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DEPARTMENT OF
WATER RESOURCES

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UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of Application for Minor) Project No. 12063-001
License by William Arkoosh for the)
Little Wood River Ranch II.) STATE OF IDAHO AGENCIES'
) COMMENTS AND TERMS AND
) CONDITIONS
_____)

TO: MAGALIE R. SALAS, SECRETARY, FEDERAL ENERGY REGULATORY
COMMISSION.

On October 17, 2003, William Arkoosh, ("applicant") filed an application with the Federal Energy Regulatory Commission ("Commission") for a minor license for the proposed Little Wood River Ranch II Project, to be located on the Little Wood River in Lincoln County, Idaho. On February 6, 2004, five agencies of the State of Idaho filed a motion to intervene in the licensing process. These agencies include the Idaho

Department of Fish and Game ("IDFG"), Idaho Department of Parks and Recreation ("IDPR"), Idaho State Board of Land Commissioners ("Land Board"), Idaho Water Resource Board ("Water Board"), and the Idaho Department of Environmental Quality ("IDEQ"). On February 10, 2004, the Commission issued a Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions. The IDFG and IDEQ, by and through their undersigned counsel, Harriet A. Hensley, Deputy Attorney General, hereby respectfully submit to the Commission Comments and Terms and Conditions for the above-referenced project. Pursuant to 18 C.F.R. 385.2001(a)(1)(iii), this document has been filed electronically with the Federal Energy Regulatory Commission this date and thus all requirements for file copies have been met.

I. TERMS AND CONDITIONS OF THE IDAHO DEPARTMENT OF FISH AND GAME

A. Aquatic Resources

Habitat degradation resulting from floodplain development, irrigation diversions, livestock grazing, and hydropower development has adversely impacted wild trout populations and fish habitat within the project area of the Little Wood River ("LWR"). Currently, the lower reaches of the LWR provide marginal spawning and rearing habitat for native salmonids. However, winter habitat conditions may be suitable and with riparian restoration and enhancement, habitat conditions could improve and support trout populations in the future.

In 1993, the IDFG electrofished approximately 400 meters of the LWR upstream of the project area (Township 15 South, Range 15 East, Section 28) with a single run of electrofishing. The sample included 672 fish with brown trout (*Salmo trutta*) comprising

1.3% (n=9) of the sample and rainbow trout (*Oncorhynchus mykiss*) 0.3% (n=2) of the sample. Other species sampled include bridgelip sucker (*Catostomus columbianus*), Utah sucker (*Catostomus ardens*), Utah chub (*Gila atraria*), carp (*Cyprinus carpio*), redbside shiner (*Richardsonius balteatus*), and dace species (*Rhinichthys* spp.). Smallmouth bass (*Micropterus dolomieu*) are also prevalent in the project area. Subsequent surveys by IDFG in segments further upstream have not revealed additional species.

The IDFG Fisheries Management Plan 2001-2006 (2001) provides that the LWR from the confluence with the Big Wood River upstream to Shoshone (Milner-Gooding Canal) will be managed as a warmwater fishery. Specifically, the agency's current management direction for this reach of the river is to maintain a smallmouth bass fishery. However, the IDFG's long-range management objectives will be revised as habitat conditions improve. Accordingly, the Fisheries Management Plan emphasizes maintaining existing aquatic habitat and improving degraded stream habitats in the project area reach of the LWR.

B. Terrestrial Resources

The project area supports a small resident population of mule deer (*Odocoileus hemionus*) and potentially pronghorn antelope (*Antilocapra americana*) and elk (*Cervus canadensis*). The project area falls within a pronghorn antelope and mule deer migration corridor and has been designated as mule deer winter range by the IDFG.

The project area is within bald eagle (*Haliaeetus leucocephalus*) winter range. In January 2004, an immature bald eagle was observed approximately 4 miles downstream of the project area.

Riparian habitats associated with the LWR provide breeding, nesting, and roosting habitat for migratory songbirds, waterfowl, shorebirds, small mammals, reptiles, and amphibians.

