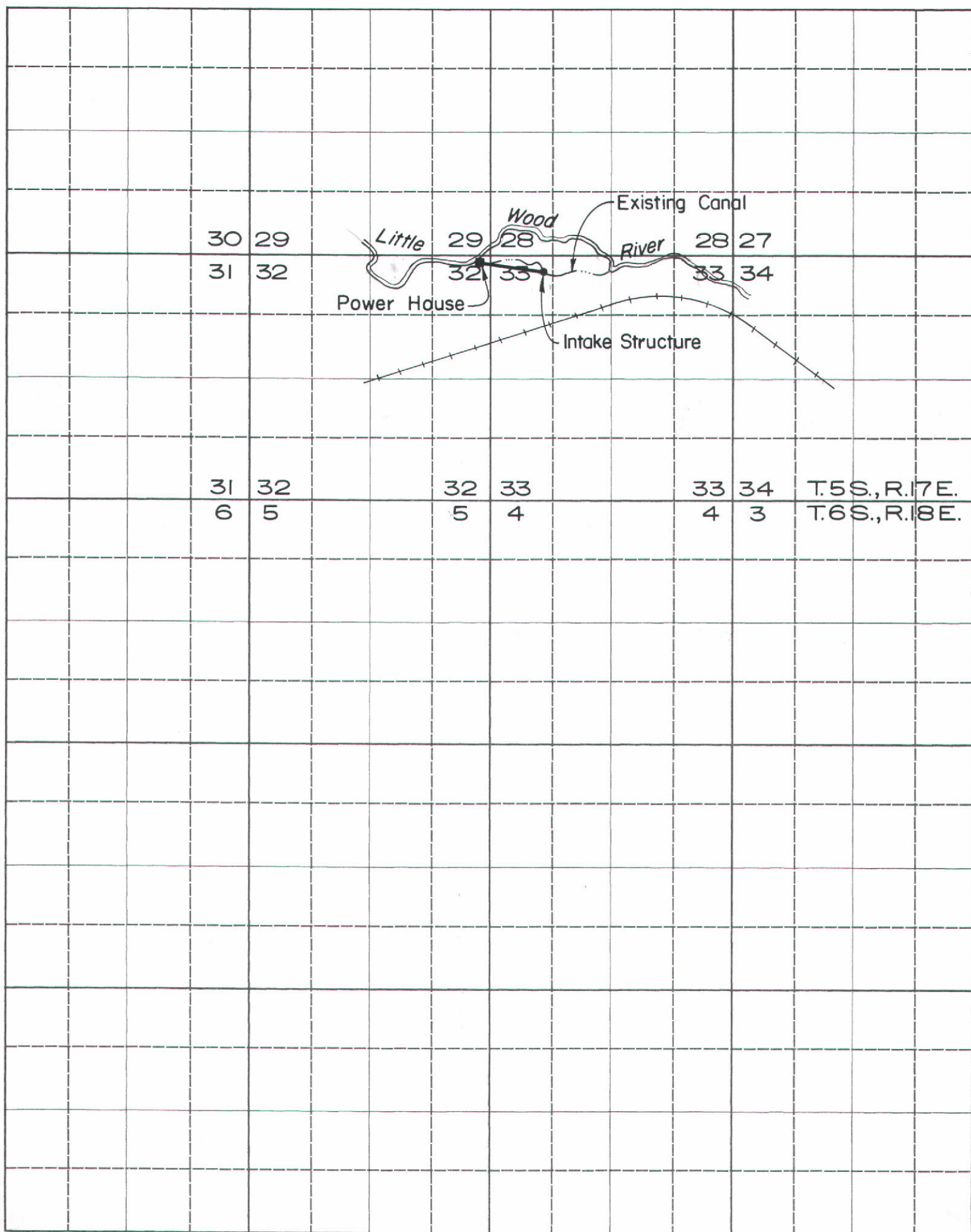


11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

RECEIVED

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

James E. McKenna
(Applicant)

Water Resources

Data Category:
Site Information
Geographic Area:
Idaho
GO

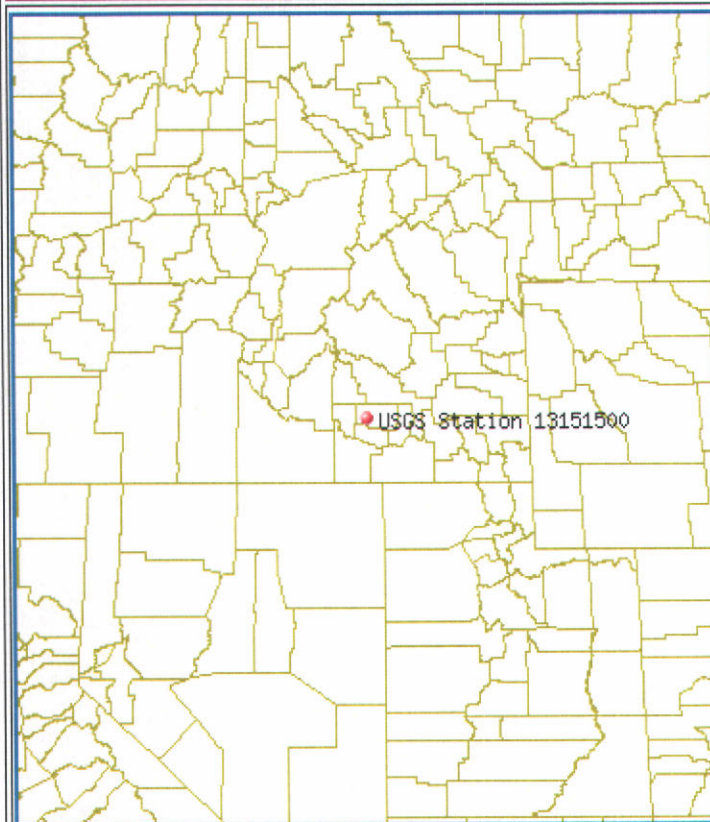
Site Map for Idaho

USGS 13151500 LITTLE WOOD RIVER AT SHOSHONE ID

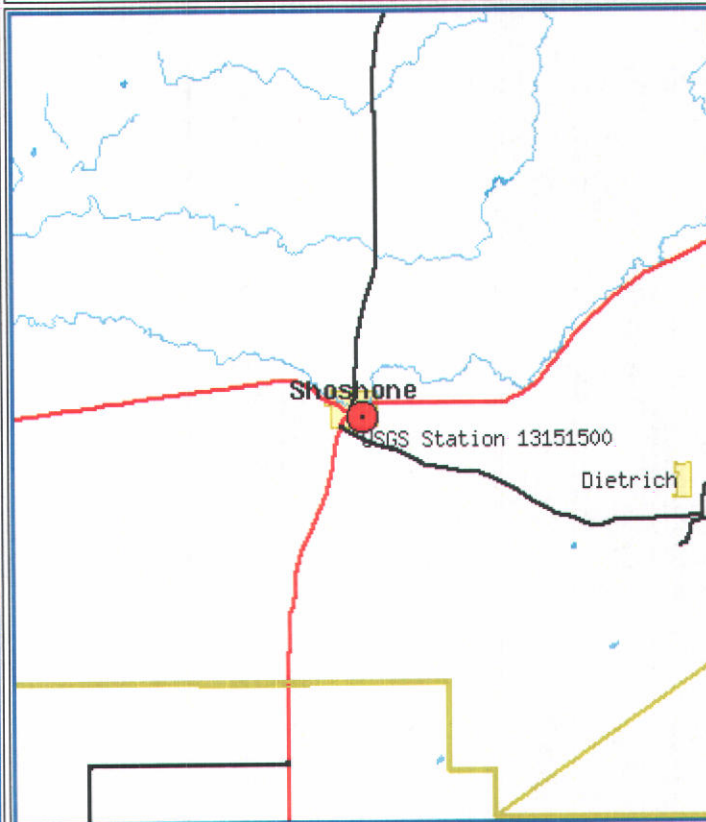
Available data for this site
Station site map
GO

Lincoln County, Idaho
Hydrologic Unit Code 17040221
Latitude 42°56'00", Longitude 114°24'00" NAD27
Drainage area 620.00 square miles
Contributing drainage area 620 square miles
Gage datum 3,956.99 feet above sea level NGVD29

Location of the site in Idaho.



Site map.

ZOOM IN [2X](#), [4X](#), [6X](#), [8X](#), or ZOOM OUT [2X](#), [4X](#), [6X](#), [8X](#).

Maps are generated by US Census Bureau TIGER Mapping Service.

Questions about data gs-w-id_NWISWeb_Data_Inquiries@usgs.govFeedback on this website gs-w-id_NWISWeb_Maintainer@usgs.gov

NWIS Site Inventory for Idaho: Site Map

<http://waterdata.usgs.gov/id/nwis/nwismap?>

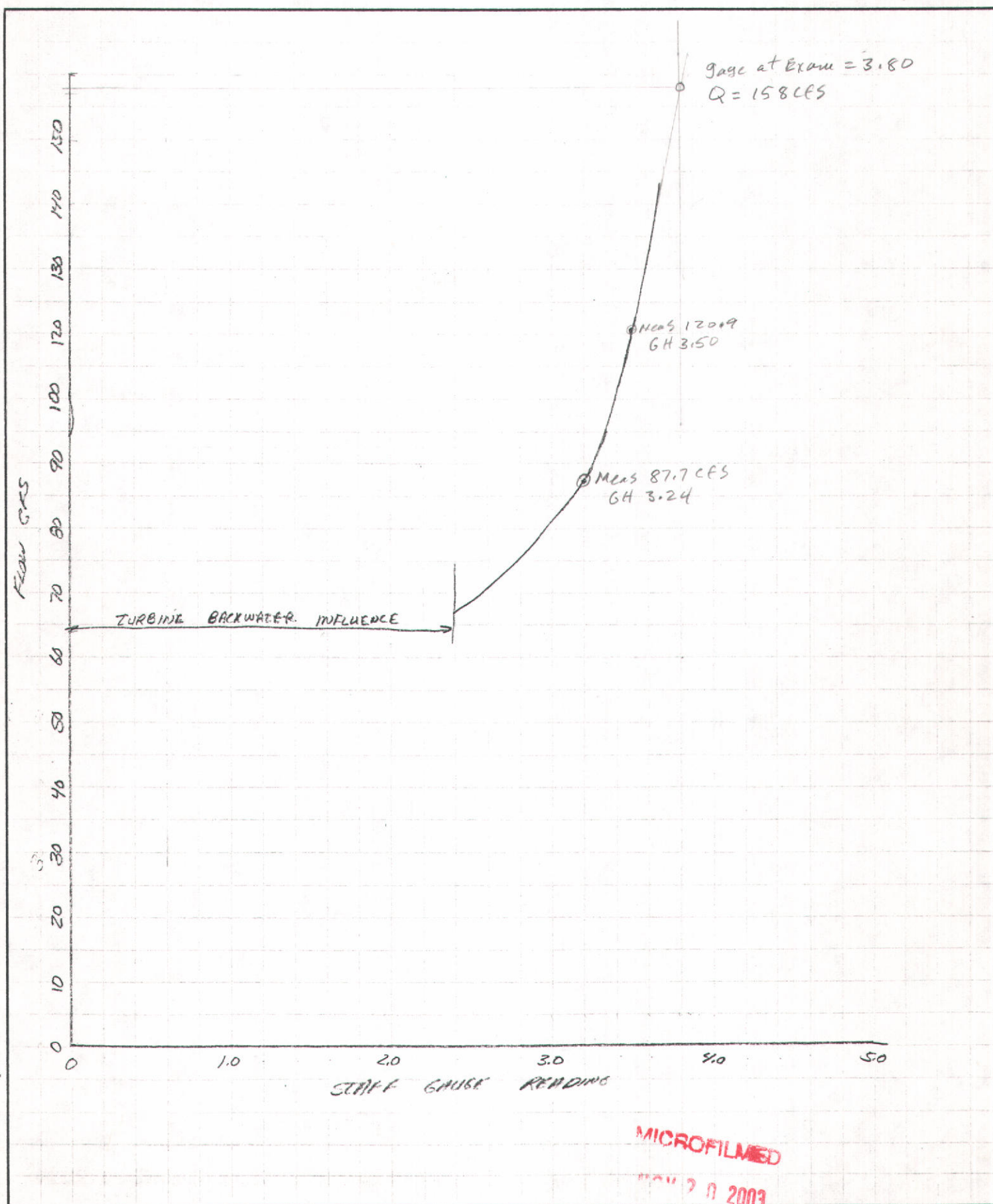
Retrieved on 2003-06-20 11:08:57 EDT

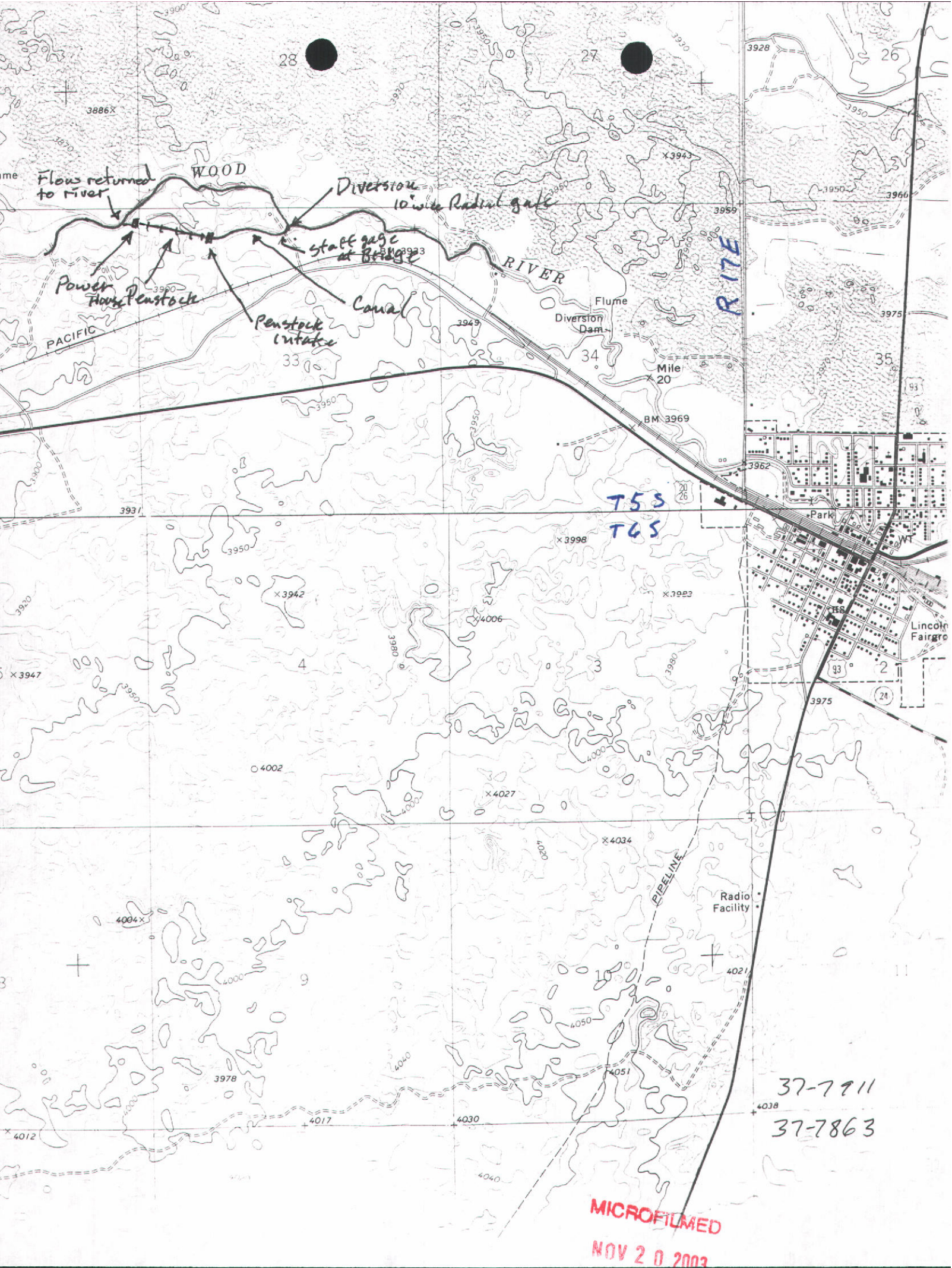
Top

Explanation of terms

MICROFILMED

NOV 20 2003

PROJECT SHOSHONE HYDRO-COGEN JOB NO. SHEET DESIGNED DATE 4-5-83ITEM CANAL RATING CURVECHECKED DATE 





10' Radial gate
Diversion

Looking upstream
on canal



Forebat Canal

Looking upstream



Forebat Canal
at Penstock intake
Looking downstream

MICROFILMED

NOV 20 2003

37-7911

37-7863



Powerhouse
Exterior



Powerhouse
Interior

Showing generators
and speed increasers

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NOV 20 2003

37-7911

37-7863



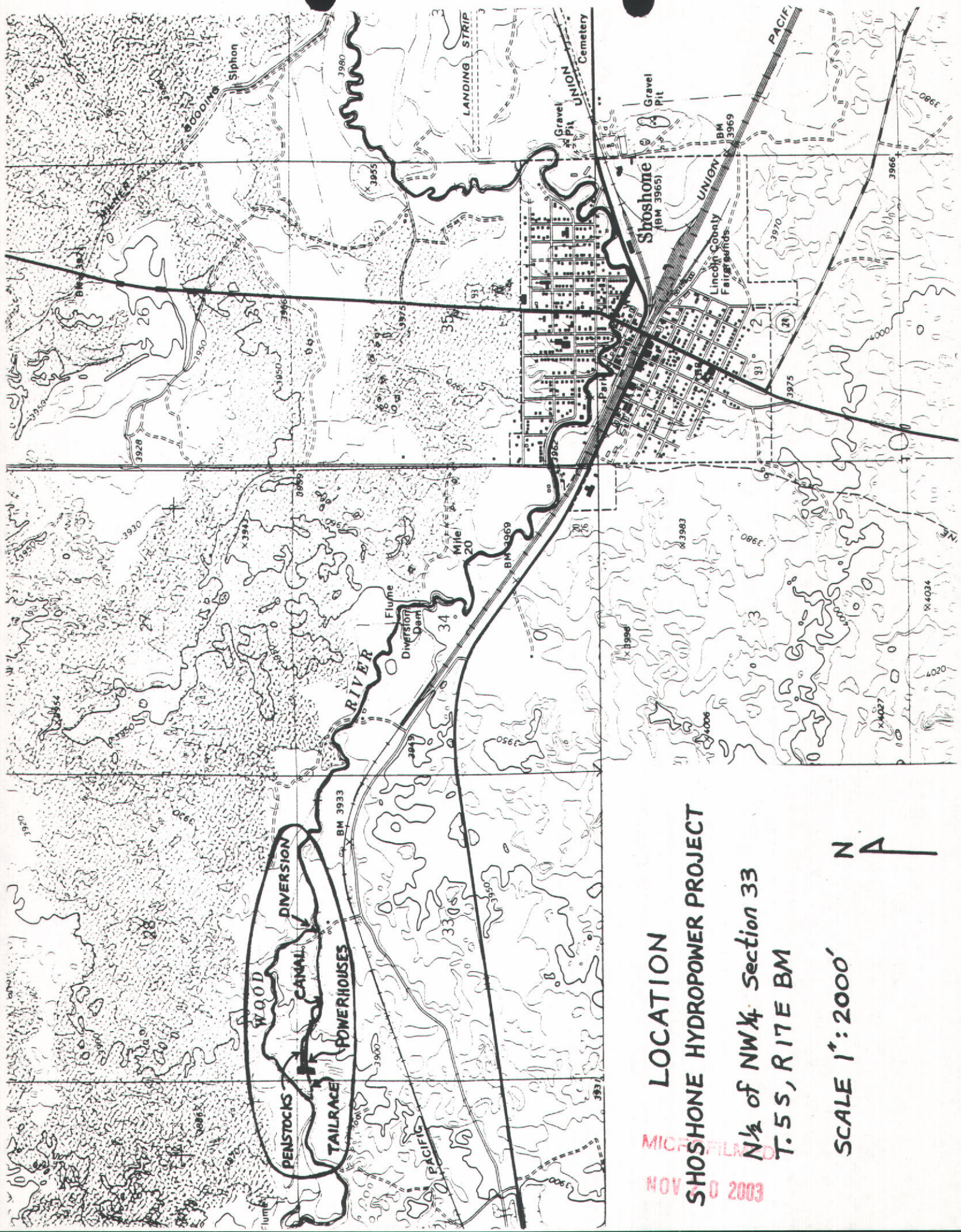
Bottlet/1 Control Valves
on Turbine inlets



