approval that the rights for the use of water confirmed in the license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No. 9.

Request for Admission No. 10

Admit that water right 37-7869 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7869.

Response to Request for Admission No. 10:

Petitioners have insufficient knowledge to form a belief as to Water Right 37-7869. Petitioners therefore deny Request for Admission No. 10.

Request for Admission No. 11

Admit that water right 37-7911 confirmed for hydropower purposes is junior and subordinate

to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-7911.

Response to Request for Admission No. 11:

Petitioners admit that Water Right Decree 37-7911 includes a condition of approval that the rights for the use of water confirmed in the license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No. 11.

Request for Admission No. 12

Admit that water right 37-8113 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-8113.

Response to Request for Admission No. 12:

Petitioners admit that Water Right Permit 37-8113 includes a condition of approval that the rights for the use of water confirmed in the license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No. 12.

Request for Admission No. 13

Admit that water right 37-8262 confirmed for hydropower purposes is junior and subordinate to all rights for the use of water other than hydropower initiated later in time than the priority date of right 37-8262.

Response to Request for Admission No. 13:

Petitioners admit that Water Right Permit 37-8262 includes a condition of approval that the rights for the use of water confirmed in the license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of the right. Petitioners, deny any other allegation contained in Request for Admission No. 13.

REQUESTS FOR PRODUCTION

Request for Production No. 1

Produce all documents identified in response to or relied on in preparing your responses to the interrogatories above.

Response to Request for Production No. 1:

In addition to the pleadings in the above captioned matter, Petitioners relied on the documents contained in the Idaho Department of Water Resources file. Attached hereto is Response to Request for Production No. 1. Petitioners will supplement as necessary, as discovery is ongoing.

Request for Production No. 2

Produce all documents and exhibits you intend to rely upon at hearing in this matter or at any other stage of this proceeding.

Response to Request for Production No. 2:

Petitioners state that they have not made a final determination as to what documentary evidence they may seek to introduce at trial in this matter. Petitioners may seek the introduction of any documents produced herewith. See Response to Request for Production No. 1. Petitioners may also seek to introduction of any documents produced by the Respondent's, or exchange between the parties and/or counsel, formally or informally. Petitioners will supplement as necessary and that discovery is ongoing.

Request for Production No. 3

For each person identified in your response to Interrogatory No. 2 as an expert witness, produce: a complete statement of all opinions to be expressed and the basis and reasons therefore; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; any qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

Response to Request for Production No. 3:

None at this time. Petitioners will supplement as necessary, as discovery is ongoing.

DATED this 21st day of May, 2018.

JAMES LAW OFFICE, PLLC

Joseph F. James

CERTIFICATE OF SERVICE

I certify that on May 21, 2018, I emailed a true and correct copy of the foregoing Petitioner's PETITIONERS FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION AND ADMISSION, to the persons listed below:

Ann Y. Vonde
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010
Ann.vonde@ag.idaho.gov

Dana Wilkins

EXHIBIT D

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 37-07943

Priority: September 23, 1981

Maximum Diversion Rate: 490.00 CFS
Maximum Diversion Volume: 319,000.0 AF

It is hereby certified that FIRST SECURITY BANK N A
3295 ELDER ST #420
BOISE ID 83705
has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated September 23, 1981; and has submitted Proof of Beneficial Use on September 04, 1990. An examination indicates that the works have a diversion capacity of 490 cfs of water from:

SOURCE
LITTLE WOOD RIVER **Tributary:** MALAD RIVER

and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE	ANNUAL DIVERSION VOLUME
POWER	01/01 to 12/31	490.00 CFS	319,000.0 AF

LOCATION OF POINT(S) OF DIVERSION:
LITTLE WOOD RIVER SE¼NW¼NE¼ Sec. 28, Twp 05S, Rge 16E, B.M. LINCOLN County

PLACE OF USE: POWER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S 16E 28								X									

CONDITIONS OF APPROVAL

1. The issuance of this right does not grant any right-of-way or easement across the land of another.
2. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
3. The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.
4. Use of water under this right shall be non-consumptive.
5. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37M.

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 37-07943

CONDITIONS OF APPROVAL CONTINUED

6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

7. The diversion and use of water for hydropower purposes under this license is subject to review by the Director on or after August 5, 2021. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 3rd day of August, 2005.