C. Terms and Conditions

The applicant and the IDFG are in general agreement regarding the mitigation measures necessary to protect aquatic and terrestrial resources and reduce or avoid adverse effects resulting from construction and operation of the project. The IDFG submits the following terms and conditions for the Little Wood River Ranch II Project:

1. The project will be operated so as to maintain a prescribed bypass flow regime.

It is understood that the project will be operated in a run-of-the-river mode and will not alter the amount or timing of water delivery to water users. Accordingly, the bypass flow requirements outlined below will not require the applicant to take any action inconsistent with the delivery of state-issued water rights.

Month	Bypass Flow (cfs)
January	13
February	13
March	13
April	*13/42
May	*13/55
June	*13/48
July	*13/35
August	*13/36
September	*13/36
October	13
November	13
December	13

*The lower flow of 13 cfs would apply only during drought conditions.

When flows in the LWR system fall below average due to drought conditions, a bypass flow of 13 cubic feet per second (cfs) will be maintained in the bypass reach, with

that portion of inflow that exceeds 13 cfs available for project operation. The applicant has also proposed the concept of “flow sharing” during prolonged or extreme drought conditions. The IDFG will consider an alternative bypass flow of no less than 10 cfs only during a state-declared drought emergency in the LWR drainage. Before any deviation from the mandatory bypass flow of 13 cfs can take effect, the applicant shall submit a letter to the IDFG requesting that “flow sharing” be implemented. The IDFG will evaluate the potential effect of a reduction in flow below 13 cfs on aquatic resources and must concur in writing before any decrease in the bypass flow is implemented.

The IDFG has considered and rejected alternative bypass flow requirements. The IDFG recognizes that required bypass flows at other hydropower projects on the LWR and lower Big Wood River are in some instances less than those proposed by the applicant and approved by IDFG for the Little Wood River Ranch II Project. However, those minimal bypass flows are considered to be bare subsistence flows and in most instances are not adequate to protect aquatic and riparian resources. Subsistence flows are not acceptable at the Little Wood River Ranch II Project. Therefore, when the “flow sharing” regime is in place, if available flow is 10 cfs or less, the project will not operate and the applicant will take steps to ensure that all available inflow of 10 cfs or less remains in the bypass reach.

2. The applicant will install an automated, continuous flow-monitoring device in the bypass reach to assure that the bypass flow is being released as required.
3. The applicant will implement riparian restoration and enhancement measures along the project reach and the reach affected by the applicant's existing project (Little Wood River Ranch I, FERC No 7530).

Due to the current degraded habitat conditions and depressed status of native trout in the LWR, the IDFG is not requiring implementation of fish passage measures to prevent entrainment at the project. Instead, the applicant has agreed to implement mitigation measures on applicant-owned lands. The following mitigation measures are designed to restore and enhance the degraded riparian community to benefit terrestrial species in the project area.

- a. Removal of Russian olive trees and other non-native plant species.
 - b. Planting of native trees, shrubs, and grasses. Only native plants approved by the IDFG will be used for restoration and enhancement efforts.
 - c. Fencing will be installed to limit livestock access to the riparian zone. Limiting livestock access will enhance the health of the riparian zone and increase its value for native animals. Fencing should meet specified criteria to facilitate wildlife movement through the project area and water gaps for livestock will be permitted. The applicant will consult with the IDFG regarding the location, size, and number of water gaps and fencing criteria.
 - d. In consultation with the IDFG, the applicant will develop a 5-year plan and timetable for implementation of restoration and enhancement measures. The applicant, in consultation with the IDFG, will develop a monitoring protocol to evaluate the effectiveness of mitigation measures in the riparian corridor. The monitoring plan will identify a target level of native plant reestablishment that includes woody and herbaceous species composition and cover that improves the riparian zone for wildlife and provides shade over the river channel.
 - e. The applicant will develop a plan for long-term monitoring and control of noxious and invasive plant species.
4. The applicant will develop a plan for the design and construction of above ground transmission lines that meet criteria provided by the IDFG. Soil and vegetation disturbance associated with transmission facility construction will be rehabilitated using native plant materials as prescribed by the IDFG.
 5. The project area supports resident and migratory big game populations. The power canal, depending on its design, should be fitted with a log-boom to prevent big game entrainment. In addition, exit ramps should be installed near the log-boom for animal egress. The applicant will

installed near the log-boom for animal egress. The applicant will consult with the IDFG on construction design and installation of the log-boom and exit ramps.