Draft Tubes

MICROFILMED
NOV 20 2003

37-7911
37-7863



LOCATION
SHOSHONE HYDROPOWER PROJECT

N $\frac{1}{2}$ of NW $\frac{1}{4}$ Section 33
T.5S, R.17E BM

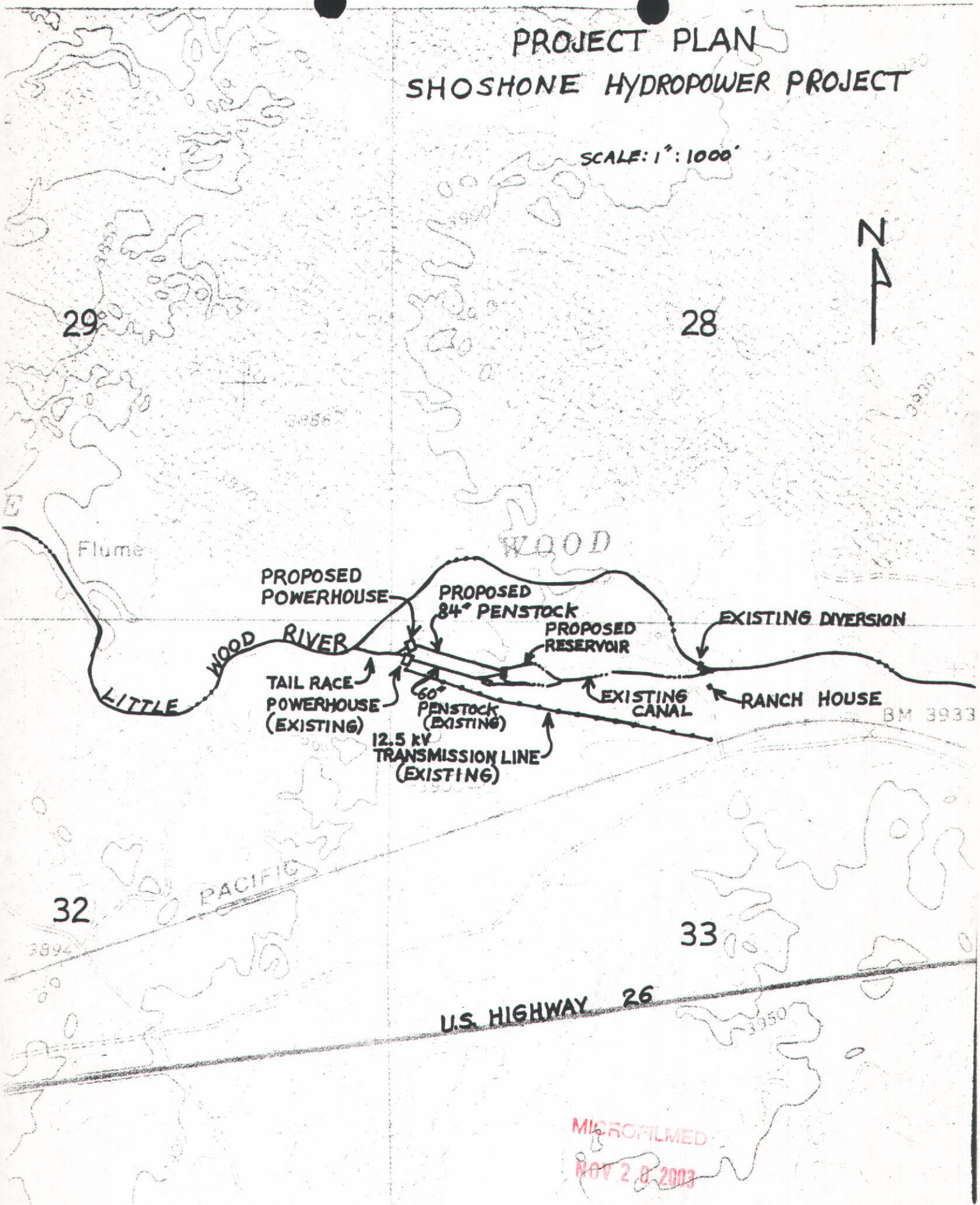
SCALE 1"=2000'



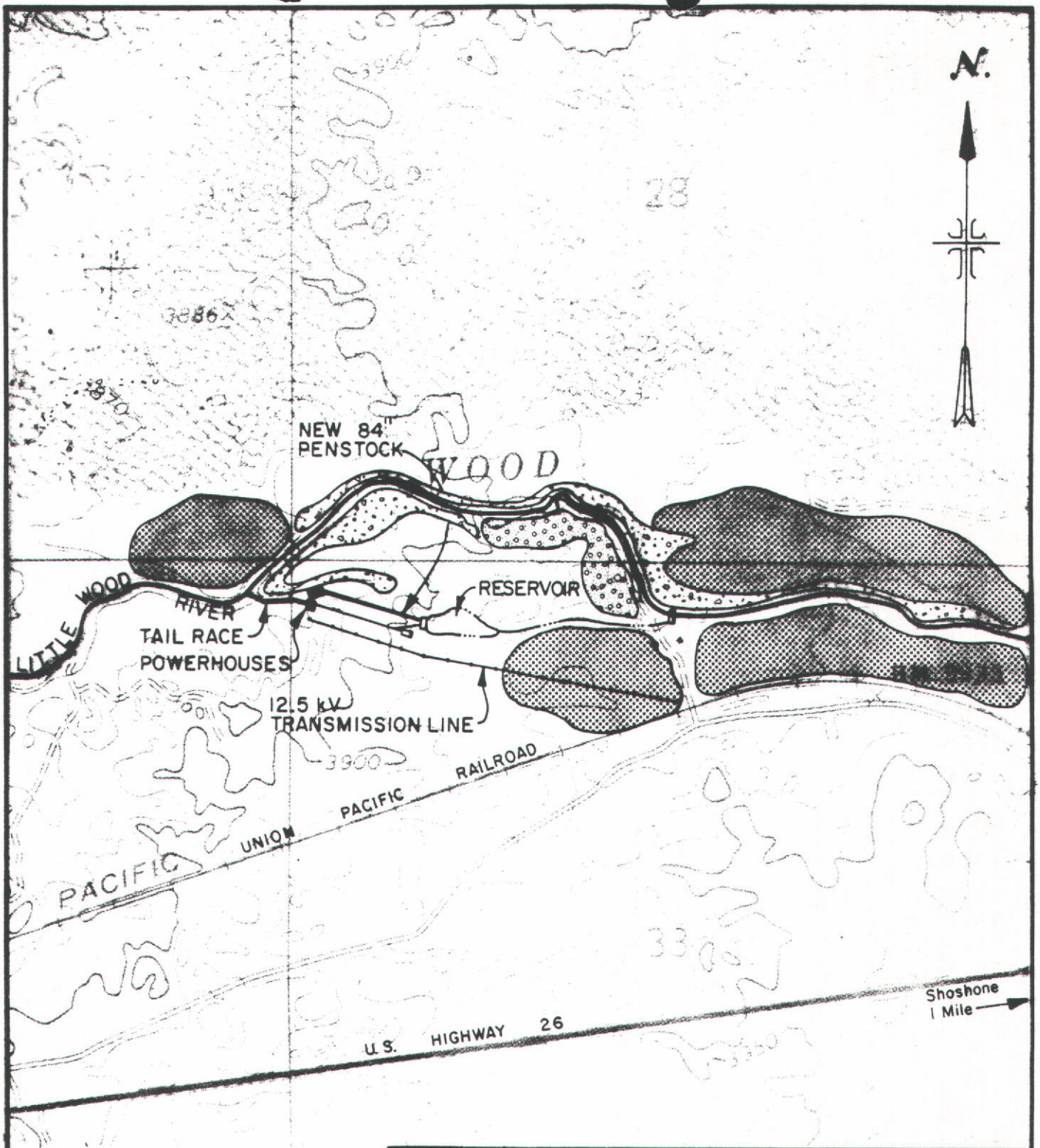
NOV 0 2003
MICROFILMED

PROJECT PLAN SHOSHONE HYDROPOWER PROJECT

SCALE: 1" = 1000'



MICROFILMED
NOV 20 2003



-  Livestock Barns/Corrals
-  Cultivated Land
-  Riparian Areas
-  Lava Scabland/Sagebrush

FIGURE E-1

SHOSHONE HYDROELECTRIC PROJECT

VEGETATION AND LAND USE

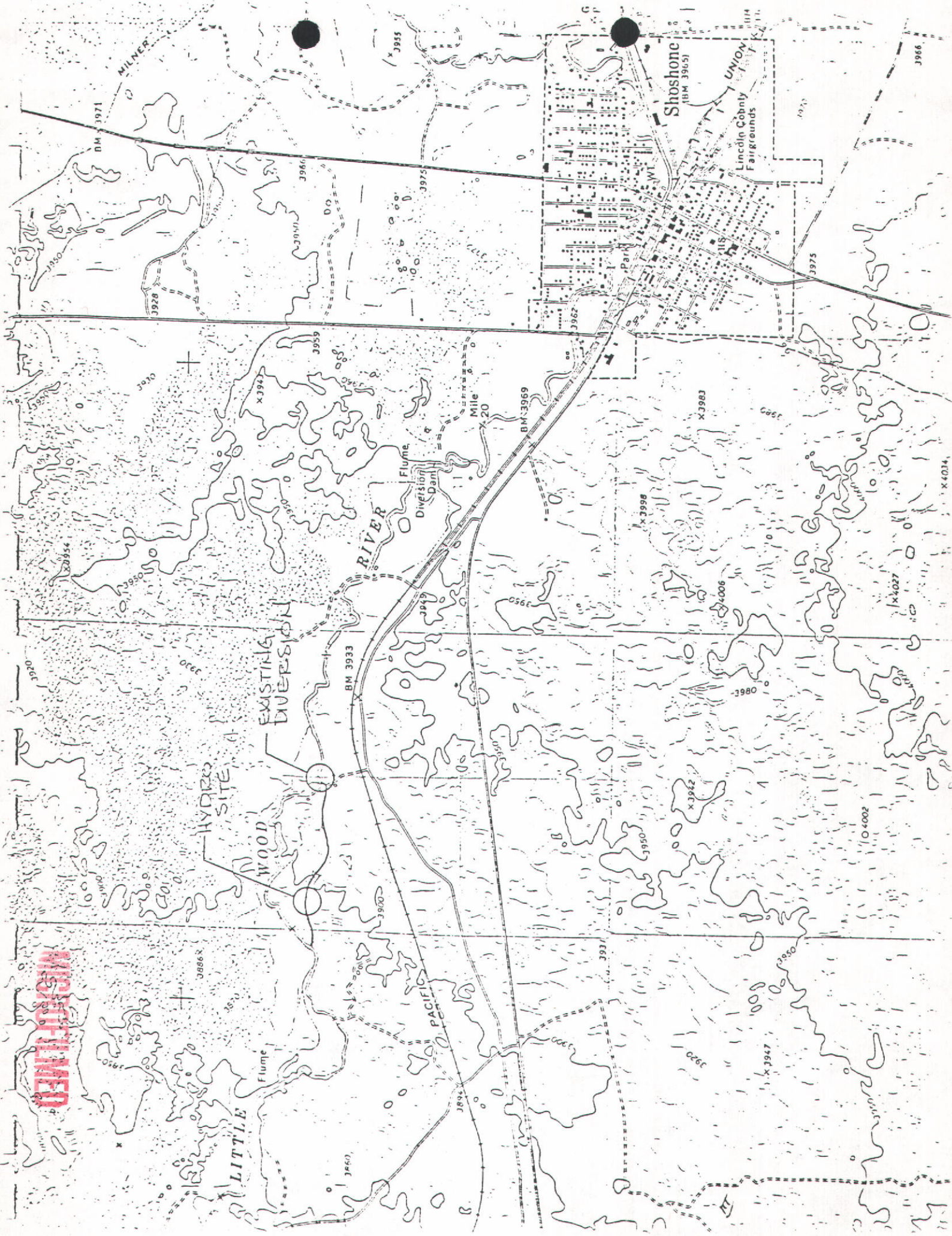


J-U-B ENGINEERS, INC.
Engineers Surveyors Planners
Boise, Idaho

SCALE AS SHOWN

DE.	DR. JAK	CK.	SHEET	OF
DATE FEB., 1986			DWG. NO. B860203	

NOV 20 2003



UNCLASSIFIED

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-07863

Priority: October 31, 1980

Maximum Diversion Rate: 60.00 CFS
Maximum Diversion Volume: 43,400.0 AF

It is hereby certified that LYLE F FRAZIER And TONI D FRAZIER
3268 HIGHLAWN DR
TWIN FALLS ID 83301

And

ROBERT E VEEH And BETTY VEEH
3268 HIGHLAWN DR
TWIN FALLS ID 83301

have complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated October 31, 1980; and have submitted Proof of Beneficial Use on December 23, 1983. An examination indicates that the works have a diversion capacity of 158 cfs of water from:

SOURCE

LITTLE WOOD RIVER

Tributary: MALAD RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
POWER	01/01 to 12/31	60.00 CFS	43,400.0 AF

LOCATION OF POINT OF DIVERSION:

LITTLE WOOD RIVER NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 33, Twp 05S, Rge 17E, 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 17E 32	X																

CONDITIONS OF APPROVAL

1. Use of water under this right shall be non-consumptive.
2. Right 37-07911 is also diverted through the point of diversion described above.
3. 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.
4. 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.

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NOV 26 2009

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-07863

5. 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.
6. 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.
7. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
8. The issuance of this right does not grant any right-of-way or easement across the land of another.

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 29th day of September, 2003.


for **KARL J. DREHER**
Director

MICRON IOWIE

NOV 2 1 2003

WATER RIGHT SPLIT

SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT C.F.S.
Orginial Application	37-7863	Bruce C. Mecham	60.0 cfs
Assignment of Application	37-7863	Cogeneration, Inc.	60.0 cfs
Full Assignment of Permit	37-7863	Darlene Frazier	60.0 cfs
Full Assignment	37-7863	Robert E. Veeh Betty Veeh Lyle F. Frazier Toni D. Frazier	60.0

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APR 2 11 2003

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DEC 1 1989

State of Idaho

Department of Water Resources

Department of Water Resources

ASSIGNMENT OF PERMIT

I, DARLENE FRAZIER, hereby assign to ROBERT E. & BETTY VEEH and
LYLE F. & TONI D. FRAZIER
of Route 3, Box 6736, Twin Falls, Idaho
261 Los Lagos, Twin Falls, Idaho
Address

All my right, title, and interest in and to Permit No. 37-7863
to appropriate the public waters of the State of Idaho.

The following described portion of my right, title, and interest in and
to Permit No. _____ to appropriate the public waters of the
State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage
within each 40 acre subdivision, the point of diversion and the amount of
water in cubic feet per second for direct diversion, or acre feet for storage)

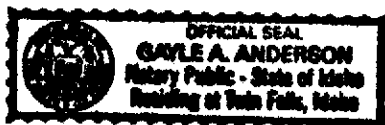
Made this 3rd day of October, 19 89.

Darlene Frazier
Permit Holder

Spouse of Permit Holder

State of Idaho)
County of Twin Falls) ss

On this 3rd day of October, 19 89, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged
to me that he (she) (they) executed the same.



seal

Gayle A. Anderson
Notary Public residing at
Twin Falls, Idaho

My commission expires:

2/10/95

MICROFILMED

APR 2 11 2000

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 37-7863 &

37-7911

Name(s) of Permit Holder: Ms. Darlene Frazier

Post Office Address: P.O. Box 1787

Twin Falls, Idaho 83303-1787

Tel. No. 734-8633

Source of Water: Little Wood River

Extent of Use:

☐ Domestic

☐ Stockwater

☐ Irrigation

☒ Other Hydro electric

(number of households)

(number and type of stock)

(acres)

Measuring Device:

Required?

☒ Yes ☐ No

Installed?

☒ Yes ☐ No

Access Port:

Required?

☐ Yes ☒ No

Installed?

☐ Yes ☐ No

The above information is a true statement of the extent to which the above numbered permit has been developed.

12-21-83

Date

Darlene Frazier
Signature of Permit Holder

Received

12-23-83

original in file 37-7863



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

John V. Evans
Governor

~~A. KENNETH DUNN~~
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

March 30, 1982

TO WHOM IT MAY CONCERN:

The Assignment of Permit No. 37-7863 and 37-7911 from Cogeneration, Inc.

to Darlene Frazier is hereby approved by IDAHO CODE 42-206 42-207.

A. Kenneth Dunn

A. KENNETH DUNN
Director

by

Allen D. Merritt

ALLEN D. MERRITT
Senior Water Resource Analyst

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AFFIDAVIT FOR WATER RIGHTS TO BE USED
FOR POWER PURPOSES

Ownership of Facilities: (To be completed for hydropower projects only)

The hydropower facility to be developed pursuant to the attached Application for
Permit:

(check one)

- ☐ Will not utilize existing man-made irrigation facilities such as a dam or a canal.
- ☐ Will utilize existing man-made irrigation facilities such as a dam or a canal, and permission of the owner is documented in an affidavit attached hereto.
- ☒ Will utilize existing man-made irrigation facilities such as a dam or a canal and the owner of the facilities is the signee of this affidavit.

Barlene Frazier
Applicant

State of Idaho)
County of Twin Falls) ss.

On this 26 day of March, 19 82, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged
to me that he (she) (they) executed the same.

James A. Roswell
Notary Public residing at

seal

Twin Falls

My commission expires:

1986

Individual Owner

AFFIDAVIT TO ESTABLISH RESIDENCE

I, Darlene Frazier of Twin Falls, County of
Twin Falls, State of Idaho, being duly sworn, do hereby certify that I
am a bona fide resident of the State of Idaho.

/s/ Darlene Frazier

Subscribed and sworn to before me this 26 day of March, 1982

/s/ John H. Rosenthal

Notary Public
Residence Twin Falls

My Commission Expires 1986

Corporation or Association

AFFIDAVIT TO ESTABLISH RESIDENCE
OR QUALIFICATIONS TO DO BUSINESS UNDER THE LAWS OF
IDAHO...

I, _____ of _____, County of
_____, State of Idaho, being first duly sworn, depose and say:

That I am the designated statutory agent of the _____,

that as such I am in charge of the registered office of the said _____

_____, as provided by Section 30-143, Idaho Code, at _____

_____, Idaho, wherein are kept the records provided by Section 30-144, Idaho

Code, and that _____ is a legal _____

qualified to do business in the State of Idaho under the laws of the State of Idaho.

/s/ _____

Subscribed and sworn to before me this _____ day of _____, 19____

/s/ _____

Notary Public
Residence _____

My Commission Expires _____

ASSIGNMENT OF WATER RIGHT

Cogeneration, Inc., hereby assigns all of its right, title and interest in and to Idaho Water Permit No. _____ to Darlene Frazier.

DATED this 10 day of March, 1982. 37-7863
37-7911

ATTEST:

Delbert W. Block
Secretary

John J. Straubhar
President

STATE OF IDAHO)
) ss.
County of)

On this 10 day of _____, 1982, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that _____ has read the foregoing instrument and executed the same.

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

NOTARY PUBLIC FOR IDAHO
Residing at: _____

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

On this 10 day of March, 1982, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Jack Straubhar and Delbert Block, known to me to be the President and Secretary, respectively, of Cogeneration, Inc., the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

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

Steven A. Rosenthal
NOTARY PUBLIC FOR IDAHO
Residing at: Twin Falls

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AFFIDAVIT FOR WATER RIGHTS TO BE USED
FOR POWER PURPOSES

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OCT 27 1981

1. Establishment of Residency: (Complete either 1, or 2).

1. Individual Applicant or Individual Members of a Partnership:

Department of Water Resources
Boise District Office

I, _____ of _____,
(name) (city)

county of _____, State of Idaho, being duly sworn, do

hereby certify that I am a bona fide resident of the State of Idaho.

2. Corporation:

I, D.W. Block of Twin Falls,
(name) (city)

County of Twin Falls, State of Idaho, being duly sworn, depose

and say: That I am the designated registered agent of the _____

Cogeneration Inc.: that as such I am in charge of the registered
(name of corporation)

office of the said corporation as required by Section 30-1-12, Idaho Code, at

Boise Idaho, wherein are kept the corporate records required
(city)

by Section 30-1-52, Idaho Code: and that Cogeneration Inc.
(name of corporation)

is a corporation qualified to do business in the State of Idaho under the laws of the State of Idaho.

3. Ownership of Facilities: (To be completed for hydropower projects only)

The hydropower facility to be developed pursuant to the attached Application for Permit:

- ☒ Will not utilize existing man-made irrigation facilities such as a dam or a canal.
- ☐ Will utilize existing man-made irrigation facilities such as a dam or a canal, and permission of the owner is documented in an affidavit attached hereto.
- ☐ Will utilize existing man-made irrigation facilities such as a dam or a canal and the owner of the facilities is the signee of this affidavit.

State of Idaho)
County of Twin Falls) ss.

D.W. Block
Applicant SECRETARY

On this 29th day of October, 19 81, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Loren O. Hulmer
Notary Public residing at

Twin Falls, ID

seal

My commission expires:

Life

NOT RECORDED

State of Idaho
Department of Water Resources

ASSIGNMENT OF ~~PERMIT~~ APPLICATION

1981 OCT 22

I, Bruce C. Mecham,, hereby assign to Cogeneration, Inc.
a single man
of 250 South Beechwood Avenue, Boise, Idaho 83709
Address

OK to process
RC 11/3/81

CHECK ONE

☒ All my right, title, and interest in and to Permit No. 37-7863
to appropriate the public waters of the State of Idaho.

☐ The following described portion of my right, title, and interest in and to Permit
No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within
each 40 acre subdivision, the point of diversion and the amount of water in cubic
feet per second for direct diversion, or acre feet for storage)

Made this 27th day of October, 19 81.

Bruce C. Mecham, a single man
~~Permit Holder~~
Application Holder

Spouse of Permit Holder

State of Idaho)
County of Twin Falls) ss.

On this 27th day of October, 19 81, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he ~~(she)~~ (they) executed the same.

seal

Sharon A. Crouser
Notary Public residing at
Twin Falls, Idaho

My commission expires:
Lifetime

Assigned to:
Cogeneration, Inc.
250 South Beechwood Ave.
Boise, ID 83709

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Bruce C. Mecham Phone 733-2626
Post office address 1509 North Juniper, Twin Falls, Idaho 83301

2. Source of water supply Little Wood River which is a tributary of _____

3. Location of point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 33 Township 5 S.
Range 17 E. B.M. Lincoln County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 60 cfs for Power Generation purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 60 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Water will be diverted from the Little Wood River through an existing canal (previously a power canal). The canal will feed a penstock taking water to the generators. Water will be discharged back to the Little Wood in the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 32, T.5S., R.17E., B.M.

b. Height of storage dam N/A feet, active reservoir capacity N/A acre-feet; total reservoir capacity N/A acre-feet, materials used in storage dam: N/A

Period of year when water will be diverted to storage N/A to N/A inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is N/A inches; proposed depth of well is N/A feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 2 years (minimum 1 year - maximum 5 years).

8. Description of proposed uses:

a. If water is **not** for irrigation:

(1) Give the place of use of water: NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 32 Township 5 S.
Range 17 E. B.M.

(2) Amount of power to be generated: 350 horsepower under 55 feet of head.