David R Tuthill Jr
for KARL J. DREHER
Director

EXHIBIT E

State of Idaho
Department of Water Resources

Amendment of Permit

NO. 37-21297

Priority: April 22, 2004 Maximum Diversion Rate: 500.00 CFS

This is to certify, that WILLIAM ARKOOSH
2005 US HWY 26
GOODING ID 83330

has applied for an amendment of a permit and the amendment is APPROVED for development of water as follows:

Source: LITTLE WOOD RIVER **Tributary:** MALAD RIVER

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
POWER	01/01 to 12/31	500.00 CFS	

LOCATION OF POINT(S) OF DIVERSION:

LITTLE WOOD RIVER NE1/4NE1/4 Sec. 26, Twp 05S, Rge 16E, B.M.
LINCOLN County

PLACE OF USE: POWER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
05S 16E 26								X									

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2013.**

2. Subject to all prior water rights.

3. The rights for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

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

5. The diversion and use of water under this right and any license subsequently issued is subject to review by the Director on the date(s) of expiration of any license issued by the Federal Energy Regulatory Commission. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

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

7. Use of water under this right shall be non-consumptive.

State of Idaho
Department of Water Resources

Amendment of Permit

NO. 37-21297

8. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37-M.

9. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.

10. Prior to diverting water under this right, the right holder shall install a meter and data logger to record fluctuations in the diversion rate. The data logger does not need to record actual flow rates in cfs, but shall indicate relative diversion rates. The meter and data logger must be acceptable to the Department and the watermaster.

11. The right holder shall install and maintain standard meters and data loggers to measure and record the amount of electric energy generated by the project works and the effective head on the turbines. The right holder shall also rate the turbine output in kilowatts compared to flow in a manner acceptable to the Department and the watermaster and shall report monthly kilowatt output and other information as directed by the Department and/or watermaster.

12. Within 21 days of the initial diversion and use of water in connection with this right, the right holder shall submit to the Department a report by a qualified hydrologist or engineer describing any leaks in the feeder canal and/or tailrace canal and a plan for sealing any leaks that are detected so that the feeder and tailrace canals do not lose more water than would be lost in the corresponding reach of the Little Wood River. If any leaks are detected, the right holder shall cease diverting and using water until the Department has determined that the leaks do not result in a greater loss of water than would occur in the corresponding reach of the Little Wood River or the Department has approved the right holder's plan for sealing the leaks and the leaks have been sealed. Within 21 days from the resumption of the diversion and use of water after efforts to seal a leak or leaks, the right holder shall submit to the Department a report by a qualified hydrologist or engineer showing that the leaks have been sealed. Furthermore, at such time in the future as the Director determines necessary to protect the prior rights of other users, the Director may require determination of the rate of loss in the system using a procedure approved by the Director, and may require sealing of any leaks or mitigation for all system losses.

13. The right holder shall operate in run-of-river mode only and shall act to minimize the fluctuation of streamflow immediately downstream of the location where water is discharged into the Little Wood River. The director retains jurisdiction to order changes in the operation of the system, up to and including equipment modifications and/or the curtailment of diversions, to minimize the impact to downstream water users.

14. The right holder shall maintain an instantaneous minimum bypass flow of the following amounts in the Little Wood River past the point of diversion and the point of return flow for this right.

January	13 cfs
February	13 cfs
March	13 cfs
April	42 cfs
May	55 cfs
June	48 cfs
July	35 cfs
August	36 cfs
September	36 cfs

State of Idaho
Department of Water Resources

Amendment of Permit

NO. 37-21297

October 13 cfs
November 13 cfs
December 13 cfs

During any year when the Surface Water Supply Index (SWSI) published by the United States Department of Agriculture, Natural Resources Conservation Service, indicates as of April 1 that the flows in the Little Wood River are likely to be below average (a negative SWSI number), the required minimum bypass flow during the months of April through September is 13 cfs. During state-declared drought emergency conditions the right holder can request from Idaho Department of Fish and Game (IDFG) that the required instantaneous minimum flow be reduced o no less than 10 cfs. The right holder must obtain written permission from Idaho Department of Fish and Game before an instantaneous minimum flow of no less than 10 cfs is authorized. Within 10 days of receiving the written correspondence from Idaho Department of Fish and Game, the right holder shall file it with the Department and the water district.