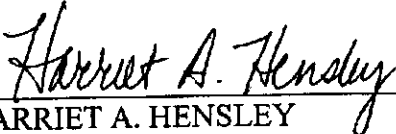
II. COMMENTS OF THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY

The Little Wood River in the project area has been designated by the State as a water quality limited segment under 303(d) of the Clean Water Act, 16 U.S.C. § 1313(d). Under this listing, the stream is not meeting its beneficial uses and/or water quality standards. Presently, a subbasin assessment and total daily maximum load ("TMDL") for the Little Wood River subbasin are being developed by the IDEQ for excess sediments, excess nutrients, temperature, and bacteria. The Wood River Watershed Advisory Group, which has representation from various industries and interests in the Little Wood River subbasin, including the hydroelectric power industry, is participating in the development of the TMDL. The Little Wood River Watershed Management Plan will be finalized in 2004.

Pursuant to section 401 of the Clean Water Act and Idaho Code §§ 39-101 to -130 and 39-3601 to -3639, the IDEQ intends to issue a draft 401 water quality certification for public comment in April 2004. The 401 certification will require, *inter alia*, that the proposed project be constructed and operated in a manner which will not violate Idaho's Water Quality Standards as set forth in IDAPA 58.01.02, including, without limitation, the standards for excess sediment (IDAPA 58.01.02.200.08) and turbidity (IDAPA 58.01.02.250.02.e). The 401 Certification will also require that the project be operated to meet any allocations set by the Little Wood River Watershed Management Plan.

DATED this 7th day of April 2004.

LAWRENCE G. WASDEN
Attorney General
State of Idaho



HARRIET A. HENSLEY
Deputy Attorney General
Natural Resources Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 7th day of April 2004, served the foregoing document, STATE OF IDAHO AGENCIES' COMMENTS AND TERMS AND CONDITIONS, upon each person designated on the official service list compiled by the Secretary in this proceeding by U.S. Mail, postage prepaid.

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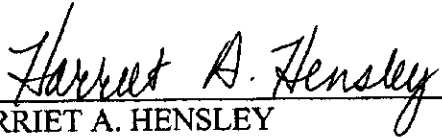
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HARRIET A. HENSLEY
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Legal files/FERC-Little Wood .../Idaho Agencies Terms Conditions.doc

Service List for P-12063

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Boehm, Pat
From: Hensley, Harriet
Sent: Wednesday, April 07, 2004 10:53 AM
To: Boehm, Pat
Subject: FW: FERC Acceptance in P-12063-001

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Deputy Attorney General
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-----Original Message-----

From: efiling@ferc.gov [mailto:efiling@ferc.gov]
Sent: Wednesday, April 07, 2004 10:51 AM
To: hhensley@ag.state.id.us
Cc: efiling@ferc.gov
Subject: FERC Acceptance in P-12063-001

Notice of Acceptance

This is in reference to:

Accession #: 200404075016

Filed Date: 04/07/2004

File Desc: Comment on Filing of State of Idaho Agencies under P-12063.

Docket #: P-12063-001

Filing Type: Comment on Filing

Signed by: Harriet Hensley

Filed by: STATE OF IDAHO AGENCIES

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STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

April 7, 2004

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street NE Rm 1A
Washington, D.C. 20426

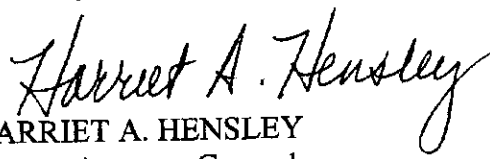
Re: STATE OF IDAHO AGENCIES' COMMENTS AND TERMS AND
CONDITIONS
In the Matter of Application for Minor License by William Arkoosh for
the Little Wood River Ranch II, Project No. 12063-001

Dear Secretary Salas:

Attached for filing in the above-named matter is the original STATE OF IDAHO
AGENCIES' COMMENTS AND TERMS AND CONDITIONS.

Thank you for your assistance in this matter.

Sincerely,


HARRIET A. HENSLEY
Deputy Attorney General
Natural Resources Division

HH/pb

Attachment 1 Original

cc: The official Service List compiled by the Secretary in Project No. 12063.