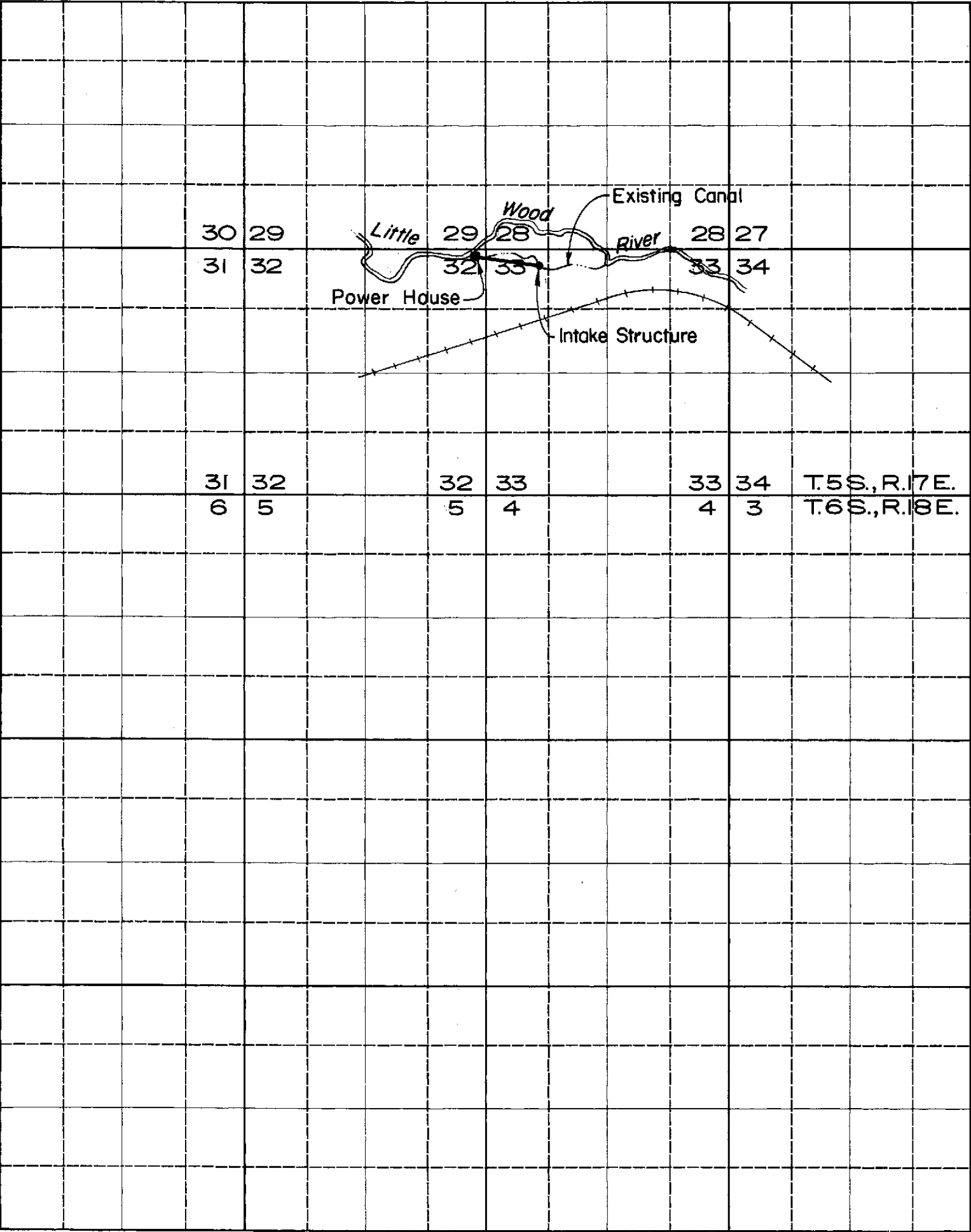
(3) List number of each kind of livestock to be watered N/A

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

(5) If water is to be used for other purposes describe: N/A

RECEIVED

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

James C. McNamee
(Applicant)

Received by TGB Date 10-31-80 Time 4:00pm
Preliminary check by ADM Fee \$ 85.00 # 16452
Receipted by mary Date 10/31/80
Publication prepared by mary Date 11/13/80
Published in Boise Co. Record
Publication dates 11/27 + 12/4/80
Publication approved mary Date 11/27/80
Protests filed by: None
Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by RA

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 37-7863, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before

February 1, 19 84.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. Other: A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works.

The issuance of this permit in no way grants any right-of-way or easement across the land of another.

Use of water under this permit is subject to control by the watermaster of State Water District No. 37M, Little Wood River.

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

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

This project shall be operated in a manner that will not conflict or interfere with the future diversion of water for irrigation or other beneficial consumption.

Witness my hand this 25th day of January, 1982.

D. Allen Sawyer
Chief, Operations Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AFFIDAVIT FOR WATER RIGHTS TO BE USED
FOR POWER PURPOSES

AUG 29 1981

Department of Water Resources

Ownership of Facilities: (To be completed for hydropower projects only)

The hydropower facility to be developed pursuant to the attached Application for
Permit:

(check one)

☒ Will not utilize existing man-made irrigation facilities such as a dam or a canal.

☐ Will utilize existing man-made irrigation facilities such as a dam or a canal, and permission of the owner is documented in an affidavit attached hereto.

☐ Will utilize existing man-made irrigation facilities such as a dam or a canal and the owner of the facilities is the signee of this affidavit.

[Signature]
Applicant

State of Idaho)
County of Ada) ss.

On this 25th day of August, 19 81, personally
appeared before me the signer (s) of the above instrument, who duly acknowledged
to me that he (s/he) (they) executed the same.

[Signature]
Notary Public residing at

seal

Boise, Idaho

My commission expires:

N/A

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AFFIDAVIT OF RESIDENCY OR QUALIFICATION TO DO BUSINESS
IN AND UNDER THE LAWS OF IDAHO

RECEIVED
JAN 27 1981
DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

A. Individual Applicant or Individual Members of a Partnership:

I _____ of _____, County of _____
(name) (city)

_____, State of Idaho, being duly sworn, do hereby certify that I am a bona fide resident
of the State of Idaho.

/s/ _____

Subscribed and sworn to before me this _____ day of _____, 19 _____

/s/ _____

Notary Public

Residence _____

My Commission expires _____

B. Corporation:

I John J. Straubhar of Boise, County of _____
(name) (city)

Ada, State of Idaho, being first duly sworn, depose and say: That I am the designated
registered agent of the Cogeneration, Inc.;
(name of corporation)

that as such I am in charge of the registered office of the said corporation as required by Section 30-1-12, *Idaho*
Code, at 2405 Spring Mtn. Drive, Boise
(city)

Idaho, wherein are kept the corporate records required by Section 30-1-52, *Idaho Code*; and that _____
Cogeneration, Inc. is a corporation qualified to do business in the
(name of corporation)

State of Idaho under the laws of the State of Idaho.

/s/ John J. Straubhar, President

Subscribed and sworn to before me this 23rd day of April, 19 81

/s/ William Braske

Notary Public
Residence Meridian, Idaho

My Commission Expires na

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ORIGINAL COPY
IN FILE 02-7343

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AFFIDAVIT FOR WATER RIGHTS TO BE USED
FOR POWER PURPOSES

RECEIVED

AUG 26 1981

Department of Water Resources

Ownership of Facilities: (To be completed for hydropower projects only)

The hydropower facility to be developed pursuant to the attached Application for

Permit:

- (check one)
- ☒ Will not utilize existing man-made irrigation facilities such as a dam or a canal.
- ☐ Will utilize existing man-made irrigation facilities such as a dam or a canal, and permission of the owner is documented in an affidavit attached hereto.
- ☐ Will utilize existing man-made irrigation facilities such as a dam or a canal and the owner of the facilities is the signee of this affidavit.

Shirley C. Mendenhall
Applicant

State of Idaho)
County of Ada) ss.

On this 25th day of August, 19 81, personally
appeared before me the signer(~~s~~) of the above instrument, who duly acknowledged
to me that he (~~she~~) (~~they~~) executed the same.

Larry D. Winkler
Notary Public residing at

seal

Boise, Idaho

My commission expires:

N/A

RECORDED

Individual Owner

AFFIDAVIT TO ESTABLISH RESIDENCE

I, Bruce Mecham of Twin Falls, County of Twin Falls, State of Idaho, being duly sworn, do hereby certify that I am a bona fide resident of the State of Idaho.

/s/ Bruce E. Mecham

Subscribed and sworn to before me this 31st day of October, 1980

/s/ Sharon A. Browner

Notary Public

Residence Twin Falls, Idaho

My Commission Expires Lifetime

Corporation or Association

AFFIDAVIT TO ESTABLISH RESIDENCE
OR QUALIFICATIONS TO DO BUSINESS UNDER THE LAWS OF
IDAHO...

I, _____ of _____, County of _____, State of Idaho, being first duly sworn, depose and say:

That I am the designated statutory agent of the _____,

that as such I am in charge of the registered office of the said _____

_____, as provided by Section 30-143, Idaho Code, at _____

_____, Idaho, wherein are kept the records provided by Section 30-144, Idaho

Code, and that _____ is a legal _____

qualified to do business in the State of Idaho under the laws of the State of Idaho.

/s/ _____

Subscribed and sworn to before me this _____ day of _____, 19____

/s/ _____

Notary Public

Residence _____

My Commission Expires _____

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Lincoln } SS.

Melba Thorne, being first duly sworn, deposes and says that he is the printer (publisher) of the Lincoln County Journal, a newspaper published every week in Shoshone, Lincoln County, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 27 day of November 1980, and the date of the last publication was on the 4 day of December, 1980.

Subscribed and sworn to before me this 4 day of December, 1980.
(SEAL)

Margaret Hagen
NOTARY PUBLIC

LINCOLN COUNTY JOURNAL
Shoshone, Idaho

COST OF PUBLICATION

Number of Lines in Notice
Number of Insertions
Lines tabular at 315c
48 Lines straight at 21c 13.92
48 Subsequent lines at 15c 9.12
TOTAL COST 23.04

COPY OF NOTICE

(Paste Here)

Water Right
TITLE OF NOTICE

37-7863 Mecham
PLAINTIFF ATTORNEY

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

37-7863
MECHAM, BRUCE C.
1509 N. JUNIPER, TWIN FALLS, ID 83301
Source: LITTLE WOOD RIVER tributary to MALAD RIVER
Date Filed: 10/31/1980
Amount: 60.00 CFS
Diversion Point: NENW Sec 33 T 05S R 17E, LINCOLN Co.
Use: POWER (60.00 CFS) from 01/01 to 12/31
Place of Use: NENE Sec 32 T 05S R 17E
Diversion Means: CANAL, PENSTOCK AND GENERATOR

If issued, the permit(s) will be subject to all water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before DECEMBER 15, 1980.

/s/ C. STEPHEN ALLRED
Director

L/11-27; 12-4

No. 3320

Idaho Department of Water Resources
Twin Falls District Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 29, 2003

LYLE F FRAZIER
ROBERT E VEEH
3268 HIGHLAWN DR
TWIN FALLS ID 83301

RE: License No. 37-7863 - Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-327-7946.

Sincerely,

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

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NOV 20 2003

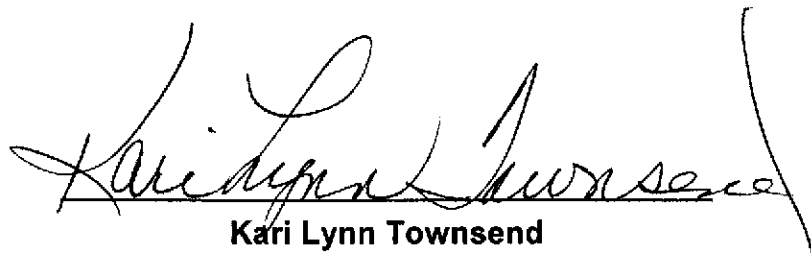
CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

37-7863

LYLE F FRAZIER
ROBERT E VEEH
3268 HIGHLAWN DR
TWIN FALLS ID 83301



Kari Lynn Townsend
Secretary

MICROFILMED
NOV 20 2003

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

TO: Files 37-7863 and 37-7911

FROM: KAY WALKER *kw*

RE: Proposed Licenses

Date: September 25, 2003

.....

In review of these permits for licensing, I obtained a copy of "Projected Data" from our Technical Services Bureau for the Little Wood River. This data provides monthly information, in cubic feet per second, for a gaging station located approximately 2 miles upstream from the point of diversion of these proposed licenses. The projected data provides information that shows this stream system was capable of providing the full diversion rate of water for both licenses during the permit development period (permits issued January 25, 1982 and proof submitted December 23, 1983). In January 1982, the projected stream flow was only 93 cfs and would not provide flow for both permits; however, the applications were not approved until January 25 so this month was not included in my recommendation. I recommend we license both permits with a volume of $60 \text{ cfs} \times 1.98 \times 365 \text{ days} = 43,362 \text{ afa}$ which, when rounded, would be 43,400.0 afa.

During overlap review of rights between the gaging station and the point of diversion of the proposed licenses, it was determined that there are irrigation rights for approximately 10.76 cfs for the irrigation of 488 acres of land. However, some of these rights are just claims in the SRBA and their validity has not been determined yet. We have not considered these rights/claims in preparation of the proposed licenses. See file 37-7863 for a listing of these rights/claims.

This power plant was exempt from FERC requirements. I contacted Randy Althin of Idaho Power Company (388-2614) in February of 2003, to find out the expiration date of the contract with Shorock Hydro. He told me that the contracts are not public information but since I had a copy of their contract in our file he gave me the expiration date of June 21, 2017.

As set forth in Section 42-203B(7), the term of years is calculated as commencing at the time of the proof of beneficial use filing. Proof was filed for these permits on December 23, 1983, so twenty years have already elapsed. In cases such as this, we have set the term expiration for an additional ten years; the term expiration for these proposed licenses will be listed as December 23, 2013 which is just 4 years short of the contract expiration date.

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NOV 20 2003

*per SHK - allow
term to 6/21/2017
so is consistent
w/contract expiration.
kw*

LICENSE REVIEW CHECKLIST

Permit No. 37-7863

Date: 2-25-2003 Reviewer: Kay Walker

Change/OK

Name/Address

Source

Point of Diversion:

Does change clarify original intended source? If no, void permit.

Change (P39/P49) Add (P45/P44)

Feds (P40)

W32 (multiple in 1/4/1/4)

W36 (overlap)

W59 (subdivision description)

Place of Use

Change (P41/P49) Add (P41/P44)

Feds (P43)

W60 (subdivision description)

W27 (ppu acre limit)

Overlaps: Right(s):

File reviewed Profile reports printed

Rate of Diversion:

Permitted rate

60. cfs

Fee Limit

N/A cfs

Measured

158. cfs

Theoretical

cfs

37-7911 - also in license process
exam made in 1984 - no Fee reg'd.
Recommended Total Diversion Rate 60.

P/D & P/U amend (P37) Feds (P48)

Water Uses

Change (P46)

Season of Use per new Standards

Irrigation cfs af

Stockwater cfs af

Domestic cfs af

Power 60 cfs af

cfs af

Total 60. cfs af

Irrigation - overlap (R58-R61, R62-R65, R66-R69)

supp. Gw (WB7/065/104)

overlap spec combined rts (W35)

<1 acre (W31)

Domestic (W01/WB5/070/074/075)

Power (W42 or W43/025/027/R22 or R23)

Fish (042)

Fire (077)

Water Quality (106/R07)

Payette - (W22/047/27A)

Stockwater for US (R37)

Volume Determination

60 cfs x 1.9835 x 365 days = 43438.65 af (vs)

_____ acres x _____ (FHR) = _____ af

Remarks:

Additional Conditions

Watermaster Control

GW Measurement/Measuring Device

Other

Trust R55 - remove 051)

Non-trust (048)

GW Dist?

Water Msmt. Dist?

Crit. GWMA?

GWMA?

Government Lots?

Advance Priority?

yes
no

If yes, explain why below.

SRBA Claim?

Adjust memo

yes-pending
K see memo of 9/25/03

Amend Letters

P87, S06

Second Amendment Notice

S06

Projected data by IDWR - from Bill Ondrechen

6/20/03

1515.00 HISTORIC AND CORR. DISCHARGE, LITTLE WOOD AT SHOSHONE-WM#14 (CFS)

W-YR	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	ANN
1928	78	175	169	145	158	169	94	280	373	329	224	77	2271
1929	52	119	138	125	146	148	87	185	143	68	37	55	1305
1930	49	113	164	122	149	146	69	155	234	88	78	60	1427
1931	68	123	135	125	146	145	52	127	203	223	280	160	1786
1932	42	104	132	122	141	148	121	298	328	374	332	225	2366
1933	62	123	138	127	149	145	143	273	393	377	337	271	2538
1934	49	116	143	132	160	153	181	332	316	327	345	234	2487
1935	42	106	130	122	146	146	62	299	350	320	286	57	2067
1936	16	116	143	130	146	120	128	363	378	392	351	245	2529
1937	73	69	137	125	149	21	138	337	403	398	369	264	2484
1938	42	66	207	137	155	138	195	421	452	452	355	333	2952
1939	54	148	161	141	157	143	286	423	370	381	359	262	2884
1940	33	76	138	127	146	138	230	361	398	398	359	281	2686
1941	20	66	150	135	149	151	171	366	365	379	395	301	2647
1942	63	97	148	115	157	159	232	446	400	387	382	334	2922
1943	59	113	148	117	149	78	284	441	435	455	423	321	3023
1944	83	133	168	122	130	140	171	353	509	439	433	360	3040
1945	57	134	128	111	146	119	165	434	457	460	389	346	2946
1946	68	123	176	155	164	155	229	494	494	446	410	333	3245
1947	146	124	146	115	140	138	260	449	449	436	424	345	3174
1948	67	99	164	111	134	130	151	387	390	441	410	370	2853
1949	68	114	145	135	155	151	227	424	476	454	410	366	3125
1950	59	59	117	112	160	151	240	478	506	494	468	413	3259
1951	59	82	141	111	135	150	277	464	519	504	496	447	3385
1952	65	156	156	146	151	150	370	477	556	493	472	454	3645
1953	88	97	164	140	139	161	269	439	472	478	467	420	3334
1954	50	81	143	111	135	155	279	491	511	507	485	462	3410
1955	50	81	124	96	88	135	190	433	492	496	475	434	3093
1956	68	94	146	137	125	231	284	481	524	516	480	439	3525
1957	73	131	141	102	214	189	145	537	519	506	491	435	3484
1958	52	124	146	137	149	148	267	581	597	506	501	455	3663
1959	54	136	148	143	149	101	240	464	452	496	478	439	3300
1960	47	52	94	98	122	130	198	452	471	481	467	363	2975
1961	18	81	88	70	99	122	143	421	365	410	423	133	2371
1962	34	72	75	37	79	128	161	509	491	517	538	502	3145
1963	70	114	141	117	223	137	151	437	629	496	472	455	3443
1964	75	133	127	155	146	140	239	452	602	524	524	476	3590
1965	81	124	205	207	187	207	343	613	635	603	545	491	4241
1966	145	123	141	141	139	151	339	481	484	491	449	390	3475
1967	16	77	115	132	124	146	239	556	780	564	595	531	3877
1968	91	133	161	155	176	148	197	494	558	512	478	455	3558
1969	244	143	141	163	146	122	622	647	583	558	533	481	4383
1970	99	124	146	141	157	158	188	512	563	579	504	519	3692
1971	115	163	189	197	182	208	492	662	650	566	540	481	4445
1972	143	148	156	161	165	195	287	579	568	524	535	513	3974
1973	59	160	158	151	175	153	365	473	544	511	499	469	3716
1974	34	119	128	117	128	148	388	506	551	537	524	492	3673
1975	145	155	148	150	166	148	309	533	534	542	530	508	3867
1976	146	173	179	159	163	145	351	503	543	517	517	502	3899
1977	145	181	156	138	126	119	289	307	339	408	346	50	2606
1978	13	72	111	93	88	138	255	519	460	481	496	393	3120
1979	94	138	137	132	151	156	171	441	469	447	457	452	3245
1980	37	87	91	119	170	150	257	504	578	459	501	489	3443
1981	86	153	174	164	227	143	324	912	482	512	490	469	4137
1982	37	82	117	93	140	159	365	677	566	608	574	563	3982
1983	161	160	182	176	202	211	556	764	684	481	563	536	4676
1984	168	390	337	169	183	286	560	631	647	550	605	667	5191
1985	192	173	146	164	160	364	434	501	543	499	478	504	4159
1986	59	84	115	132	236	590	608	553	654	525	555	509	4620
1987	107	118	138	106	155	150	324	437	435	494	468	429	3362
1988	16	54	86	85	113	98	220	381	452	504	485	420	2913
1989	10	47	96	88	68	112	237	384	403	455	503	437	2840
1990	29	45	68	62	65	55	274	395	376	423	426	360	2579
1991	20	44	68	62	65	91	150	384	415	473	441	387	2598
1992	28	45	76	76	143	91	178	350	345	353	340	128	2152
1993	39	67	99	98	115	156	284	436	476	491	465	439	3165
1994	120	131	177	166	157	159	301	416	420	483	402	319	3252
1995	24	71	96	89	117	164	346	524	607	465	498	455	3456
1996	137	155	220	198	205	179	343	441	502	524	491	471	3865
1997	109	156	200	254	203	200	544	535	608	459	434	486	4189
AVERAGE: 1928-1997	73	115	143	129	148	156	261	454	478	458	441	382	3239

← greatest
flow
during
permit
period

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NOV 20 2003

Water Resources

Data Category: Geographic Area:

Site Map for Idaho

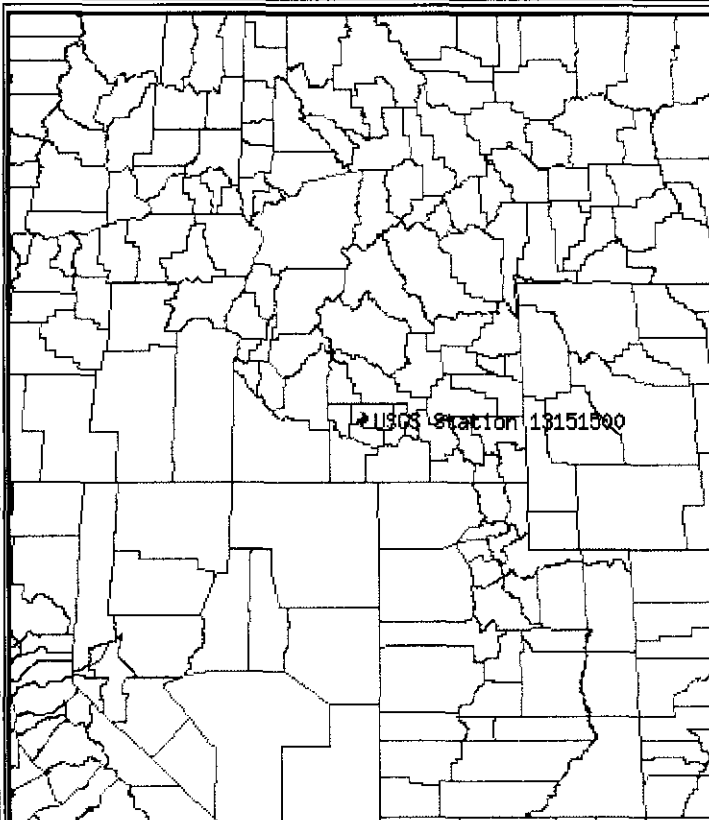
USGS 13151500 LITTLE WOOD RIVER AT SHOSHONE ID

Available data for this site

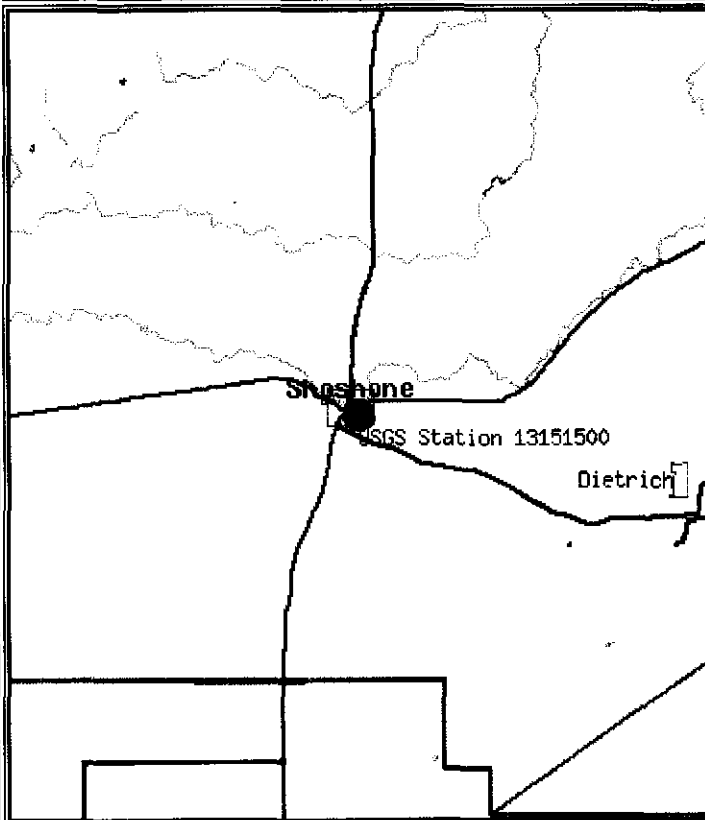
Lincoln County, Idaho
Hydrologic Unit Code 17040221
Latitude 42°56'00", Longitude 114°24'00" NAD27
Drainage area 620.00 square miles
Contributing drainage area 620 square miles
Gage datum 3,956.99 feet above sea level NGVD29

location:
NE 1/4, S2, 6S, 17E

Location of the site in Idaho.



Site map.



ZOOM IN 2X, 4X, 6X, 8X, or ZOOM OUT 2X, 4X, 6X, 8X.

Maps are generated by US Census Bureau TIGER Mapping Service.

Questions about data gs-w-id_NWISWeb_Data_Inquiries@usgs.gov
Feedback on this website gs-w-id_NWISWeb_Maintainer@usgs.gov
NWIS Site Inventory for Idaho: Site Map
<http://waterdata.usgs.gov/id/nwis/nwismap?>

Retrieved on 2003-06-20 11:08:57 EDT

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NOV 20 2003

Water Resources

Data Category: Geographic Area:

USGS 13151500 LITTLE WOOD RIVER AT SHOSHONE ID

Available data for this site

Station Description

LOCATION

Latitude 42°56'00", Longitude 114°24'00" NAD27,
Lincoln County, Idaho , Hydrologic Unit 17040221

DRAINAGE AREA

620.00 square miles; Contributing drainage area 620 square miles,

GAGE

Datum of gage is 3,956.99 feet above sea level NGVD29.

STATION TYPE:

Surface Water

STATION DATA:

Data Type	Begin Date	End Date	Count
Peak streamflow	1922-06-18	1959-05-18	38
Daily streamflow	1922-04-01	1959-12-31	9217

SITE OPERATION:

Site is located in Idaho; record is maintained by Idaho

CONTACT INFORMATION

Email questions about this station to gs-w-id_NWISWeb_Data_Inquiries@usgs.gov

Questions about data gs-w-id_NWISWeb_Data_Inquiries@usgs.gov

Feedback on this website gs-w-id_NWISWeb_Maintainer@usgs.gov

** USGS 13151500 LITTLE WOOD RIVER AT SHOSHONE ID

<http://waterdata.usgs.gov/id/nwis/nwisman?>

Retrieved on 2003-06-20 10:58:52 EDT

Department of the Interior, U.S. Geological Survey

USGS Water Resources of Idaho

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0.72 0.65

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[Explanation of terms](#)

Water Resources

Data Category: Geographic Area:

Calendar Year Streamflow Statistics for Idaho

USGS 13151500 LITTLE WOOD RIVER AT SHOSHONE ID

Available data for this site

Lincoln County, Idaho
Hydrologic Unit Code 17040221
Latitude 42°56'00", Longitude 114°24'00" NAD27
Drainage area 620.00 square miles
Contributing drainage area 620 square miles
Gage datum 3,956.99 feet above sea level NGVD29

1955	259
1956	297

Year	Annual mean streamflow, in ft ³ /s
1957	289
1958	307

Year	Annual mean streamflow, in ft ³ /s
1959	263

Questions about data gs-w-id_NWISWeb_Data_Inquiries@usgs.gov
Feedback on this website gs-w-id_NWISWeb_Maintainer@usgs.gov
Surface Water data for Idaho: Calendar Year Streamflow Statistics
http://waterdata.usgs.gov/id/nwis/annual/calendar_year?

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1.17 0.62

Miscellaneous Streamflow Measurements in Idaho 1968 - 2002

By Site; Site: 13151500 ; Dates Between: 10/1/1967 and 10/31/2001

Little Wood River Basin

Little Wood River Basin

13151500 Little Wood River at Shoshone, Idaho

LOCATION.--Lat 42°56'00", long 114°24'00", T. 6 S. R. 17 E. , Lincoln County, HUC 17040221, NE1/4 sec.2, just upstream from diversion dam and 400 ft ups from Highway 93A bridge.

DRAINAGE AREA.-- 620 sq mi

OTHER RECORDS AVAILABLE.-- 1922-60 continuous record.

<u>Date</u>	<u>Discharge</u>	<u>Remarks</u>
04-05-1969	802	msc
03-26-1980	137	msc

↑
actual
msmts by
USGS

Gage @ NE 1/4, Sec 2, 6S, 17E

POD on Little Wood River @ NENW, S33, 5S, 17E

Possible Rights between: ??
NW 1/4, Sec 2, 6S, 17E (Ø NONE)

SW 1/4, Sec 35, 5S, 17E (see print out)

Sec 34, 5S, 17E (see print out)

N 1/2 NE, Sec 33, 5S 17E (see print out)

Volume for Rts between pld & gage =
1976.0 AFA

Rate for Rts. between
pld & gage = 10.76 cfs

KW
6/20/2003

<u>Basin</u>	<u>Sequence</u>	<u>Basis</u>	<u>Rate(cfs)</u>	<u>Volume(ac)</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>
37	432	Decreed	2.6	216.	LITTLE WOOD RIVER	IRRIGATION	NEWELL, CHARLES E (Current); NEWELL, HENRIETTE (Current)
37	485	Decreed	1.1	> 1280.	LITTLE WOOD RIVER	IRRIGATION	MILLSAPS, FRANK (Current)
37	486	Decreed	3.2		LITTLE WOOD RIVER	IRRIGATION	MILLSAPS, MARY E (Current)

$$6.9 = 1496. AF$$

$$\frac{FHR}{37-432} = 54 ac @ 4 afa = 216.$$

$$(claim) 37-485 = 320 ac @ 4 afa = 1280.$$

$$(claim) 37-486 \left. \begin{matrix} \text{same} \\ \text{plus} \end{matrix} \right\} =$$

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Rate(cfs)</u>	<u>Volume(ac)</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>
37	560	B	Decreed	0.14	28.0	LITTLE WOOD RIVER	IRRIGATION	CITY OF SHOSHONE (Current)
37	691	E	Decreed	0.16	12.0	LITTLE WOOD RIVER	IRRIGATION	POWELL, BERT A (Current)
37	691	F	Decreed	0.24	25.6	LITTLE WOOD RIVER	IRRIGATION	ROSE, KENNETH O (Current); ROSE, MARY D (Current)
				<u>0.54</u>	<u>65.6</u>			

37-560 B = 7 ac park @ 4 = 28 AFA
 37-691 E = 3 ac @ 4 = 12 AFA

MAY 20 2003

2. Measurements: Installed staff gage at bridge reads 3.80 - Relates to 158 cfs on rating chart provided by Permit holder.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Measurement by installed staff gage and rating table						

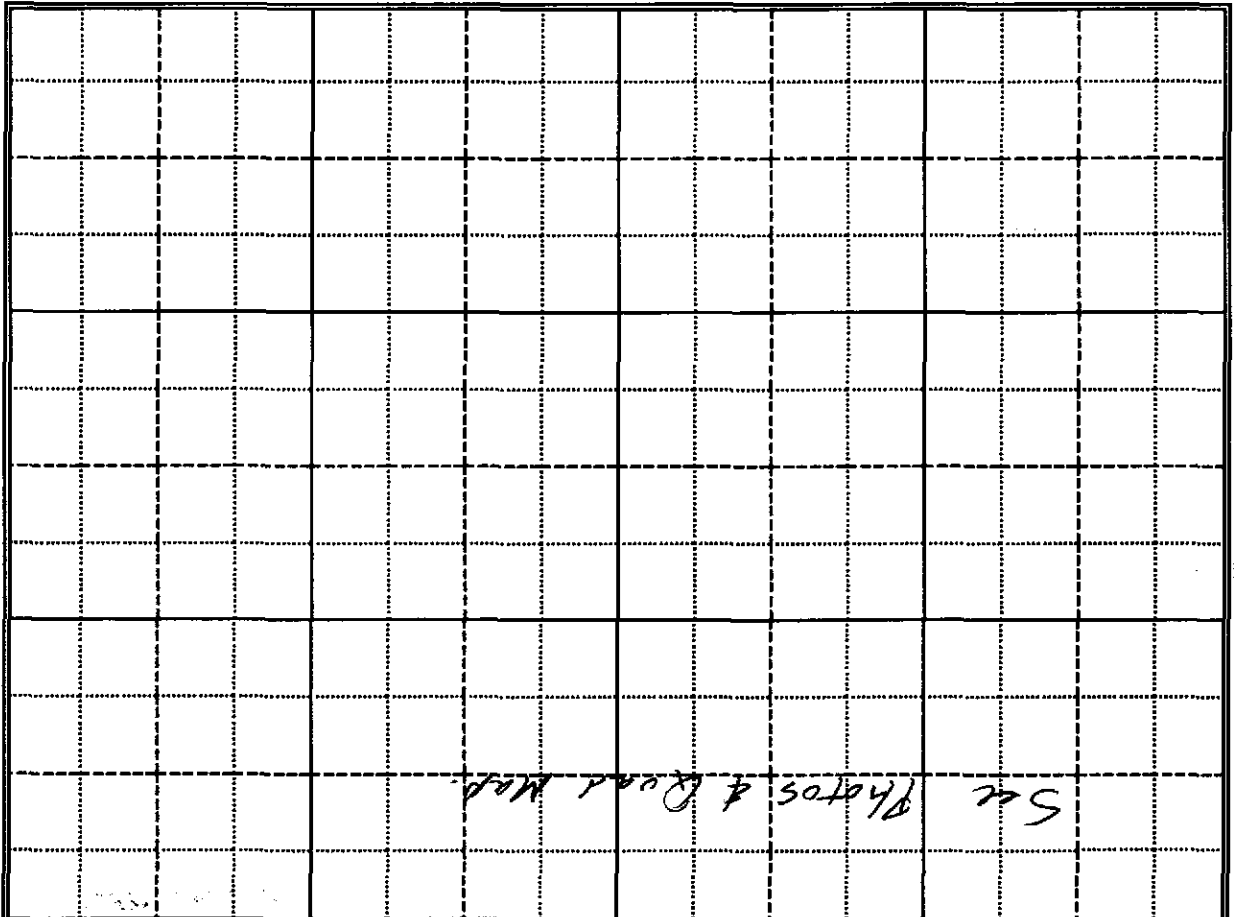
D. FLOW MEASUREMENTS

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

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
See Item E, Narrative					

4.

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



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

E. NARRATIVE/REMARKS/COMMENTS

Water is diverted from Little Wood River by a diversion controlled by a 10-foot radial gate. Water is carried thru approximately 1000 ft of forebay canal & approx 1000 ft. of Penstock to a powerhouse with three generating units.

Generating units:North Unit:

Generator - 125 HP 1775 RPM - 93 KW Westinghouse
style 81C 47315 Set # 8204

Turbine - Byron Jackson Model 8520-7 Ser # 816-W-1435
920 RPM Rated 14700 gpm @ 42 ft head
123 HP @ 78.2% EFF

Speed increaser - Westinghouse, Ratio 2.030 1800 RPM

Center Unit

Generator: Westinghouse 200 HP 1775 RPM, 460V, 224 A
style 81C 47314 Set # 8204

Turbine: Byron Jackson Model 8524-7 Set # 816-W-1434
730 RPM Rated 22700 gpm @ 42 ft head.
193 HP @ 81% eff.

Speed Increaser: Westinghouse - Ratio 2.567 1800 RPM

South Unit

Generator: Westinghouse style 81C 47315 Set # 3204 125 HP

Turbine: Byron Jackson Model 8520-7 Set # 816-W-1436
920 RPM Rated 14700 gpm @ 42 ft Head
123 HP @ 78.2% eff.

Speed increaser: Westinghouse Ratio 2.030 1800 RPM

Flow returns to river in NENE 532 T53 R17E

Have conditions of permit approval been met? ☒ yes ☐ no

MICROFILMED

NOV 20 2003



Reviewer

Date _____

Field Examiner's Name _____

Date _____

Date 11/22/93

1. AUTHENTICATION

Change P.D. as reflected above

Change P.U. as reflected above

☒ Add P.D. as reflected above
☐ Add P.U. as reflected above
☐ Other _____
☐ None _____

2. Recommended Amendments

Beneficial Use	From	To	Rate of Diversion Q (cfs)	Annual Volume V (ata)
37-7863 Power	1/1	12/31	60	
37-7911 Power	1/1	12/31	60	
Totals:			120	60 cfs for each Parent

1. Recommended Amounts

H. RECOMMENDATIONS

2. Volume Calculations for Other Uses:

$$V_{LR} = (\text{Acres Irrigated} \times (\text{Irrigation Requirement})) =$$

$$V_{DR} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$$

$$V_{LR} = \text{Smaller of } V_{LR} \text{ and } V_{DR} =$$

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

• 1970s

Rating Curves based on Two Measurements by VLB

Measured Method:

F. FLOW CALCULATIONS

Additional Computation Sheets Attached

Attachment #

CONVERSATION MEMORANDUM

NAME OF PARTY Jack Strubhar
EMPLOYEE DOUGLAS JONES

DATE 11/23/93
FILE _____

RE: 32-7411, 37-7863

Project # 9967-000-1d

Shorock Hydro Inc has FERC license, ITC power, owns powerhouse, is bound by West One Security interest.

FERC lic (in Shorock name) covers capacity of these permits and applications up to about 4000.

IDWR - S.D. should have copy of license on record.

Shorock Hydro Inc is a partial successor of ~~the~~ Cogeneration, Inc.

FERC issued Competing license to Shorock over Arkash's Green I. Arkash owns land with exclusion of hydro facility

~~Short~~

A Shorock Hydro has ~~the~~ business agreement with previous permit holders to pay royalties to them. I recommend issuing licenses in name of Shorock Hydro, Inc.

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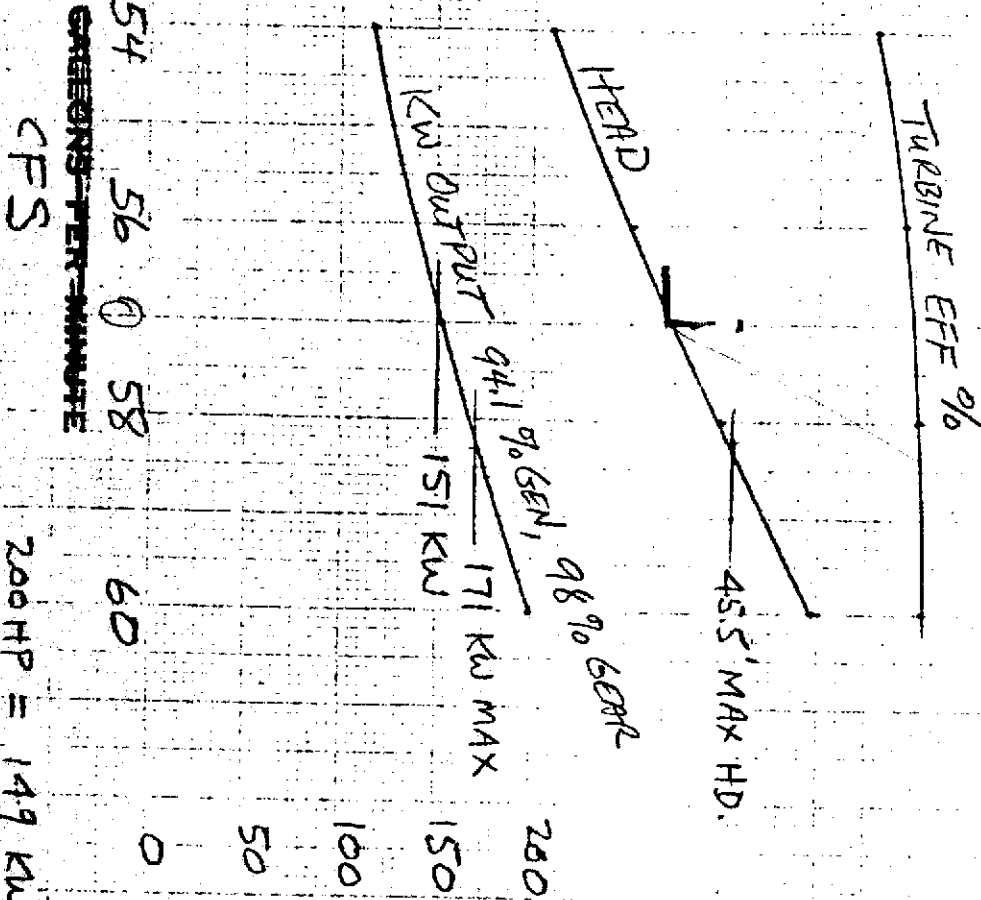
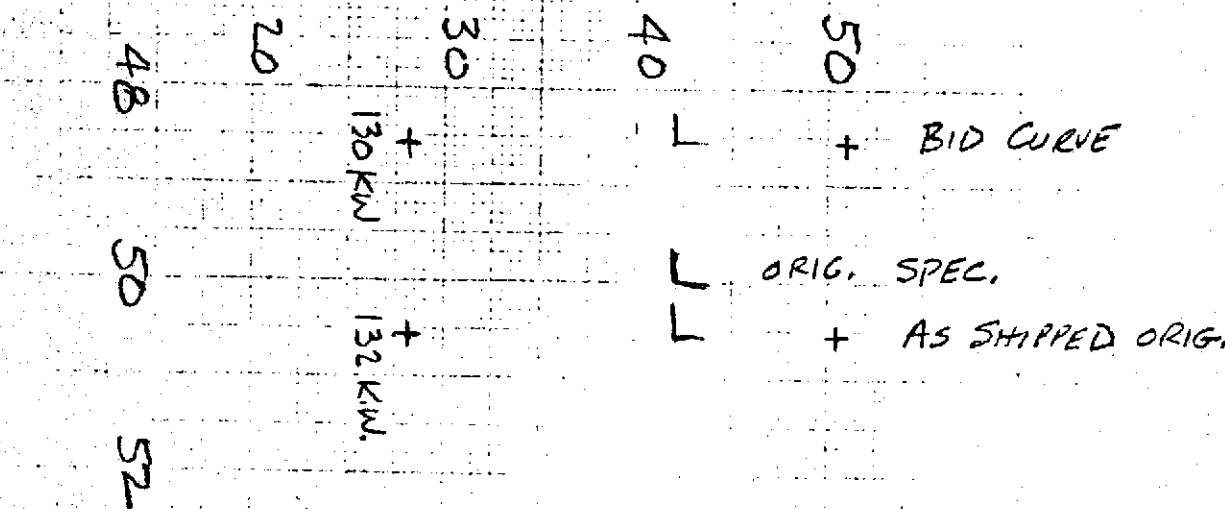
NOV 20 2003