Should the USDA cease to publish the SWSI for the Little Wood River, the right holder shall establish an alternative method for determining when flows in the Little Wood River are likely to be below average. The alternative method shall be subject to the approval of the Department.

The bypass flow may be temporarily modified if required by operating emergencies beyond the control of the right holder, and for short periods upon agreement between the right holder, IDFG, Idaho Department of Environmental Quality, the U S Fish and Wildlife Service, and Idaho Department of Water Resources.

15. Prior to diversion of water under this right, the right holder shall provide a means of measurement acceptable to the Department for measuring the flow in the Little Wood River to insure the bypass flow required by this right. The measuring device(s) shall be available for inspection by the Department, the watermaster, and/or Idaho Department of Fish and Game officials at all times. The right holder shall pay the costs of installing and maintaining the measuring device(s) or other means of measurement.

16. The right holder shall report daily average bypass flows for the prior calendar year to the watermaster by January 15 each year. The Department reserves jurisdiction to require reporting on a more frequent basis, not to exceed four reports annually.

This amendment of permit is issued pursuant to the provisions of Section 42-211, Idaho Code. Witness the signature of the Director, affixed at Boise, this 3rd day of November, 20 09.

For GARY SPACKMAN, Interim Director

EXHIBIT F

RECEIVED
MAR 10 2010
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
MAR - 9 2010
By _____ Clerk
Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	
	)	**ORDER OF PARTIAL DECREES**
Case No. 39576	)	
	)	**Subcases: 37-07857, 37-07865 & 37-07922**
	)	**(Ravenscroft)**
	)	
	)	

On January 25, 2010, a ***Special Master's Report and Recommendation*** was filed for the above-captioned water rights. No Challenges were filed to the ***Special Master's Report and Recommendation*** and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and ***SRBA Administrative Order 1***, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the ***Special Master's Report*** and wholly adopts them as its own.

Therefore, IT IS ORDERED that the above-captioned water rights are hereby **decreed** as set forth in the attached ***Partial Decrees Pursuant to I.R.C.P. 54(b)***.

DATED March 9, 2010.

ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 37-07857

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR - 9 2010

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: HARRIETT B RAVENSCROFT
VERNON F RAVENSCROFT
1331 SHOE STRING RD
BLISS, ID 83314-5119

SOURCE: MALAD RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 20.00 CFS
10948.90 AFY

PRIORITY DATE: 09/25/1980

The rights for the use of water confirmed in this right shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T06S R14E S28 SWNW Within Gooding County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Power	01-01 TO 12-31	20.00 CFS 10948.90 AFY

Use of water under this right shall be non-consumptive.

PLACE OF USE: Power Within Gooding County
T06S R14E S29 NWSW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The right holder shall operate in run-of-river mode only and shall act to minimize the fluctuation of streamflow immediately downstream of the location where water is discharged into the Malad River.
The diversion and use of water for hydropower purposes under this right is subject to review by the Director on or after May 1, 2018. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 37-07865

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR - 9 2010

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: HARRIETT B RAVENSCROFT
VERNON F RAVENSCROFT
1331 SHOE STRING RD
BLISS, ID 83314-5119

SOURCE: MALAD RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 130.00 CFS
67500.00 AFY

PRIORITY DATE: 11/05/1980

The rights for the use of water confirmed in this right shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T06S R14E S28 SWNW Within Gooding County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Power	01-01 TO 12-31	130.00 CFS 67500.00 AFY

Use of water under this right shall be non-consumptive.

PLACE OF USE: Power Within Gooding County
T06S R14E S29 NWSW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The right holder shall operate in run-of-river mode only and shall act to minimize the fluctuation of streamflow immediately downstream of the location where water is discharged into the Malad River.
The diversion and use of water for hydropower purposes under this right is subject to review by the Director on or after May 1, 2018. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 37-07922

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR - 9 2010

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: HARRIETT B RAVENSCROFT
VERNON F RAVENSCROFT
1331 SHOE STRING RD
BLISS, ID 83314-5119

SOURCE: MALAD RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 50.00 CFS
23400.00 AFY

PRIORITY DATE: 07/10/1981

The rights for the use of water confirmed in this right shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T06S R14E S28 SWNW Within Gooding County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Power	01-01 TO 12-31	50.00 CFS 23400.00 AFY

Use of water under this right shall be non-consumptive.

