



State of Idaho

DEPARTMENT OF WATER RESOURCES

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February 4, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

STEVE HARMSSEN
HK HYDRO
26 N STATE ST
SALT LAKE CITY UT 84103

RE: Additional Information Request Permit Nos. 47-7700 and 47-7702

Dear Mr. Harmsen:

I have been assigned to review the above permits and associated documents and if possible, to issue water right licenses. This review is required to determine whether there was sufficient evidence of beneficial use established by the proof due date and if so, to quantify the use. This letter summarizes what I have found to date and highlights those areas where the Idaho Department of Water Resources (IDWR) needs more information before it can effectively complete the processing of these water rights.

In addition to the documents available in the IDWR back-files for these two permits, I made document inquiries at the Idaho Public Utilities Commission (PUC) library here in Boise and from the Federal Energy Regulatory Commission (FERC) electronic library.

Allen Merritt (Engineer Manager at IDWR's Southern Region office) completed the field exam of the contemporary facilities in 2005 and forwarded his findings and calculations to Boise in 2008. Mr. Merritt found beneficial use and I concur with his findings. However, the Proof of Beneficial Use (proof) statements for both of these permits were submitted in 1987. There is evidence in FERC records associated with this project, that the current generation facilities are considerably different than what would have been in place in the mid 1980s. I have a statutory requirement to issue a license based on the beneficial use that was established at the time the two "proof" statements were submitted. Which means I need information from Fall 1981 to Summer 1987. I have located some information in PUC and FERC libraries from that required time frame. But I still lack the pump/turbine and water quantity data which would make licensing easy. I am hoping you can fill in some of the gaps.

The permit files include equipment inventories from Zions Leasing which were provided with the Skeem bankruptcy documents (late 1986). They are not specific enough for me to determine either the generation or hydraulic capacities of the plant. I am required to provide a capacity on the license. You may have access to more complete descriptions or specifications of that leased equipment than I have been able to locate.

The PUC had copies of the sales agreements between Mud Creek Hydro and Idaho Power Company, and copies of letters from Idaho Power Company to the Skeems concerning the Mud

Creek plant's performance and safety. In those documents, I found reference to reporting and certification requirements that Idaho Power expected from the Skeems in order to keep Mud Creek Hydro as a co generation partner.

If you have access to any of the following documents I would be very interested in viewing them

- 1) The engineer's statement that certified that the equipment and design were in compliance with the sales agreement and with standard electrical practice. This requirement was made by Idaho Power in 1984 before Mud Creek Hydro could be reconnected to the grid.
- 2) Long-term historical water flow records that were made available for the 1985 Sales agreement. I believe that water flows have diminished since the Mud Creek plant was brought online. The full extent of beneficial use would be best established using the higher, historical flows.
- 3) Designs, plans, specifications and performance data for the facility. This requirement was made by Idaho Power in the 1985 sales agreement, to verify equipment sizing and compatibility.
- 4) Maintenance and Operation schedules from which equipment sizes and capabilities could be gleaned.

Because the Mud Creek Hydro project has had colorful past, it is likely that if these documents still exist, they are not close at hand. An outside engineering consultant may have been responsible for meeting Idaho Powers requirements. I would appreciate it if you would please put me in contact with that consultant/engineer. Or failing that, submit a request to Idaho Power for copies of the documents that they may have.

I understand that SRBA court hearings on these two permits are scheduled for this coming June. I would like to be able to provide licenses by that date. I do not have sufficient information to make that goal easy to meet. At the very least, this letter provides you a status update and helps me to establish contact with the interested parties. Feel free to contact me with questions.

Sincerely,



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