BYRON JACKSON

#1

MICROFILMED
NOV-2-8 2003

TOTAL HEAD IN FEET



GENERATING PER MINUTE

CFS

200 HP = 149 kW
57 CFS
x 1.15 = 171 kW MAX.

BRAKE HP
EFFICIENCY-PER CENT

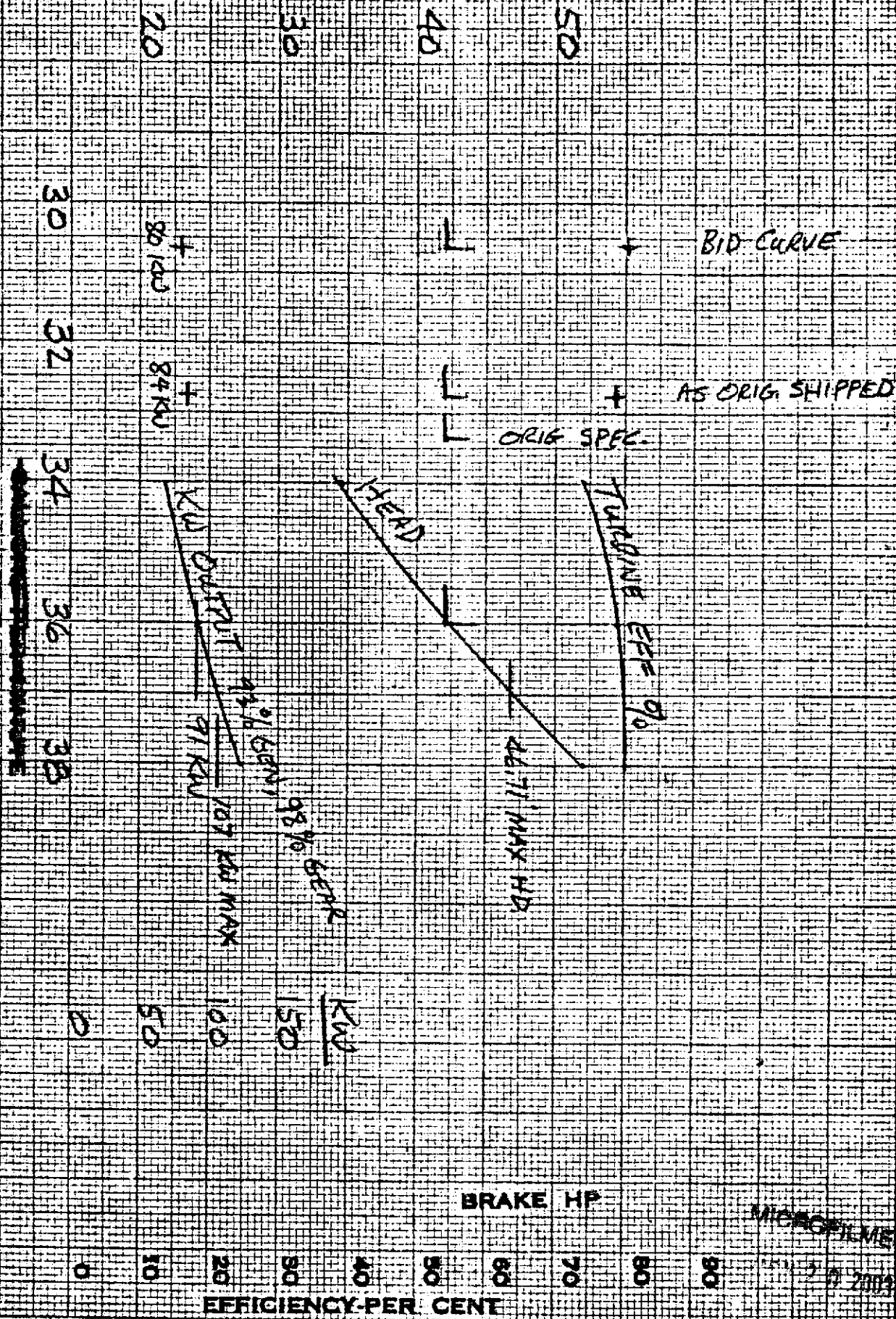
PUMP SIZE AND TYPE	1 STG.	RPM	CUSTOMER NO.	INSTALL NO.	DATE ON	DATE BY	BYRON JACKSON NUMBER
MODEL 8524-7 TURBINE	720	G.S.	54054000	4113	1-36-199	1-18-83	PC 816-W-1434
				BRANCH NO.			

BYRON JACKSON

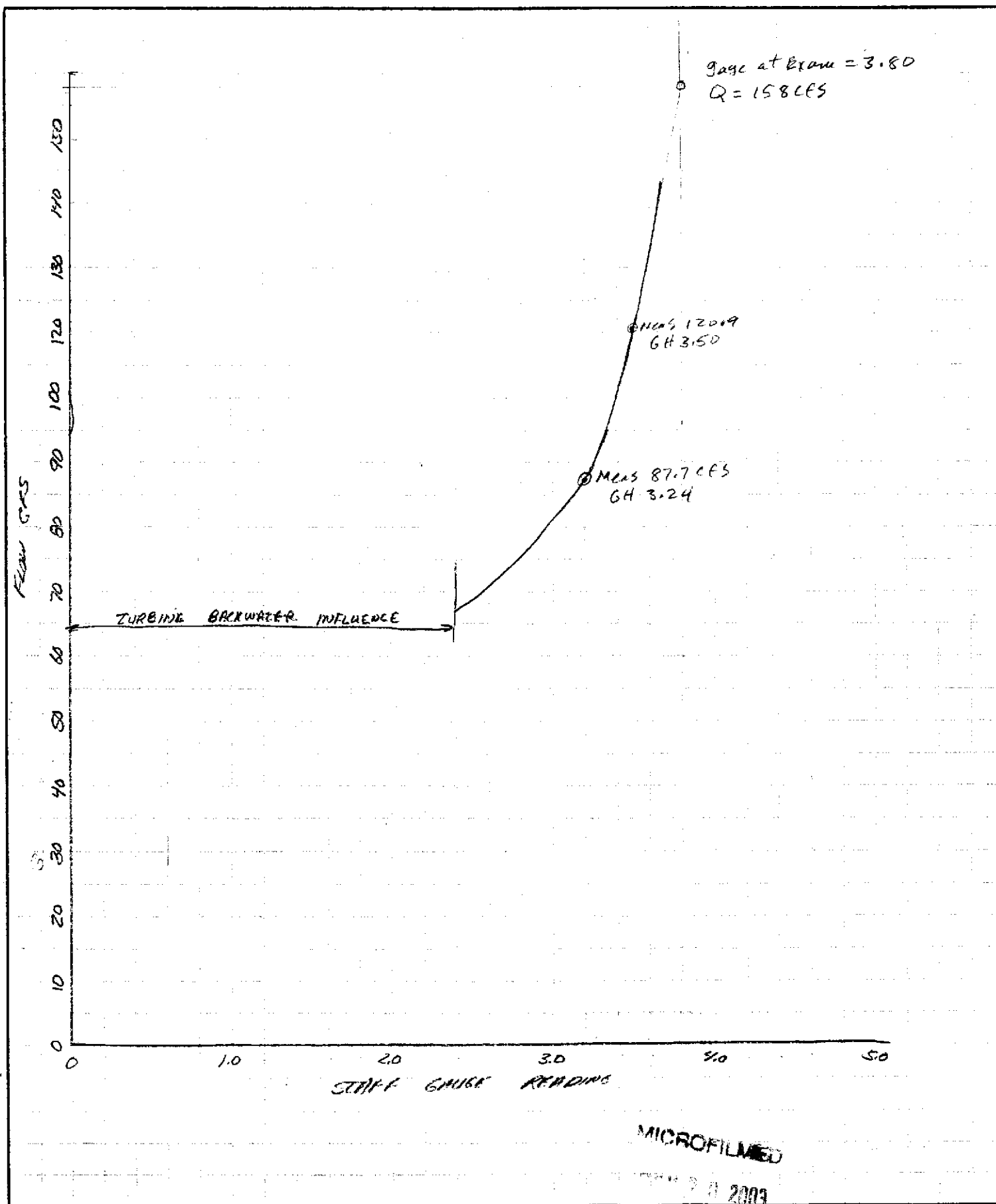
2 & 3

MICROFILMED
2009

TOTAL HEAD IN FEET



PUMP SIZE AND TYPE	MODEL 85220-7 TURBINE	1 STG	RPM 900	SUPPLEMENTARY	36 CFS	REFLECTING	R-4112	DATE	1-17-83	BYRON JACKSON NUMBER	PC816-W-1435
						BRANCH NO.		DATA BY	REIN		

PROJECT SHOSHONE HYDRO-COGEN JOB NO. SHEET DESIGNED DATE 4-5-83ITEM CANAL RATING CURVE CHECKED DATE 

Discharge Measurement

Current Meter

Party Coburn - Edson

Location Shashone Hydro

Meter _____

L. N.	Location (numeric)	Meter Code	Date	No. Sections	Gage
700	X	X	09/04/83	X	X

L B

	Distance	Depth	Rev. 0.6 or 0.2	Rev. 0.8	Time (sec)	Angle Correction
701	X	0	X	0	X	0
702	X	0.5	X	59	X	50
703	X	1.0	X	64	X	50
704	X	3.0	X	71	X	50
705	X	5.0	X	70	X	50
706	X	7.0	X	68	X	50
707	X	9.0	X	66	X	50
708	X	11.0	X	60	X	50
709	X	11.5	X	52	X	50
710	X	12.0	X	0	X	50
711	X	X	X	X	X	X
712	X	X	X	X	X	X
713	X	X	X	X	X	X
714	X	X	X	X	X	X
715	X	X	X	X	X	X
716	X	X	X	X	X	X
717	X	X	X	X	X	X
718	X	X	X	X	X	X
719	X	X	X	X	X	X
720	X	X	X	X	X	X
721	X	X	X	X	X	X
722	X	X	X	X	X	X
723	X	X	X	X	X	X
724	X	X	X	X	X	X
725	X	X	X	X	X	X

Meter Code

Meter

- 1 Hoff 551
- 2 David White
- 3 Hoff 183-3
- 4 Hoff 183-4
- 5 OTT
- 6 Neyrpic Midget 4-Blade (blue)
- 7 Neyrpic Midget 6-Blade (red)
- 8 Neyrpic (cable)

Velocity 2.06 fps

Area 42.6 ft²

Discharge 87.7 cfs

Gage 66990

Remarks 3.24 on staff gauge at bridge

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NOV 20 2003

Discharge Measurement

Current Meter

Party Coleman - Edson

Location SHOSHONE HYDRO

Meter _____

L. N.	Location (numeric)	Meter Code	Date	No. Sections	Gage
700	X	X	04/04/83	X	X

0.2 = 2.8 0.7

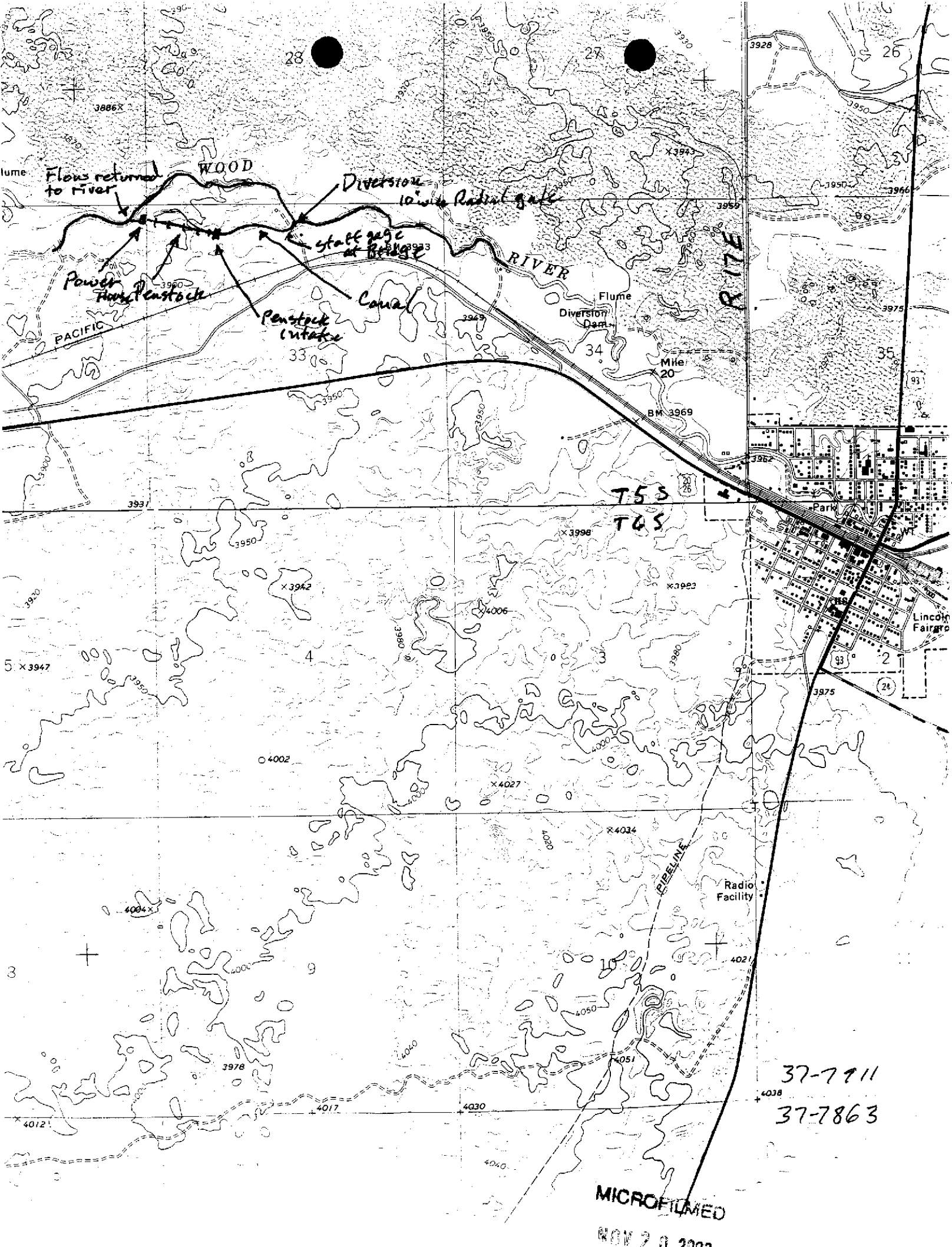
Distance	Depth	Rev. 0.6 or 0.2	Rev. 0.8	Time (sec)	Angle Correction
701	X	X	X	X	X
702	X	X	X	X	X
703	X	X	X	X	X
704	X	X	X	X	X
705	X	X	X	X	X
706	X	X	X	X	X
707	X	X	X	X	X
708	X	X	X	X	X
709	X	X	X	X	X
710	X	X	X	X	X
711	X	X	X	X	X
712	X	X	X	X	X
713	X	X	X	X	X
714	X	X	X	X	X
715	X	X	X	X	X
716	X	X	X	X	X
717	X	X	X	X	X
718	X	X	X	X	X
719	X	X	X	X	X
720	X	X	X	X	X
721	X	X	X	X	X
722	X	X	X	X	X
723	X	X	X	X	X
724	X	X	X	X	X
725	X	X	X	X	X

Meter Code	Meter
1	Hoff 551
2	David White
3	Hoff 183-3
4	Hoff 183-4
5	OTT
6	Neyrpic Midget 4-Blade (blue)
7	Neyrpic Midget 6-Blade (red)
8	Neyrpic (cable)

Velocity 2.88 fps
 Area 42.0 ft²
 Discharge 120.9
 Gage 1.6990

Remarks STIFF GAUGE 3.5 MEASURE

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 NOV 20 2003



MICROFILMED

NOV 2 1970

37-7711
37-7863



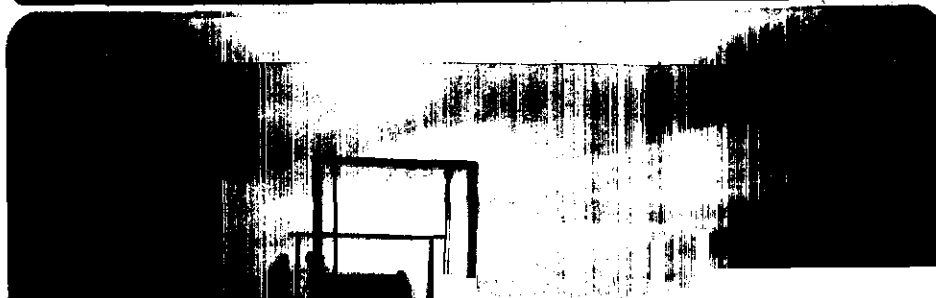
10' Radial gate
Diversion

Looking upstream
on Canal



Fotobat Canal

Looking upstream



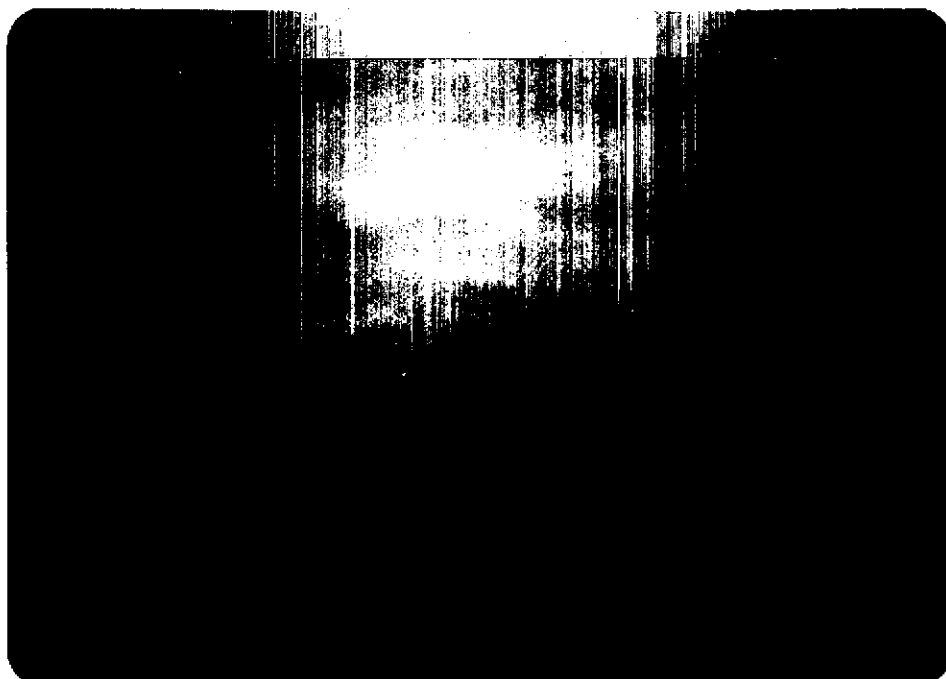
Fotobat Canal
at Penstock intake
Looking downstream

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NOV 20 2003

37-7911

37-7863



Powerhouse
Exterior



Powerhouse
Interior

Showing generators
and speed increasers

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NOV 20 2003
37-7911
37-7863



Butterfly Control Valves
on Turbine inlets



Draft Tubes

MICROFILMED

NOV 28 2003

37-7966

37-7863

COLEMAN, RITCHIE & ROBERTSON

ATTORNEYS AT LAW
156 SECOND AVE. WEST
P.O. BOX 525
TWIN FALLS, IDAHO 83303-0525

RECEIVED

JUN 13 1995

Department of Water Resources

JOHN R. COLEMAN
JOHN S. RITCHIE
THOMAS M. ROBERTSON

TELEPHONE (208) 734-1224

FAX (208) 734-3983

June 8, 1995

Cindy Zimmerman
Water Resource Agent
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise ID 83720-9000

Re: Permit Nos. 37-07863 and 37-07911

Dear Cindy:

As a follow-up to your letter of May 10, 1995, addressed to Veeh and Frazier Hydro, and our telephone conversations, I am writing to advise you of the following:

1. Permit No. 37-07863 was previously assigned by Darlene Frazier to Robert E. Veeh, Betty Veeh, Lyle F. Frazier and Tony D. Frazier. Those parties desire to continue to own the permit in their individual names and no further assignment is sought.

2. I am enclosing an Assignment of Application for Permit Number 37-07911 from Darlene Frazier to Robert E. Veeh, Betty Veeh, Lyle F. Frazier and Tony D. Frazier. Again, those parties wish to own the permit in their individual names.

3. I am also enclosing four Affidavit for Water Rights to be Used for Power Purposes forms signed by Robert E. Veeh, Betty Veeh, Lyle F. Frazier and Tony D. Frazier.

4. In order to clarify any question regarding the facilities used for delivery of the water to the power plant, I would advise you that a private canal is utilized. That canal is on property previously owned by Darlene Frazier and sold by her to George Arkoosh and Bonnie E. Arkoosh on May 27, 1983. However, the sale documents specifically provided that Darlene Frazier retained all right, title and interest in the real property leased to Co-Generation, Inc., (now Shoshone Hydro/Shorock Hydro, Inc.) which property includes the canal.

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NOV 20 2003

COLEMAN, RITCHIE & ROBERTSON

Cindy Zimmerman

Page 2

June 8, 1995

Those lease rights and property rights have been assigned to Robert E. Veeh, Betty Veeh, Lyle F. Frazier and Tony D. Frazier. The term of that lease was for 35 years from February 15, 1983, with a 35 year option to renew period.

5. I have previously paid \$50.00 for two assignment fees which I would request be applied toward the enclosed assignment and clarification of the prior assignment.

Thank you very much for your assistance. Please contact me if I can provide further information or be of assistance in any way.

Sincerely yours,



JOHN S. RITCHIE

JSR/sl

Encls.

cc: Robert E. Veeh
Lyle F. Frazier

MICROFILMED

NOV 20 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

May 10, 1995

**PHILIP E. BATT
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

VEEH & FRAZIER HYDRO
3268 HIGHLAWN DR
TWIN FALLS ID 83301

RE: Assignments of Permit Nos. 37-07863 & 37-07911

Dear Sirs:

I recently received 'Assignment of Permit' forms on the above referenced permits assigning the permits from Darlene Frazier to your company.

Permit No. 37-07863 is in the name of Robert & Betty Veeh and Lyle & Toni Frazier. If you want this permit to be in the name of your company, then all of the owners of record will need to sign the enclosed partially completed assignment form.

Permit No. 37-07911 is in the name of Darlene Frazier. However, prior to the department processing either assignment of power permit, you need to submit additional information.