PLACE OF USE: Power Within Gooding County
T06S R14E S29 NWSW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The right holder shall operate in run-of-river mode only and shall act to minimize the fluctuation of streamflow immediately downstream of the location where water is discharged into the Malad River.

The diversion and use of water for hydropower purposes under this right is subject to review by the Director on or after May 1, 2018. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREES was mailed on March 09, 2010, with sufficient first-class postage to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

HARRIETT B RAVENSCROFT
VERNON F RAVENSCROFT
1331 SHOE STRING RD
BLISS, ID 83314-5119
Phone: 208-345-2670

Julie Murphy
Deputy Clerk

EXHIBIT G

2006 SEP 21 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 37-07889

NAME AND ADDRESS: KOYLE HYDRO INC
1774 S 1500 E
GOODING, ID 83330

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER
LITTLE WOOD RIVER TRIBUTARY: MALAD RIVER

Bypass flows in the Big Wood River and Little Wood River must be maintained at sufficient levels to ensure protection of fish, wildlife, aquatic and riparian values.
Point of injection into and point of rediversion from the Big Wood River.

QUANTITY: 20.00 CFS
14479.60 AFY

Any loss of water to the Big Wood River or the Little Wood River resulting from conveyance and use pursuant to this right shall be mitigated with replacement water.

PRIORITY DATE: 03/09/1981

The water right confirmed in this partial decree for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION:

T05S R14E S28	SWSWSE	Within Gooding County
	SWSWSE	(Rediversion)
R15E S31 LOT 2	(NESWNW)	(Injection)
T06S R15E S06	NWSWNE	

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Power	01-01 TO 12-31	20.00 CFS 14479.60 AFY

PLACE OF USE: Power — Within Gooding County
T05S R14E S33 NESE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Use of water under this right shall not cause fluctuation in the flows of the Malad River which impairs the ability of prior right holders to divert their water.
The diversion and use of water under this right is subject to review by the Director 25 years from the date of issuance of License 37-7889. (License 37-7889 was issued November 10, 1992.) Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which this right may be exercised.
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT

OTHER PROVISIONS (continued)

ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

EXHIBIT H

2006 SEP 21 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 37-07916

NAME AND ADDRESS: KOYLE HYDRO INC
1774 S 1500 E
GOODING, ID 83330

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER
LITTLE WOOD RIVER TRIBUTARY: MALAD RIVER

Point of injection into and point of rediversion from the Big Wood River.
Bypass flows in the Big Wood River and Little Wood River must be maintained at sufficient levels to ensure protection of fish, wildlife, aquatic and riparian values.

QUANTITY: 280.00 CFS
116179.50 AFY

Any loss of water to the Big Wood River or the Little Wood River resulting from conveyance and use pursuant to this right shall be mitigated with replacement water.

PRIORITY DATE: 06/15/1981

The water right confirmed in this partial decree for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION:

T05S R14E S28	SWSWSE	Within Gooding County
	SWSWSE	(Rediversion)
R15E S31 LOT 2	(NESWNW)	(Injection)
T06S R15E S06	NWSWNE	

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Power	01-01 TO 12-31	280.00 CFS 116179.50 AFY

PLACE OF USE: Power — Within Gooding County
T05S R14E S33 NESE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The diversion and use of water under this right is subject to review by the Director 25 years from the date of issuance of License 37-7916. (License 37-7916 was issued November 10, 1992.) Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which this right may be exercised.
Use of water under this right shall not cause fluctuation in the flows of the Malad River which impairs the ability of prior right holders to divert their water.
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT

OTHER PROVISIONS (continued)

ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

EXHIBIT I

2006 SEP 21 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 37-08096

NAME AND ADDRESS: NOTCH BUTTE HYDRO CO INC
2283 WRIGHT AVE STE D
TWIN FALLS, ID 83301

SOURCE: LITTLE WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 300.00 CFS
217000.00 AFY

PRIORITY DATE: 05/04/1983

The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T05S R17E S32 NWNENE Within Lincoln County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Power	01-01 TO 12-31	300.00 CFS 217000.00 AFY

PLACE OF USE: Power Within Lincoln County
T05S R17E S29 SWSE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The diversion and use of water for hydropower purposes under this license is subject to review by the Director on or after November 26, 2010. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

EXHIBIT J

2006 SEP 21 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 37-08251

NAME AND ADDRESS: NOTCH BUTTE HYDRO CO INC
2283 WRIGHT AVE STE D
TWIN FALLS, ID 83301

SOURCE: LITTLE WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 157.00 CFS
114000.00 AFY

PRIORITY DATE: 10/28/1985

The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T05S R17E S32 NWNENE Within Lincoln County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Power	01-01 TO 12-31	157.00 CFS 114000.00 AFY

PLACE OF USE: Power Within Lincoln County
T05S R17E S29 SWSE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The diversion and use of water for hydropower purposes under this license is subject to review by the Director on or after November 26, 2010. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

EXHIBIT K

2006 SEP 21 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 37-07863

NAME AND ADDRESS: BETTY VEEH
ROBERT E VEEH
3268 HIGHLAWN DR
TWIN FALLS, ID 83301

SHOROCK HYDRO INC
JOHN J STRAUBHAR
PO BOX 1787
TWIN FALLS, ID 83301-1787

SOURCE: LITTLE WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 60.00 CFS
43400.00 AFY

PRIORITY DATE: 10/31/1980

The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T05S R17E S33 NENENW Within Lincoln County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Power	01-01 TO 12-31	60.00 CFS 43400.00 AFY

PLACE OF USE: Power Within Lincoln County
T05S R17E S32 NENE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The diversion and use of water for hydropower purposes under this license is subject to review by the Director on or after June 21
2017. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

EXHIBIT L

2006 SEP 21 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 37-07911

NAME AND ADDRESS: BETTY VEEH
ROBERT E VEEH
3268 HIGHLAWN DR
TWIN FALLS, ID 83301

SHOROCK HYDRO INC
JOHN J STRAUBHAR
PO BOX 1787
TWIN FALLS, ID 83301-1787

SOURCE: LITTLE WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 60.00 CFS
43400.00 AFY

PRIORITY DATE: 05/07/1981

The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

POINT OF DIVERSION: T05S R17E S33 NENENW Within Lincoln County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Power	01-01 TO 12-31	60.00 CFS 43400.00 AFY

PLACE OF USE: Power Within Lincoln County
T05S R17E S32 NENE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The diversion and use of water for hydropower purposes under this license is subject to review by the Director on or after June 21
2017. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

EXHIBIT M

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 37-08113 AND 37-08262 IN THE NAME OF SHOROCK HYDRO INC.	)	**FINAL ORDER**

Applications for Permit Nos. 37-08113 and 37-08262 were filed with the Department of Water Resources (Department) by Shorock Hydro, Inc. on June 2, 1983, and March 4, 1986, respectively.

Application for Permit No. 37-08113 seeks to appropriate 180 cfs of water of the Little Wood River by diversion through an existing canal from a point in the NE¼NW¼ Section 33 T. 5S R. 17E and to convey the water in the canal to a penstock and hydroelectric power plant from which it would be returned to the Little Wood River at a point in the NE¼NE¼ Section 32 T. 5S R. 17E. The water is to be diverted and used year round for power generation purposes.

Application for Permit No. 37-08262 seeks to appropriate 120 cfs of water of the Little Wood River for the same hydroelectric project.

Application for Permit No. 37-08113 was protested by the following: Kenneth Ohlinger, Fred and Judy Brossy (represented by Richard Simms and James Kennedy), Idaho Rivers United (represented by Laird Lucas) and the Idaho Department of Fish and Game (represented by Dallas Burkhalter) and Conversion Industries, Inc. Application for permit no. 37-08262 was not protested.

On January 25, 1994, the Department issued an order limiting testimony, in this proceeding. The order applies federal law to preclude the Department from considering any of the criteria of Section 42-203A, Idaho Code, except for injury to other water rights. The sufficiency of the water supply could also be considered if the proposed diversion of water would reduce the supply of water to other water users.

Fish & Game and Idaho Rivers United both intended to present evidence regarding the local interest criterion. The pre-hearing ruling by the Department excluded the public interest criterion from consideration. After the ruling both Fish & Game and Idaho Rivers

SEP 21 1994

United stated they did not want to present any testimony regarding the injury or sufficiency of water criteria, but wanted to preserve their status as parties for purposes of appeal.