Permits for power use are subject to the provisions of Sections 42-205 through 42-210, Idaho Code. I have enclosed a copy of these statutes for your reference.

The additional information required includes a completed copy of the enclosed "Affidavit for Water Rights to be used for Power Purposes" form, a certificate of incorporation allowing your company to do business in Idaho or proof of residency, a complete list of names and address of the directors, officers, and/or partners of the corporation or partnership, and evidence of ownership (i.e. proof of purchase, bill of sale, or warranty deed).

These assignments of permit cannot be processed until the above statutory provisions have been met and the requested information has been submitted.

I am returning the assignments to you. Please resubmit the assignments and additional information to my attention at the above address.

If you have any questions, please feel free to contact me directly at (208) 327-7944.

Sincerely,

Cindy Zimmerman
Water Resource Agent

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NOV 20 2003

Enclosures



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

June 28, 1990

Carl Grinsted
West One Bank
P.O. Box 509
Twin Falls, ID 83303

RE: Water Right Permits 37-7863 and 37-7911

Dear Mr. Grinsted:

This letter is confirmation that West One Bank is listed in the Department records as a lien holder for water right permits nos. 37-7863 and 37-7911.

In your letter dated June 18, 1990, you stated that the permits had been assigned to Veeh and Frazier from Darlene Frazier. Our records show that permit no. 37-7863 was assigned to Robert and Betty Veeh and Lyle and Toni Frazier, but that permit no. 37-7911 is still owned only by Darlene Frazier.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

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NOV 20 2003

STATE OF ILLINOIS
DEPT. OF WATER RESOURCES
1625 N. MICHIGAN
CHICAGO, ILLINOIS 60605

37-7863

RETURN TO SENDER
FORWARDING ORDER EXPIRED

RECEIVED

FEB 22 1990

Department of Water Resources

MICROFILMED
NOV 22 2003

*New address
Rt. 3, Box 630, ID
June 99301 not at this address*

FRAZ735 833012012 IN 01/25/90
RETURN TO SENDER
NO FORWARD ORDER ON FILE
UNABLE TO FORWARD
RETURN TO SENDER

FXc-17

Revent: 3/5/90

MEMORANDUM

TO: Files Nos. 37-7863 and 37-7911
FROM: Gary Spackman *Gary*
DATE: February 7, 1990

RE: Assignments of Permits and Respective Standing of the Parties

I have reviewed the assignments and security documents relating to permits nos. 37-7863 and 37-7911. I have also spoken to Carl Grinsted, Vice President of West One Bank in Twin Falls, Idaho. Current owners of permit no. 37-7863 are Robert E. Veeh, Betty Veeh, Lyle F. Frazier and Toni V. Frazier. Permit no. 37-7911 has not been assigned to these parties, however, and Darlene Frazier is the current owner. I will write a letter to Darlene Frazier informing her of the discrepancy.

We should enter West One Bank, P.O. Box 509, Twin Falls, Idaho, 83303, as a secured party. West One Bank holds a conditional assignment for security purposes that is earlier in time than the assignment by Darlene Frazier to the current owners. It is also my understanding that the current owners have agreed to recognize the conditional assignment upon default.

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NOV 20 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

February 9, 1990

Darlene Frazier
1795 Julie Lane
Twin Falls, ID 83301

RE: Permit to Appropriate Water No. 37-7911

Dear Ms. Frazier:

We recently received an assignment of permit no. 37-7863 to Robert E. and Betty Veeh and Lyle F. and Toni D. Frazier. I discussed this assignment with Carl Grinsted of West One Bank. Carl represented to me that the Veeh's and the Frazier's now are the current owners, but that West One Bank has retained its security interest in the permit.

In reviewing our files, I noticed that another related water right, permit no. 37-7911 has not been assigned the Veeh's and Frazier's. Do you intend to assign permit no. 37-7911? You are presently shown as the current owner in our files with West One Bank holding a security interest.

Respectfully,

A handwritten signature in cursive script that reads "Gary Spackman".

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc. Carl Grinsted
Southern Region

MICROFILMED

NOV 20 2003

MEMORANDUM

TO: File No. 37-7863 and 37-7911
FROM: Gary Spackman *Gary*
DATE: February 6, 1990

RE: Assignments of Permits and Respective Standing of the Parties

I have reviewed the assignment and security documents relating to permits nos. 37-7863 and 37-7911. I have also spoken to Carl Grinsted, Vice President of West One Bank in Twin Falls, Idaho.

The current owners for both permits should be Robert E. Veeh, Betty Veeh, Lyle F. Frazier and Toni V. Frazier. I noticed that these parties have been entered in the water right summary as the current owners for permit no. 37-7863. In 37-7911, however, the water right split summary still shows Darlene Frazier as the current owner.

We should also enter West One Bank, P.O. Box 509, Twin Falls, Idaho, 83303, as a secured party. West One Bank holds a conditional assignment for security purposes that is earlier in time than the assignment by Darlene Frazier to the current owners. It is also my understanding that the current owners have agreed to recognize the conditional assignment upon default.

MICROFILMED

NOV 20 2003

January 23, 1990

WESTONE
BANK

Mr. Gary Spackman, Manager
Water Right Permits Section
1301 N. Orchard Street
Statehouse Mail
Boise, Idaho 83720

RECEIVED
JAN 29 1990

Re: Water Permits 37-7863 and 37-7911
Darlene Frazier, Robert Veeh, Fred Frazier

Department of Water Resources

Dear Mr. Spackman:

I have received a copy of your letter to Mrs. Frazier concerning West One Bank's interest in the permits. I apologize for not getting the requested information back to you. Please find enclosed an Agreement effective as of the 1st day of June, 1987 between and among Darlene Frazier, Shoshone Hydro, Inc., Shoshone Hydro Limited Partnership and the Idaho First National Bank (now West One Bank), the parties resolved certain ambiguities of the March 11, 1982, which Agreement is incorporated as Exhibit I of the June 1, 1987 Agreement and attached thereto.

Robert Veeh and Fred Frazier, et al. have acknowledged and agreed to accept the prior contracts in the Consent To Assignment of Permit dated July 27, 1989, and previously forwarded to you under West One Bank letter of the same date.

I hope this information provides adequate data for your records. I will appreciate your response for our files, or let me know if additional information is necessary. You may call me direct at 737-5015.

Sincerely,



Carl Grinsted
Vice President

dod

MICROFILMED

MAY 20 2003

CONSENT TO ASSIGNMENT AND AGREEMENT

THIS CONSENT TO ASSIGNMENT AND AGREEMENT (the "Agreement"), effective as of the 23rd day of December, 1987, is made by, between, and among Idaho Power Company, a corporation ("IPC"); Darlene Frazier, both individually and in her capacity as personal representative of the estate of Fred M. Frazier (hereinafter referred to in each and both capacities as "Frazier"); Shorock Hydro, Inc., an Idaho corporation ("Shorock"); Shoshone Hydro Limited Partnership, an Idaho limited partnership ("Shoshone"); and The Idaho First National Bank, a national banking association (the "IFNB").

W I T N E S S E T H

WHEREAS, IPC has entered into that certain Power Sales Agreement Between Cogeneration, Inc. and Idaho Power Company, effective October 19, 1981, (IPC facility #31416001), as amended April 8, 1983, and June 30, 1983, and assigned to Shorock Hydro, Inc., consent for which assignment was given by IPC on February 8, 1984; and

WHEREAS, Frazier has entered into that certain Agreement dated March 11, 1982, with Cogeneration, Inc., including Exhibits A through D thereof, as amended by that certain Agreement effective June 1, 1987, by, between, and among Frazier, Shorock, Shoshone, and the "IFNB"; and

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NOV 20 2003

D.F. 7-7-88


WHEREAS, Shorock and/or Shoshone desire to refinance with the IFNB the electric power generating facility that is the subject matter of the aforementioned agreements with IPC and Frazier; and

WHEREAS, the IFNB is unwilling to refinance said electric power generating facility without the consent and agreement of IPC and Frazier hereto;

NOW, THEREFORE, Shorock and Shoshone do hereby assign to the IFNB all their right, title, and interest to those certain contracts and contract rights referenced on Exhibit I, which is attached hereto and incorporated herein, upon the terms therein set forth, and IPC and Frazier do hereby acknowledge and consent to said assignment, upon the following terms and conditions:

1. Upon the default by Shorock and/or Shoshone of the terms of any loan made by the IFNB with respect to the aforementioned electric power generating facility, the IFNB may give notice to IPC instructing it to make any payments due to said defaulting parties under the aforesaid Power Sales Agreement directly to the IFNB. Any payments made after said notice is received by IPC with respect to said agreement shall be made directly to the IFNB. Shorock and Shoshone hereby agree that such notice by the IFNB to IPC shall be deemed a default of the terms of their loan and they do hereby release IPC from all liability for making payment to the IFNB upon its receipt of such notice.

D. J. 7-7-88


MICROFILMED

NOV 2 9 2000

2. IPC and Frazier agree that in the event of a loan default by Shorock and/or Shoshone, the IFNB may exercise such control over the aforementioned electric power generating facility as is necessary to realize repayment of its loan, and the IFNB acknowledges and agrees that in that event it will be obligated to perform the covenants of Shorock and/or Shoshone to IPC and/or Frazier under the Agreements referenced on Exhibit I.

3. Shorock and Shoshone agree that they shall remain liable to IPC and Frazier for each and every obligation under the aforementioned referenced agreements with IPC and Frazier.

4. All notices to IPC under this Agreement shall be deemed received only when said notices are delivered by hand to IPC's General Counsel, at its general offices in Boise, Idaho.

5. All notices to Frazier shall be deemed received (i) at the close of business on the date of receipt, if delivered by hand, or (ii) when signed for by recipient, if sent registered or certified mail, postage prepaid.

6. The parties hereto agree that this Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho.

D. F. 7-7-88



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, effective as to each with and upon the execution hereof.

IDAHO POWER COMPANY

By John J. Straubhaar
Its Vice President
P.O. Box 70
Boise, Idaho 83707
(Mailing Address)

SHOROCK HYDRO, INC.

By John J. Straubhaar
Its President
P.O. 1787
Twin Falls, Idaho 83303
(Mailing Address)

Darlene Frazier
DARLENE FRAZIER,
Individually and as Personal
Representative of the Estate
of Fred M. Frazier
Box 3 Box 6736
Highland, Id.
(Mailing Address)

SHOSHONE HYDRO LIMITED
PARTNERSHIP

By SHOROCK HYDRO, INC.,
General Partner

By John J. Straubhaar
Its President
P.O. Box 1787
Twin Falls, Idaho 83303
(Mailing Address)

THE IDAHO FIRST NATIONAL BANK

By Carl J. Trustel
Its Vice President & Assistant Manager
P.O. Box 509
Twin Falls, Id. 83303
(Mailing Address)

STATE OF IDAHO)
County of Ada) ss:

On this 23rd day of December, in the year 1987, before me, Julie A. Ryan, notary public, personally appeared John Marshall, known or identified to me to be the Vice President of IDAHO POWER COMPANY, the corporation that executed the within instrument or the person who executed the within instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Julie A. Ryan
Notary Public for Idaho
Residing at Boise Idaho
My Commission Expires 10-26-93

STATE OF IDAHO)
County of Jerome) ss:

On this 5th day of November, in the year 1987, before me, Toni D. Greer, notary public, personally appeared DARLENE FRAZIER, known or identified to me to be the person who executed the within instrument, and acknowledged to me that she executed the same.

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

Toni D. Greer
Notary Public for Idaho
Residing at Jerome Idaho
My Commission Expires life

STATE OF IDAHO)
County of Twin Falls) ss:

On this 27th day of November, in the year 1987, before me, Susan H. Grimsman, notary public, personally appeared Carl Ginstad, known or identified to me to be the representative of THE IDAHO FIRST NATIONAL BANK, the corporation that executed the within instrument or the person who executed the within instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

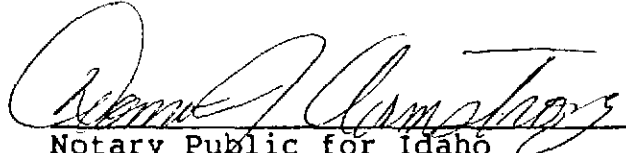
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Susan H. Grimsman
Notary Public for Idaho
Residing at Jerome, ID
My Commission Expires 2-22-91

STATE OF IDAHO)
County of Twin Falls) ss:

On this 10th day of November, in the year 1987, before me, _____, notary public, personally appeared John J. Straubhar, known or identified to me to be the President of SHOROCK HYDRO, INC., the corporation that executed the within instrument or the person who executed the within instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

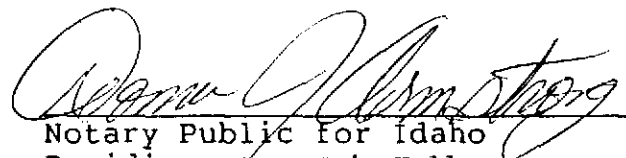
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Notary Public for Idaho
Residing at Twin Falls
My Commission Expires Life

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

On this 10th day of November, in the year 1987, before me, _____, notary public, personally appeared John J. Straubhar, known or identified to me to be the President of SHOROCK HYDRO, INC., one of the general partners of SHOSHONE HYDRO LIMITED PARTNERSHIP, an Idaho limited partnership, and the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same on behalf of said partnership.

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


Notary Public for Idaho
Residing at Twin Falls
My Commission Expires Life

SECURITY AGREEMENT COVERING CONTRACT RIGHTS AND PROCEEDS

June 1, 1987

(Date)

1. Shorock Hydro, Inc. and Shoshone Hydro Limited Partnership, 340 Blue Lakes
(Name)

Blvd. North, Twin Falls, ID (hereinafter jointly called "Debtor") do hereby
jointly and severally grant and assign to The Idaho First National Bank

(herein called "Secured Party") its successors and assigns, a security interest in all contract rights and the proceeds thereof which Debtor has or may at any time hereafter acquire under or pursuant to the terms of those certain contracts or contract rights (and any amendments or supplements thereto) of Debtor (the "Collateral");

(i) Power Sales Agreement Between Cogeneration, Inc., and Idaho Power Company, effective October 19, 1981, (IPC facility #31416001), as amended April 8, 1983, and June 30, 1983, and assigned to Shorock Hydro, Inc., consent for which assignment was given February 8, 1984; (ii) Agreement dated March 11, 1982, between Darlene Frazier, both individually and in her capacity as personal representative of the estate of Fred M. Frazier, and Cogeneration, Inc., including Exhibits A through D thereof, as amended by that certain Agreement dated June 1, 1987, by, between and among Darlene Frazier, in both said capacities, Shorock Hydro, Inc., Shoshone Hydro Limited Partnership, and The Idaho First National Bank; (iii) Water Permits No. 37-7863 and 37-7911, assigned from Cogeneration, Inc., to Darlene Frazier, and subsequently conditionally assigned to The Idaho First National Bank; (iv) Federal Energy Regulatory Commission exemption from licensing for Shoshone Hydro Project No. 4182, issued June 30, 1982, subsequently assigned to Shorock Hydro, Inc., on January 6, 1984;

2. The security interest granted hereby is to secure payment and performance of the liabilities and obligations of Debtor to Secured Party of every kind and description, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising (all hereinafter called "obligations").

3. DEBTOR HEREBY WARRANTS AND COVENANTS:

3.01 PAYMENTS MADE—ASSIGNMENTS. That no payments have been made on account of said contract except as

pursuant to the express terms thereof

and that Debtor has not heretofore and will not hereafter alienate, assign nor grant any security interest in said contract or the proceeds thereof, or any right or interest therein or thereto.

..02 Intentionally deleted.

3.03 PLACE OF BUSINESS. Debtor states that the address of the Debtor recited in this agreement above is and will remain the Debtor's chief place of business and the place at which it keeps its records concerning the accounts and proceeds thereof, constituting the security under this agreement, unless Secured Party consents in writing to a change.

3.04 PERFECTION OF SECURITY INTEREST. The Debtor agrees to execute and file financing statements and do whatever may be necessary under applicable law to perfect and continue the Secured Party's interest in the Collateral, all at Debtor's expense.

3.05 TAXES AND ASSESSMENTS. Debtor will pay promptly when due all taxes and assessments upon the Collateral or for its use or operation or upon this agreement or upon any note or notes evidencing the obligations.

3.06 PERFORMANCE.

Debtor agrees that it will fully and punctually perform all duties required of it by the above contracts and will not take any action which will impair, damage or destroy Secured Party's Collateral position, and that it will not alter or amend said contracts without the written consent of Secured Party.

3.07 INVOICES, EARNED ESTIMATES AND STATEMENTS—NOTICES.

Debtor agrees to deliver copies of earned estimates, statements, billings and any other records concerning said contract in the form and at the times required by Secured Party. At the request of Secured Party, Debtor will give or join in any notice desired by Secured Party to any other party to any of the aforesaid contracts.

4. APPOINTMENT AS AGENT.

The undersigned Debtor does hereby designate and appoint Secured Party its true and lawful attorney or attorneys, with power irrevocable, for it and in its name, place and stead to ask, demand, receive, receipt

THE TERMS AND CONDITIONS APPEARING ON THE BACK HEREOF ARE PART OF THIS
SECURITY AGREEMENT

Signed and delivered to Secured Party on the day and year first above written.

SHOROCK HYDRO, INC.

By John J. Shaulhan
Its President

SHOSHONE HYDRO LIMITED PARTNERSHIP

By: SHOROCK HYDRO, INC.

General Partner
By: John J. Shaulhan
Its President

AGREEMENT

THIS AGREEMENT (the "Agreement"), effective as of the 1st day of June, 1987, by, between, and among Darlene Frazier, both individually and in her capacity as personal representative of the estate of Fred M. Frazier (hereinafter referred to in each and both capacities as "Frazier"), Shorock Hydro, Inc., an Idaho corporation ("Shorock"), Shoshone Hydro Limited Partnership, an Idaho limited partnership ("Shoshone"), and The Idaho First National Bank, a national banking association (the "IFNB").

W I T N E S S E T H

WHEREAS, Cogeneration, Inc., an Idaho corporation, and Frazier entered into that certain agreement dated March 11, 1982, including Exhibits A through D thereof (the "Existing Agreement"), attached hereto and incorporated herein as Exhibit I; and

WHEREAS, upon receiving the consent of Frazier, Cogeneration, Inc. assigned all its right, title, and interest in the Existing Agreement to Shorock; and

WHEREAS, the IFNB has been asked to provide additional financing for the equipment and associated facilities owned by Shoshone that are located upon the real property leased pursuant to the terms of the Existing Agreement; and

WHEREAS, because of certain ambiguities in the wording of the Existing Agreement the Bank is unwilling to provide the

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requested financing until such ambiguities have been clearly resolved; and

WHEREAS, Frazier, Shorock, and Shoshone are willing to enter into this Agreement in order to induce the IFNB to provide the requested financing;

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto acknowledge and agree as follows:

1. The last sentence of paragraph 2 of the Existing Agreement is hereby amended to read:

On the repayment in full to the Idaho First National Bank of any existing loan or subsequent loan or obligation which is collateralized by water permits No. 37-7863 and 37-7911, the IFNB agrees to reassign all its interest in said permits or licenses to Frazier.

2. Paragraph 3 of the Existing Agreement is hereby amended, in its entirety, to read as follows:

3. Frazier herein disclaims any interest in the power generation equipment and associated fixtures and facilities and hereby agrees that if there is a default by Shoshone under the existing loan or any subsequent loan or obligation that is collateralized by the aforementioned water permits, then Frazier consents to an assignment of the lease (Exhibits "A" and "B" hereto) -- on the terms incorporated in this agreement, including all exhibits hereto and any amendments hereof --

to the IFNB, and the IFNB shall upon any such assignment be substituted as lessee and succeed to the rights and responsibilities of the assignor lessee; whereupon, at its option, it shall either continue with the generation of electricity or, in the alternative, remove the power generation equipment and associated fixtures and thereby terminate the aforesaid lease.

3. Paragraph 4 of the Existing Agreement is hereby amended by substituting the phrase "Shoshone, Shorock, or any assignee thereof consented to by Frazier" for the words "Cogen" or "Cogen, Inc." each place they appear therein.

4. Paragraph 7 of the Existing Agreement is hereby amended, in its entirety, to read as follows:

7. Frazier consents to the assignment of this agreement, including all exhibits hereto and any amendments hereof, to Shoshone, it being understood that Shorock shall be the general partner thereof and that no obligations to Frazier are altered hereby.

5. Paragraph 1 of Exhibit A (Option for Lease Agreement) to the Existing Agreement is hereby amended by substituting the legal description set forth in Exhibit II attached hereto and incorporated herein for the legal description set forth in said paragraph.

6. Paragraph 2 of Exhibit D (Conditional Assignment of Water Right) to the Existing Agreement is hereby amended, in its entirety, to read as follows:

It is understood and agreed that the water represented by water permits No. 37-7863 and 37-7911 may be used by Shoshone, Shorock, or any assignee thereof consented to by Frazier pursuant to the terms of that agreement, dated March 11, 1982, to which this conditional assignment has been appended as Exhibit D thereto (including any extensions thereof) and that this assignment shall become effective only upon Shoshone, Shorock, or any approved assignee thereof defaulting in the repayment of the existing loan or any subsequent loan or obligation that is collateralized by the aforementioned water permits; provided, however, that this conditional assignment shall immediately become void and of no further force or effect upon the repayment in full to The Idaho First National Bank of all construction and term loans used to construct or finance the hydro power plant on Little Wood River on the property leased from Frazier pursuant to the terms of the aforesaid agreement dated March 11, 1982.

7. No Waiver of Rights. This Agreement shall not be interpreted for any reason whatsoever to evidence or otherwise establish that the IFNB has waived or otherwise limited any right it was previously granted or held under any loan or security agreement or arrangement with respect thereto, and no leniency on the part of the IFNB in enforcing any of its rights under this Agreement or the Existing Agreement, as hereby amended, shall constitute a waiver thereof.