Brossy and Ohlinger are water users located downstream from the hydropower facility. They protested alleging possible future injury. After negotiation, Brossy and Ohlinger conditionally withdrew their protests upon imposition of express conditions in any Department approval. The other parties were privy to these negotiations. Conversion Industries, Inc. withdrew its protest.

The Director has reviewed the applications and the record in this matter. The Director finds and concludes based upon the file, including the Department order of January 25, 1994, that the applications satisfy the criteria of Section 203A, Idaho Code, including the injury and sufficiency of water criteria left for specific Department review.

ORDER

IT IS HEREBY ORDERED that applications for permit nos. 37-08262 and 37-08113 are **APPROVED** subject to the following conditions:

1. To protect downstream water users, a bypass mechanism shall be constructed in the immediate proximity of the power turbines, which will immediately bypass instantaneous flows around the power turbines when the flow through any turbine, either previously constructed or newly constructed, is prevented by shut down, failure, or any other reason. The Director retains jurisdiction to require modifications to the bypass mechanism if determined necessary to protect the prior rights of other water users.

2. To protect downstream water users, flushing flows required by the FERC license and Section 404 permit, and associated ramping, shall occur from 8:00 a.m. to 12:00 noon on Wednesdays, or at other times agreed to by the parties. The Department retains jurisdiction to evaluate, restrict, curtail or prevent flushing flows, or any flow rate fluctuations, and associated ramping, if the Department finds that the fluctuations in flow are injuring other water users. The condition is limited to the Department's authority to protect proprietary rights, and does not attempt to usurp authority over the FERC or Section 404 process.

3. This approval does not create a water right recognizing flushing flows as a beneficial use of water.

4. The Department acknowledges the existence of an agreement which resulted in a withdrawal of protests. If the agreement is breached, the parties must enforce their own rights and remedies, unless the breach violates a condition of the permit or state law.

5. The issuance of these rights in no way grants any right-of-way or easement across the land of another.

SEP 21 1994

6. Use of water under these rights is subject to control by the watermaster of State Water District No. 37M.

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

8. Use of water under these rights shall be non-consumptive. At such times in the future as he may determine necessary to protect the prior rights of other users, the Director may require determination of the rate of loss within the system using a procedure approved by the Director, and may require mitigation for all system losses.

9. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.

10. The diversion and use of water under these rights and any licenses subsequently issued is subject to review by the Director on the date(s) of expiration of any license issued by the Federal Energy Regulatory Commission. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the rights may be exercised.

11. The rights for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

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

13. A separate stream alteration permit from the IDWR is required for any activity in the stream channel other than construction and/or maintenance of the diversion structure. If the proposed construction or operation involves construction of an outfall or any other work in the stream channel other than a water diversion, the right holder shall contact the Department and obtain a Stream Channel Alteration permit prior to the start of construction. Construction or modification of a water diversion structure for the project shall not be commenced without prior design approval by the Director to ensure that the rights of other water users will not be adversely affected.

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14. This right does not constitute Idaho Public Utilities Commission, Idaho Division of Environmental Quality or Federal Energy Regulatory Commission approval that may be required.

DATED this 30th of June, 1994.

R. KEITH HIGGINSON
Director

SEP 21 1994

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of June, 1994, I mailed a true and correct copy, postage prepaid, of the foregoing **FINAL ORDER** to the following:

John J. Straubhar
Shorock Hydro, Inc.
P.O. Box 1787
Twin Falls, ID 83303

Fred and Judy Brossy
P.O. Box 424
Shoshone, ID 83352

Laird Lucas
Land Water of the Rockies
P.O. Box 1612
Boise, ID 83701

Mitch Arkoosh
Conversion Industries, Inc.
714 3rd. Ave. E
Gooding, ID 83330

Kenneth Ohlinger
1951 E. 1775 S.
Gooding, ID 83330

J. Evan Robertson
Rosholt, Robertson, Tucker
P.O. Box 1906
Twin Falls, ID 83303

Carl Nellis
Dept. of Fish and Game
P.O. Box 428
Jerome, ID 83338

Marti Bridges
Idaho Rivers United
P.O. Box 633
Boise, ID 83702

IDWR - Southern Region
222 Shoshone St. E
Twin Falls, ID 83301-6105

W. Dallas Burkhalter
Dept. of Fish and Game
Statehouse Mial
Boise, ID 83720

Julie L. Yarbrough
JULIE L. YARBROUGH
Senior Secretary

SEP 21 1994