8. Additional Documentation. The parties hereto agree to execute upon request any and all documents reasonably

requested by the IFNB to carry out the intent of this Agreement, including, without limitation, all documents necessary to perfect the IFNB's security interests in any collateral referred to in the Existing Agreement.

9. Successors and Assigns. The covenants of this Agreement shall extend to and bind the heirs, administrators, executors, assigns, and successors of the respective parties hereto.

10. Attorneys' Fees. In the event of any suit or action arising out of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees.

11. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed an original, and all of such counterparts taken together shall constitute one and the same Agreement.

12. Entire Agreement. This Agreement and the Existing Agreement constitute the entire agreement of the parties, and there are no prior representations, warranties, or agreements other than those set forth or referenced therein concerning any loan or security agreement or arrangement. This Agreement cannot be changed, modified, or discharged orally, but only by an agreement in writing.

13. Governing Law. This Agreement is made and entered into in the State of Idaho, and shall be governed in all respects by Idaho law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, effective as of the date first above given.

THE IDAHO FIRST NATIONAL BANK

SHOROCK HYDRO, INC.

By *Carl J. Smith*
Its *Vice President & Assistant Manager*

By *John J. Straubhan*
Its *President*

Darlene Frazier
DARLENE FRAZIER, Individually
and as the Personal Representative of the Estate of
Fred M. Frazier

SHOSHONE HYDRO LIMITED
PARTNERSHIP

By SHOROCK HYDRO, INC.,
General Partner

By *John J. Straubhan*
Its *President*

STATE OF IDAHO)
County of Twin Falls) ss:

On this 27th day of November, in the year 1987, before me, Susan H. Grimsman, notary public, personally appeared Carl Grinstead, known or identified to me to be the representative of THE IDAHO FIRST NATIONAL BANK, the corporation that executed the instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Susan H. Grimsman
Notary Public for Idaho
Residing at Jerome, Id.
My Commission Expires 2-22-91

STATE OF IDAHO)
County of Twin Falls) ss:

On this 3rd day of November, in the year 1987, before me, Toni D. Croce, notary public, personally appeared DARLENE FRAZIER, known or identified to me to be the person who executed the within instrument, and acknowledged to me that she executed the same.

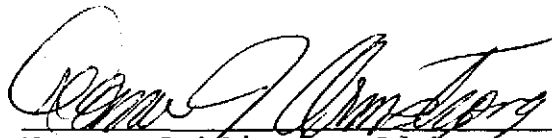
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Toni D. Croce
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires life

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

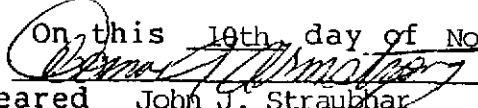
On this 10th day of November, in the year 1987, before me, notary public, personally appeared John J. Straubhar, known or identified to me to be the President of SHOROCK HYDRO, INC., the corporation that executed the within instrument or the person who executed the within instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



Notary Public for Idaho
Residing at Twin Falls
My Commission Expires Life

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

On this 10th day of November, in the year 1987, before me, , notary public, personally appeared John J. Straubhar, known or identified to me to be the President of SHOROCK HYDRO, INC., one of the general partners of SHOSHONE HYDRO LIMITED PARTNERSHIP, an Idaho limited partnership, and the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same on behalf of said partnership.

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



Notary Public for Idaho

Residing at Twin Falls

My Commission Expires Life

NOTARY PUBLIC

NOV 20 2003

AGREEMENT

THIS AGREEMENT made and entered into this 11 day of March, 1982, by and between DARLENE FRAZIER, as an individual, and as the personal representative of the Estate of Fred M. Frazier, hereinafter called "Frazier", and COGENERATION, INC., an Idaho corporation, hereinafter called "Cogen".

WHEREAS, the parties hereto have previously entered into an agreement dated November 19th of 1980, a copy of which agreement is attached hereto as Exhibit "A"; and

WHEREAS, the parties acknowledged the exercise of said option and amended said option to lease agreement by a letter agreement dated January 22, 1981, a copy of which is attached hereto as Exhibit "B"; and

WHEREAS, it is in the mutual benefit of the parties hereto that Cogen obtain permanent financing so that the power plant contemplated for construction on the Frazier property described in Exhibit "A" can be completed; and

WHEREAS, the Idaho First National Bank is Cogen's lender and will require as conditions of the financing certain assignments of the above-referenced documents as well as the water permits, federal licensing permissions, insurance, and all other permits necessary in the construction and operation of the facility and the Bank will also require a security interest in said assets including the property subject to the lease as collateral for the construction loan to Cogen; and

WHEREAS, it is in the mutual interest of the parties hereto that said requests be complied with so as to finalize the financing so that the project can be completed and the project become income producing;

EXHIBIT
I

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

4 1. That this agreement shall be deemed
5 supplementary to the agreements attached hereto as Exhibits
6 "A" and "B".

7 2. Cogeneration, Inc., will assign water permits
8 No. ³⁷⁻⁷⁸⁶³~~37-7911~~ to Darlene Frazier in the form attached hereto
9 as Exhibit "C". That because said permit must be signed as
10 collateral for the loan by Idaho First National, Frazier
11 agrees to assign said same water permit in blank in the form
12 attached hereto as Exhibit "D". Cogen agrees to do all
13 things necessary for licensing said permit and Frazier agrees
14 to cooperate in those proceedings. On the repayment of the
15 loan to the Idaho First National Bank, the Bank agrees to
16 reassign all its interest in the permit or license to
17 Frazier.

18 3. Frazier herein disclaims any interest in the
19 power generation fixtures and consents to an assignment of
20 the lease (Exhibits "A" and "B" hereto) if Cogen defaults in
21 their obligations to the Idaho First National Bank. If Cogen
22 is in default to the Idaho First National Bank, Frazier
23 herein agrees that the Idaho First National Bank may be
24 substituted as lessee on said lease for Cogen, and succeed to
25 their rights and responsibilities thereunder and continue to
26 generate electricity, or in the alternative to remove the
27 power equipment and fixtures, provided that the leasehold be
28 restored to the extent reasonably possible to its first and
29 foremost condition unless said restoration is waived by
30 Frazier. In the latter event, the lease shall be deemed
31 terminated.
32

60 60

1 4. Frazier acknowledges the existence of that
2 certain agreement of May 10, 1966, in which Emma Hannah is
3 the seller and George E. Rose and Janis L. Rose are the
4 buyers of the farm on which the leased premises are located.
5 Frazier also acknowledges the existence of that certain
6 agreement dated April 17, 1979, by which Charlotte Brunelli,
7 a widow, sold the same said premises to Fred M. Frazier and
8 Darlene Frazier, husband and wife. Frazier agrees that in
9 the event that Frazier is in default on either contract, that
10 Cogen may correct said default and set off any payments made
11 to remedy the default or defaults against future power
12 revenues of Frazier, together with interest at the prime rate
13 from the date that said payments were made by Cogen. Frazier
14 agrees to forward copies of any default notice which she
15 receives and agrees to hereafter authorize the Twin Falls
16 Banks & Trust Company to advise Cogen, Inc., of any said
17 threatened or actual default.

18 5. The agreement attached hereto as Exhibit "A"
19 became effective upon exercise of the option. Because it is
20 necessary that the power be made available for a term of 35
21 years so as to maximize the return for the benefit of both
22 Cogen, Inc., and Frazier under the Idaho Power Contract,
23 Frazier herein agrees that the 35 year lease term shall be
24 deemed to start the first month in which power is generated
25 and terminate 35 years thereafter. It is further understood
26 that the option shall remain a 35 year option and that the
27 notices required by Exhibits "A" and "B" shall remain.

28 6. Frazier will agree that the power generation
29 equipment to be emplaced by Cogen for the purpose of
30 construction of the plant, shall be deemed personal property
31 and not real property and agrees that Cogen may give a
32 Security Interest in all said personal property.

7. Frazier consents to the Assignment of All Agreements to Shoshone Hydro, a limited partnership, it being understood that Cogeneration, Inc., shall be the general partner thereof and that no obligations to Frazier are altered.

8. This agreement shall pertain to the real property described on Exhibit "A" hereto and shall be deemed an amendment of both Exhibits "A" and "B" to the extent of conflict and acknowledge that all previous signatures on Exhibits "A" and "B" as well as this agreement have been executed by Darlene Frazier individually, as well as the personal representative of the Estate of Fred M. Frazier.

The parties hereto bind their heirs, personal representatives, successors and assigns.

This agreement has been executed the day and year first above written.

APPROVED:

By [Signature]
Weaver & Dykas
Attorneys for Darlene Frazier

[Signature]
Darlene Frazier, Individually
and as Personal Representative
of the Estate of Fred M.
Frazier

COGENERATION, INC.

By [Signature]
President

By [Signature]
Secretary

STATE OF IDAHO)
County of Twin Falls) ss.

On this 11 day of March, 1982, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Darlene Frazier, known to me to be the person whose name is subscribed to the within instrument as an individual and as personal representative of

1 the Estate of Fred M. Frazier, and acknowledged to me that
2 she has read the foregoing instrument and executed the same.

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

6
7 John A. Rosenthal
8 NOTARY PUBLIC FOR IDAHO
9 Residing at: Twin Falls

10 STATE OF IDAHO)
11) ss.
12 County of)

13 On this 30 day of March, 1982, before me, the
14 undersigned, a Notary Public in and for said County and
15 State, personally appeared John J. Strickland
16 and Delbert W. Block, known to me to be the
17 President and Secretary, respectively, of Cogeneration, Inc.,
18 the corporation that executed the within instrument, and
19 acknowledged to me that such corporation executed the same.

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

23 John A. Rosenthal
24 NOTARY PUBLIC FOR IDAHO
25 Residing at: Twin Falls

MICROFILMED

1982 2 11 2000

OPTION FOR LEASE AGREEMENT

1. Grant of Option. This Option is granted by Darlene Frazier, Personal Representative of the Estate of Fred M. Frazier, hereinafter called "Optionor", to Cogeneration, Inc., an Idaho corporation, hereinafter called "Optionee", for the consideration of \$1.00, receipt of which is hereby acknowledged. Optionor hereby grants to Optionee the option to lease for a term of 30 years the real property situated in Lincoln County, Idaho, and generally described as follows:

A parcel of land 80 feet in width, being 40 feet on each side of the centerline of the existing canal beginning at a point where the head of the canal bisects and water can be diverted from the Little Wood River onto Optionor's property in the NE 1/4 NW 1/4, Section 33, Township 5 South, Range 17 E.B.M., Lincoln County, Idaho, thence down said canal a distance of 2640 feet, and at that location a parcel 150 feet square bisected by said canal, said square parcel located in the NW 1/4 NW 1/4 of Section 33, Township 5 South, Range 17 E.B.M., Lincoln County, Idaho.

2. Notice of Exercise. Optionee shall give Optionor written notice of his exercise of the option granted herein on or before May 1, 1981. It is understood and agreed that if this option is not exercised by the date above herein specified, it shall have no further binding force and effect.

3. Exercise of Option. In the event Optionee exercises the option granted herein, it is understood and agreed that Optionee will use their best efforts to secure a water right permit, to be held in the name of Optionor, and necessary federal and state licenses, and construct, own and operate a small hydro electric facility on the property above described at their own expense and shall pay annually to the Optionor as "lease payments" a percentage of the gross receipts from said facility, said actual percentage to be agreed upon completion of the feasibility study of the Optionee; provided, however, in no event shall the lease payment be less than 12% nor more than 20% of the gross receipts; and provided further, it is specifically understood that, unless there is a mutual agreement otherwise fixing the percentage, the actual percentage, within the limits hereinabove set forth, shall be based upon the results of a feasibility study to be completed by the Optionee. Said feasibility study to be conducted in accordance with reasonable engineering standards and procedures. Optionee shall pay increased real property taxes and personal

MICHAEL

EXHIBIT A

property taxes assessed by reason of the improvements constructed pursuant hereto, and the kilowatt hour tax assessed on power generation. It is understood and agreed that Optionor will cooperate in all respects (for no additional consideration) in executing necessary water rights, permissions, licenses, and necessary rights of way, not only for the construction of the generation facilities, but including the necessary roadways for access, and corridor easements for necessary transmission lines, and other necessary and appurtenant facilities which might be required to connect said facility to adjacent facilities.

4. Option to Renew. The lease may be renewed by Optionee giving notice to Optionor in writing six months prior to said termination date of paragraph 1 hereof for one additional term as set out in paragraph 1 hereof. Payments shall continue as prescribed in paragraph 3 hereof.

5. Contingent Termination. Option will begin construction of said facilities within one year of the exercise of the option or the granting of the last necessary governmental permit or approval; or all approvals and permits obtained by Optionee shall be assigned to the Optionor.

6. Assignment. The Optionee shall have the right to assign this Agreement as well as Optionee's rights under the Lease subject to Optionor's approval.

7. Indemnification. Optionee hereby agrees to indemnify and hold harmless Optionor from any claim or claim of third parties brought against Optionor by reason of Optionee's negligence, including attorney's fees in defending said claim.

8. Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives and successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Option to Lease This 19th day of Nov., 1980.

Darlene Frazier
Darlene Frazier, Personal
Representative of the Estate of
Fred M. Frazier

"Optionor"

COGENERATION, INC.

B: [Signature]
Authorized Agent

"Optionee"

STATE OF IDAHO)

) ss.

County of Twin Falls)

On this 17th day of November, 1980, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Darlene Frazier, Personal Representative of the Estate of Fred M. Frazier, known to me to be the person who executed the foregoing instrument and acknowledged to me that they executed the same.

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

[Signature]
Notary Public for Idaho

Residing at Boise, Idaho

STATE OF IDAHO)

) ss.

County of Twin Falls)

On this 24th day of November, 1980, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Bruce C. Mehan, known to me to be the Authorized Agent of Cogeneration, Inc., the person who executed the foregoing instrument and acknowledged to me that he executed the same.

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

[Signature]
Notary Public for Idaho

Residing at Boise, Idaho

ADDENDUM TO OPTION FOR LEASE AGREEMENT

THIS ADDENDUM to that certain Option for Lease Agreement dated the 19th day of November, 1980, in which Darlene Frazier, as Personal Representative of the Estate of Fred M. Frazier, as Optionor, and Cogeneration, Inc., as Optionee, is hereby amended by the addition of the following paragraph to paragraph 3 of the agreement of November 19, 1980:

"The permissions and rights herein granted by the Optionor shall include the right of the Optionee to discharge water from the powerplant and to convey the same through existing ditches or ditches that need hereafter be altered to return the discharge water to the natural stream channel of Little Wood River all on the property of the Optionor."

IN WITNESS WHEREOF, the parties hereto have executed this Addendum to Option for Lease Agreement this 9 day of June, 1981.

Darlene Frazier

Darlene Frazier, as Personal
Representative of the Estate
of Fred M. Frazier

COGENERATION, INC.

By [Signature]
Authorized Agent

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

On this 9th day of June, 1981, before me, a Notary Public, in and for said County and State, personally appeared Darlene Frazier, Personal Representative of the Estate of Fred M. Frazier, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

EXHIBIT A

January 22, 1981

Mr. Frank Dykas
Weaver and Dykas
130 North Broadway
Buhl, Idaho 83316

Re: Option for Lease Agreement - Notice of Exercise
Darlene Frazier - Cogeneration, Inc.

Dear Frank:

1. Exercise of Option. Please consider this letter as notice of exercise effective on or April 30, 1981, of that certain "Option for Lease Agreement" dated as of the 19th day of November 1980, between the above identified parties. In addition to serving as notice of the exercise of said option, we would ask that your client treat this letter as an addendum to the "Option for Lease Agreement" by acknowledging that the term of years in line 7 of paragraph 1 will be changed to 35 years from 30 years, your client thereby recognizes that the option to renew as set out in paragraph 4 would also be so extended in term.

2. Amendments to Agreement. Please also consider the agreement amended to the extent that the percentage number discussed in lines 12 and 13 of paragraph 3 is hereby agreed by the parties to be 15%.

3. Other. While not necessary as an addendum to the agreement, be advised that Cogeneration, Inc., will be willing to assign the application for a water permit at this point in time, or after the permit has been issued, depending upon your client's preference.

Please assign the application at this time. B. Dykas

4. Acknowledgement. Please have your client acknowledge and indicate your approval of the contents of this letter concerning notice of exercise of the option, the amendments to the original agreement of November 19, 1980, and receipt of this letter by signing the bottom portion of this letter in the blank provided, and returning an executed copy of the letter to us. If you desire more formality for the purposes of reciting the amendments herein contained, please advise and we will be happy to comply.

APPROVED:

Darlene Frazier
Darlene Frazier, Personal

APPROVED:

Frank M. Dykas
Frank M. Dykas
Attorney for Darlene Frazier

Respectfully submitted,

COGENERATION, INC.

Bruce C. Meham
BRUCE C. MEHAM
Authorized Agent

EXHIBIT B

1 ASSIGNMENT OF WATER RIGHT

2 Cogeneration, Inc., hereby assigns all of its right,
3 title and interest in and to Idaho Water Permit No. _____ to
4 Darlene Frazier.

5 DATED this _____ day of _____, 1982.

6 ATTEST:

7 _____
8 Secretary

President

9
10 STATE OF IDAHO)

) ss.

11 County of)

12 On this _____ day of _____, 1982, before
13 me, the undersigned, a Notary Public in and for said County
14 and State, personally appeared _____, known to me
15 to be the person whose name is subscribed to the within
instrument, and acknowledged to me that _____ has read the
foregoing instrument and executed the same.

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

19 _____
20 NOTARY PUBLIC FOR IDAHO

Residing at: _____

21 STATE OF IDAHO)

) ss.

22 County of)

23 On this _____ day of _____, 1982, before me, the
24 undersigned, a Notary Public in and for said County and
25 State, personally appeared Jack Straubhar and Delbert Block,
26 known to me to be the President and Secretary, respectively,
of Cogeneration, Inc., the corporation that executed the
within instrument, and acknowledged to me that such
corporation executed the same.

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

30
31 _____
32 NOTARY PUBLIC FOR IDAHO

Residing at: _____

EXHIBIT C

CONDITIONAL ASSIGNMENT OF WATER RIGHT

Darlene Frazier, individually, and as Personal Representative of the Estate of Fred M. Frazier, hereby conditionally assigns all of her right, title and interest in and to Idaho Water Permit Nos. 37-7863 and 37-7911 to the Idaho First National Bank in accordance with the provisions of paragraph 2 of the Agreement of March 11, 1982.

It is understood that the water represented by said permits may be used by Cogeneration, Inc., pursuant to agreement with the undersigned for the duration of said lease between the parties (and any extensions thereof) and that this assignment shall be effective in the event that Cogeneration, Inc., or Shoshone Hydro defaults in the repayment of the loan of \$360,000.00 to the Idaho First National Bank, the proceeds of which will be used to construct the hydro power plant on Little Wood River on the property leased from the undersigned Frazier in Lincoln County, Idaho. Upon repayment of the loan to the Idaho First National Bank, this assignment shall be deemed of no further force and effect.

The parties hereto bind their successors and assigns.

DATED this 26 day of March, 1982.

Darlene Frazier
Darlene Frazier

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

On this 26 day of March, 1982, before me, a Notary Public, in and for said County and State, personally appeared Darlene Frazier, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

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

James A. Rosenthal
NOTARY PUBLIC FOR IDAHO
Residing at: Twin Falls

RECORDED

MAR 26 1982

EXHIBIT D



J-U-B ENGINEERS, Inc.

North Plaza Offices, Suite 1
800 Falls Avenue

Twin Falls, Idaho 83301

Telephone: (208) 733-2414

March 10, 1982

Shoshone Hydro-electric Project

A strip of land, 100.00 feet in width, located in the North One-Half of Section 32 and 33, Township 5 South, Range 17 East of the Boise Meridian, Lincoln County, Idaho, more particularly described as follows:

A strip of land, 100.00 feet in width, lying 25.00 feet right of (southerly of) and 75.00 feet left of (northerly of) the following described line:

Commencing at the northwest corner of said Section 33 which bears North $0^{\circ}00'00''$ East, 2,688.48 feet from the west one-quarter corner of said Section 33;

thence South $46^{\circ}39'03''$ West, 413.49 feet to the REAL POINT OF BEGINNING of said line;

thence North $88^{\circ}35'23''$ East, 470.00 feet;

thence South $69^{\circ}09'15''$ East, 725.00 feet;

thence South $88^{\circ}31'12''$ East, 550.00 feet;

thence North $70^{\circ}11'35''$ East, 575.00 feet;

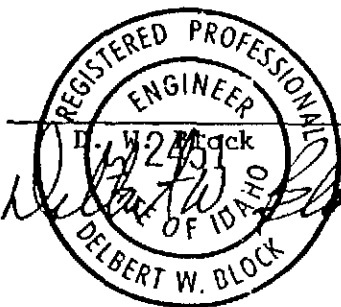
thence South $77^{\circ}42'57''$ East, 325.00 feet;

thence South $85^{\circ}37'55''$ East, 300.00 feet;

thence North $50^{\circ}52'05''$ East, 134.00 feet to the end of said line, a point which is South $82^{\circ}20'58''$ East, 2,686.02 feet from the northwest corner of said Section 33.

CERTIFICATE OF ENGINEER

I, D. W. Block, do hereby certify that I am a Registered Professional Engineer, licensed by the State of Idaho, and that this description has been prepared from an actual survey made on the ground under my direct supervision, and that this description is an accurate representation of said survey.



2451
License No.



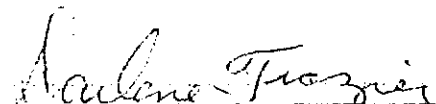
CONDITIONAL ASSIGNMENT OF WATER RIGHT

Darlene Frazier, individually, and as Personal Representative of the Estate of Fred M. Frazier, hereby conditionally assigns all of her right, title and interest in and to Idaho Water Permit Nos. 37-7863 and 37-7911 to the Idaho First National Bank in accordance with the provisions of paragraph 2 of the Agreement of March 11, 1982.

It is understood that the water represented by said permits may be used by Cogeneration, Inc., pursuant to agreement with the undersigned for the duration of said lease between the parties (and any extensions thereof) and that this assignment shall be effective in the event that Cogeneration, Inc., or Shoshone Hydro defaults in the repayment of the loan of \$360,000.00 to the Idaho First National Bank, the proceeds of which will be used to construct the hydro power plant on Little Wood River on the property leased from the undersigned Frazier in Lincoln County, Idaho. Upon repayment of the loan to the Idaho First National Bank, this assignment shall be deemed of no further force and effect.

The parties hereto bind their successors and assigns.

DATED this 26 day of March, 1982.

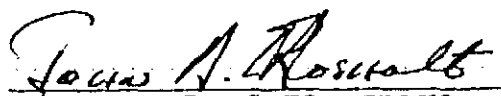


Darlene Frazier

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

On this 26 day of March, 1982, before me, a Notary Public, in and for said County and State, personally appeared Darlene Frazier, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

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



NOTARY PUBLIC FOR IDAHO
Residing at: Twin Falls

MICROFILMED

APR 28 1983



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

January 18, 1990

Darlene Frazier
1795 Julie Lane
Twin Falls, ID 83301

RE: Permit to Appropriate Water No. 37-7863

Dear Ms. Frazier:

I acknowledge receipt of your assignment of permit no. 37-7863 to Robert E. and Betty Veeh and Lyle F. and Toni D. Frazier.

I am concerned about a letter we received from Carl Grinsted of West One Bank in Twin Falls, Idaho. Mr. Grinsted sent me a letter alleging that you had assigned the permits to West One Bank (Idaho First National Bank). Mr. Grinsted did not send me a copy of the assignment, however, and I requested it from him. He did not respond to my letter.

Without any further information, I intend to recognize the assignment from you to the other parties. I will, however, send a copy of this letter to West One Bank so that it is adequately notified of your intentions.

Sincerely,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc. Carl Grinsted
Southern Region

MICROFILMED

NOV 29 2003



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

August 15, 1989

Carl Grinsted, Vice President
West One Bank
P.O. Box 509
Twin Falls, ID 83303

RE: Assignment of Permits Nos. 37-7863 and 37-7911 Presently in
the Name of Darlene Frazier

Dear Mr. Grinsted:

I have reviewed the consent to agreement and assignment of permit which you mailed to me. As I read the document, however, the bank consents to another agreement of assignment of which I do not have a copy. The earlier agreement is referred to in the document you sent to me as a "certain Agreement and Assignment of Permit."

Upon receipt of a copy of the original assignment, the Department will recognize and acknowledge both the assignment and the consent.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc. Darlene Frazier
1795 Julie Ln.
Twin Falls, ID 83301

MICROFILMED

NOV 20 2003

RECEIVED
AUG 24 1989

West One Bank, Idaho, N.A.
Post Office Box 509
Twin Falls, Idaho 83303
208 737-5000

Department of Water Resources

WEST ONE
BANK

June 7, 1989

RECEIVED

JUN 09 1989

Department of Water Resources
Southern Region Office

State of Idaho
Department of Water Resources
2148 4th Ave. East
Twin Falls, Idaho 83301

Re: Permit No. 37-7863 and 37-7911
Darlene Frazier

Please find enclosed a "Conditional Assignment of Water Right" dated March 26, 1982, whereby Darlene Frazier, individually and as Personal Representative of the Estate of Fred M. Frazier, conditionally assigns the above referenced permits to The Idaho First National Bank (now doing business as West One Bank) and a "Consent to Assignment" dated August 17, 1984 whereby Frazier consented to the assignment of Cogeneration's rights to Shorock Hydro, Inc.

Please acknowledge Idaho First National Bank's security interest in those water permits by signing a copy of this letter below and returning it to me.

Sincerely,



Carl Grinsted
Vice President

ACKNOWLEDGEMENT:

State of Idaho
Department of Water Resources

By: _____

Title: _____

Date: _____

MICROFILMED
JUN 20 2003



June 7, 1989

State of Idaho
Department of Water Resources
2148 4th Ave. East
Twin Falls, Idaho 83301

Re: Permit No. 37-7863 and 37-7911
Darlene Frazier

Please find enclosed a "Conditional Assignment of Water Right" dated March 26, 1982, whereby Darlene Frazier, individually and as Personal Representative of the Estate of Fred M. Frazier, conditionally assigns the above referenced permits to The Idaho First National Bank (now doing business as West One Bank) and a "Consent to Assignment" dated August 17, 1984 whereby Frazier consented to the assignment of Cogeneration's rights to Shorrock Hydro, Inc.

Please acknowledge Idaho First National Bank's security interest in those water permits by signing a copy of this letter below and returning it to me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carl Grinsted".

Carl Grinsted
Vice President

ACKNOWLEDGEMENT:

State of Idaho
Department of Water Resources

By: _____
Title: _____
Date: _____

MICROFILMED
NOV 20 2003

CONSENT TO ASSIGNMENT

THIS CONSENT TO ASSIGNMENT dated the 17 day of August, 1984, by Darlene Frazier, as an individual and as personal representative of the Estate of Fred M. Frazier (hereinafter referred to as "Frazier").

W I T N E S S E T H:

WHEREAS, Cogeneration, Inc., a corporation, has constructed and is operating a hydro generating facility located on the Little Wood River in Lincoln County, Idaho, identified as FERC Project No. 4182-000 and Idaho Power Facility No. 31416001; and

WHEREAS, Frazier is indirectly involved in the project of Cogeneration, Inc. and Shoshone Hydro, a limited partnership (hereinafter referred to jointly as "CSH") with respect to the hydroelectric generating facility described above by reason of certain agreements;

WHEREAS, Cogeneration, Inc., contemplates the transfer of all right and interest in said facilities to Shorock, Inc., as a part of a corporate reorganization, the ownership of Shorock Hydro, Inc. to be by the present stockholders of Cogeneration, Inc.; and

WHEREAS, agreements between Cogeneration, Inc., and Frazier require Frazier's consent to said Assignment;

NOW, THEREFORE, Frazier hereby consents to the Assignment of Cogeneration, Inc.'s rights in Project Number 4182-000 to Shorock Hydro, Inc., and Shorock Hydro, Inc. agrees that hereafter it will be obligated to perform the agreements of Cogeneration, Inc., to Frazier.

DATED: 8-30-84

Darlene Frazier
DARLENE FRAZIER, as an individual and as personal representative of the Estate of Fred M. Frazier

MICROFILMED

NOV 20 2003

SHOROCK HYDRO, INC.

DATED

August 17, 1984

By:

Its:

John J. Straulhar
President

STATE OF IDAHO,
COUNTY OF TWIN FALLS,

On this 17th day of August, in the year of 1984, before me,
personally appeared John J. Straulhar, known to me to be the
person whose name is subscribed to the within instrument, and acknowledged
to me that he executed the same.

Sharon A. Lewis
Notary Public

Residing at Twin Falls, Idaho.

STATE OF IDAHO,
COUNTY OF TWIN FALLS,

On this 30 day of Aug., in the year of 1984, before me,
personally appeared Darlene Frazier, as an individual and as personal
representative of the Estate of Fred M. Frazier, known to me to be the person
whose name is subscribed to the within instrument, and acknowledged to me that
she executed the same.

Kay Sneider
Notary Public

Residing at Twin Falls, Idaho.

NOV 20 2000

CONDITIONAL ASSIGNMENT OF WATER RIGHT

Darlene Frazier, individually, and as Personal Representative of the Estate of Fred M. Frazier, hereby conditionally assigns all of her right, title and interest in and to Idaho Water Permit Nos. 37-7863 and 37-7911 to the Idaho First National Bank in accordance with the provisions of paragraph 2 of the Agreement of March 11, 1982.

It is understood that the water represented by said permits may be used by Cogeneration, Inc., pursuant to agreement with the undersigned for the duration of said lease between the parties (and any extensions thereof) and that this assignment shall be effective in the event that Cogeneration, Inc., or Shoshone Hydro defaults in the repayment of the loan of \$360,000.00 to the Idaho First National Bank, the proceeds of which will be used to construct the hydro power plant on Little Wood River on the property leased from the undersigned Frazier in Lincoln County, Idaho. Upon repayment of the loan to the Idaho First National Bank, this assignment shall be deemed of no further force and effect.

The parties hereto bind their successors and assigns.

DATED this 26 day of March, 1982.

Darlene Frazier
Darlene Frazier

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

On this 26 day of March, 1982, before me, a Notary Public, in and for said County and State, personally appeared Darlene Frazier, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

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

James A. Rosenthal
NOTARY PUBLIC FOR IDAHO
Residing at: Twin Falls

MICROFILMED
MAY 21 2005

INSTRUCTIONS:

- | | | | |
|--|--|--|--|
| This FINANCING STATEMENT is presented to filing officer for
filing pursuant to the Uniform Commercial Code. | | No. of additional
sheets presented: | 3. FOR FILING OFFICER ONLY
(Date, time, number and filing office) |
| 1. Debtor(s): (last name first, and mailing address(es))

Veeh, Robert E. or Betty
Frazier, Lyle F. or Toni

Twin Falls, Idaho 83301 | 2. Secured Party(ies) and address(es):

West One Bank, Idaho, N.A.
Twin Falls Office #1-70
P.O. Box 509
Twin Falls, Idaho 83303-0509

formerly doing business as
Idaho First National Bank | | |
| 4. This Financing Statement covers the following types (or items) of property:
(Use this space for Real Property legal description and name of record owner, if required.)

accounts, Chattel Paper, General Intangibles, Instruments or other
rights to payment now and hereafter arising out of business of Debtor
from Shoshone Hydro, A Limited Partnership and its successors and
assigns.

Idaho Water Permit Nos. 37-7863 and 37-7911 | | | 5. Assignee(s) of Secured Party(ies)
and address(es) |

CHECK ☒ IF COVERED ☒ Products of collateral are also covered.

Filed with: ☒ Secretary of State ☐ County Recorder of _____ County

If one of the following boxes is checked, the secured party may sign the financing statement. The collateral described herein is:

- ☐ Brought into this state already subject to a security interest in another jurisdiction.
- ☐ Subject to a security interest in another jurisdiction, and the debtor's location has changed to this state.
- ☐ Proceeds of the original collateral described above in which a security interest was perfected.
- ☒ The subject of a financing statement which has lapsed.
- ☐ Subject to a security interest perfected under a prior name or identity of the debtor.

☐ Subject to a security interest perfected under a prior name or identity of the debtor.

BY: Rob Eichel Betty Veech Doni May Carl J. Juntel
SIGNATURE(S) OF SECURED PARTY(IES) OR ASSIGNEE OF RECORD

1 FILING OFFICER - ALPHABETICAL

IDAHO UCC-1 FORM CR00750 REV. 3/89

FORM APPROVED BY PETE T. CENARRUSA, SECRETARY OF STATE

1992

CONSENT TO AGREEMENT AND ASSIGNMENT OF PERMIT

THIS CONSENT TO AGREEMENT AND ASSIGNMENT OF PERMIT (this "Agreement") effective as of the 27 day of July, 1989, is made by, between and among DARLENE FRAZIER, both individually and in her capacity as personal representative of the Estate of Fred M. Frazier (hereinafter referred to in each and both capacities as "Frazier"); ROBERT E. VEEH and BETTY VEEH, husband and wife, of Twin Falls, Idaho, and LYLE F. FRAZIER and TONI D. FRAZIER, husband and wife, of Twin Falls, Idaho (hereinafter referred to collectively as "Assignees"); SHOROCK HYDRO, INC., an Idaho corporation (hereinafter referred to as "Shorock"); SHOSHONE HYDRO LIMITED PARTNERSHIP, an Idaho limited partnership (hereinafter referred to as "Shoshone"); and WEST ONE BANK, IDAHO, N.A., f/k/a The Idaho First National Bank, a national banking association (hereinafter referred to as the "Bank").

W I T N E S S E T H:

WHEREAS, Frazier and the Assignees have entered into that certain Agreement and Assignment of Permit by which Frazier assigns all of her right, title and interest in and to Idaho Water Permit Nos. 37-7863 and 37-7911, her property right and leasehold interest in and to certain real property more thoroughly described therein, and all of her interests, rights, duties, obligations and liabilities as set forth in certain agreements and other documents identified therein and attached thereto (the "Collateral Documents"), and by which the Assignees have assumed all duties, obligations and liabilities as set forth in the Collateral Documents; and

WHEREAS, the Assignees desire to finance with the Bank the purchase price to be given as consideration for the aforementioned Agreement and Assignment of Permit; and

WHEREAS, Shorock and Shoshone have entered into that certain Credit Extension Agreement effective as of May 20, 1988, with the Bank; and

WHEREAS, Shorock and/or Shoshone desire to acknowledge the assignment of the various personal and real property rights and contractual rights and obligations identified in the aforementioned Agreement and Assignment of Permit and to continue the relationship with their Bank;

NOW, THEREFORE,, to induce the Bank to finance acquisition by the Assignees of the rights and properties identified in the Agreement and Assignment of Permit, the parties hereto agree as follows:

1. Shorock and Shoshone acknowledge the assignment of real and personal property interests and contractual rights and obligations as set forth in the aforementioned Agreement and Assignment of Permit and do hereby consent to such assignment and assumption by the Assignees of the rights, duties and liabilities so assigned.

2. Shoshone and Shorock do hereby reaffirm each and every duty, obligation and liability placed upon them pursuant to the aforementioned Credit Extension Agreement.

3. Shorock and Shoshone agree that they shall remain liable under the Collateral Documents as that term is used in the aforementioned Agreement and Assignment of Permit except that in

RECORDED
2013 APR 22

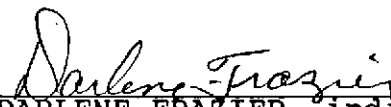
all circumstances wherein duties or obligations contained therein are owed to Frazier, the Assignees shall be substituted for Frazier.

4. All notices previously due to Frazier shall be given both to Robert A. Veeh and Betty Veeh, Route 3, Box 6736, Twin Falls, Idaho, and Lyle F. Frazier and Toni D. Frazier, 261 Los Lagos, Twin Falls, Idaho, and shall be deemed received (i) at the close of business on the date of receipt, if delivered by hand, or (ii) when signed for by recipient, if sent registered or certified mail, postage prepaid.

4. The parties hereto agree that this Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho.

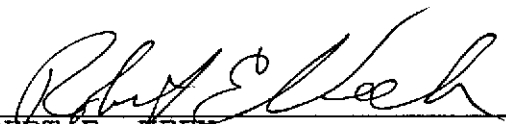
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, effective as to each with and upon the execution hereof.

FRAZIER:

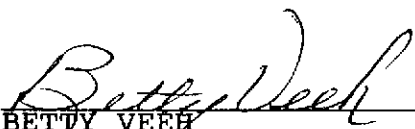


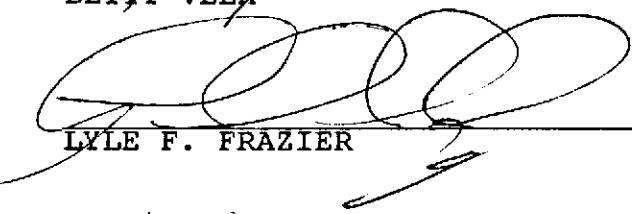
DARLENE FRAZIER, individually and
in her capacity as Personal
Representative of the Estate of
Fred M. Frazier

ASSIGNEES:



ROBERT E. VEEH

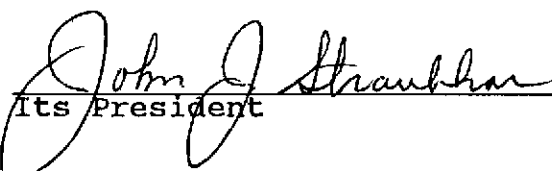

BETTY VEEH


LYLE F. FRAZIER


TONI D. FRAZIER

SHOROCK:

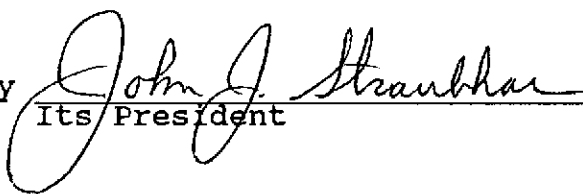
SHOROCK HYDRO, INC.

By 
Its President

SHOSHONE:

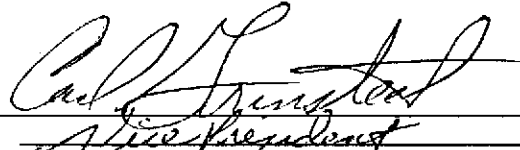
SHOSHONE LIMITED PARTNERSHIP

By Shorock Hydro, Inc.,
General Partner

By 
Its President

BANK:

WEST ONE BANK, IDAHO, N.A., f/k/a
The Idaho First National Bank

By 
Its Vice President

STATE OF IDAHO

County of ~~Ada~~ Twin Falls

) ss:

On this 27th day of July, in the year 1989, before me, the undersigned, notary public, personally appeared DARLENE FRAZIER, known or identified to me to be the person who executed the instrument individually and as Personal Representative of the Estate of Fred M. Frazier, and acknowledged to me that she executed the same.

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

Sherran A. Robinette
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

STATE OF IDAHO

County of ~~Ada~~ Twin Falls

) ss:

On this 27th day of July, in the year 1989, before me, the undersigned, notary public, personally appeared ROBERT E. VEEH and BETTY VEEH, known or identified to me to be the persons who executed the instrument, and acknowledged to me that they executed the same.

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

Sherran A. Robinette
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

STATE OF IDAHO)
County of Twin Falls } ss:
~~Ada~~

On this 27th day of July, in the year 1989, before me, the undersigned, notary public, personally appeared LYLE F. FRAZIER and TONI D. FRAZIER, known or identified to me to be the persons who executed the instrument, and acknowledged to me that they executed the same.

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

Theresa A. Robinette
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

STATE OF IDAHO)
County of Twin Falls } ss:
~~Ada~~

On this 27th day of July, in the year 1989, before me, the undersigned, notary public, personally appeared Theresa A. Robinette, known or identified to me to be the President of SHOROCK HYDRO, INC., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Theresa A. Robinette
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

STATE OF IDAHO)
Twin Falls } ss:
County of Ada

John J. Straubhar → On this 27th day of July, in the year 1989, before me, the undersigned, notary public, personally appeared ~~Theresa A. Robinetto~~, known or identified to me to be the President of SHOROCK HYDRO, INC., the General Partner of SHOSHONE HYDRO LIMITED PARTNERSHIP, the partnership that executed the instrument or the person who executed the instrument on behalf of said partnership, and acknowledged to me that such partnership executed the same.

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

Theresa A. Robinetto
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

STATE OF IDAHO)
Twin Falls } ss:
County of Ada

On this 27th day of July, in the year 1989, before me, the undersigned, notary public, personally appeared Carl Grinstead, known or identified to me to be the Vice President of WEST ONE BANK, IDAHO, N.A., f/k/a The Idaho First National Bank, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Theresa A. Robinetto
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

RECEIVED

AUG - 8 1989

WESTONE
BANK

Department of Water Resources
Southern Region Office

July 27, 1989

State of Idaho
Department of Water Resources
2148 4th Avenue East
Twin Falls, Idaho 83301

Re: Permits Nos. 37-7863 and 37-7911
Assignment Fred and Darlene Frazier to Robert E. and Betty Veeh
and Lyle F. and Toni D. Frazier

Please find enclosed a Consent To Agreement and Assignment of Permit
from Frazier to Veeh and Frazier executed by West One Bank (formerly
Idaho First National Bank).

Please be advised we still retain a security interest in these permits.
I have also enclosed a copy of the UCC-1 being filed with the Secretary
of State evidencing our interest, which is in addition to the interest
we hold through Fred and Darlene Frazier and Shoshone Hydro, a limited
partnership. Application for transfer is being forwarded under
separate cover.

Please acknowledge your receipt of these documents by signing below
and returning a signed copy.

Sincerely,



Carl Grinsted
Vice President

dod

ACKNOWLEDGED:

State of Idaho
Department of Water Resources

MICROFILMED

AUG 26 1989

By: _____ Title: _____ Date: _____

RECEIVED

WESTONE
BANK

July 27, 1989

AUG - 3 1989

Department of Water Resources
Southern Region Office

COPY

State of Idaho
Department of Water Resources
2148 4th Avenue East
Twin Falls, Idaho 83301

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separate cover.

Please acknowledge your receipt of these documents by signing below
and returning a signed copy.

Sincerely,



Carl Grinsted
Vice President

dod

ACKNOWLEDGED:

State of Idaho
Department of Water Resources

MICROFILMED

NOV 2 6 2003

By: _____ Title: _____ Date: _____

CONSENT TO AGREEMENT AND ASSIGNMENT OF PERMIT

THIS CONSENT TO AGREEMENT AND ASSIGNMENT OF PERMIT (this "Agreement") effective as of the 27 day of July, 1989, is made by, between and among DARLENE FRAZIER, both individually and in her capacity as personal representative of the Estate of Fred M. Frazier (hereinafter referred to in each and both capacities as "Frazier"); ROBERT E. VEEH and BETTY VEEH, husband and wife, of Twin Falls, Idaho, and LYLE F. FRAZIER and TONI D. FRAZIER, husband and wife, of Twin Falls, Idaho (hereinafter referred to collectively as "Assignees"); SHOROCK HYDRO, INC., an Idaho corporation (hereinafter referred to as "Shorock"); SHOSHONE HYDRO LIMITED PARTNERSHIP, an Idaho limited partnership (hereinafter referred to as "Shoshone"); and WEST ONE BANK, IDAHO, N.A., f/k/a The Idaho First National Bank, a national banking association (hereinafter referred to as the "Bank").

W I T N E S S E T H:

WHEREAS, Frazier and the Assignees have entered into that certain Agreement and Assignment of Permit by which Frazier assigns all of her right, title and interest in and to Idaho Water Permit Nos. 37-7863 and 37-7911, her property right and leasehold interest in and to certain real property more thoroughly described therein, and all of her interests, rights, duties, obligations and liabilities as set forth in certain agreements and other documents identified therein and attached thereto (the "Collateral Documents"), and by which the Assignees have assumed all duties, obligations and liabilities as set forth in the Collateral Documents; and

MICROFILMED

NOV 20 2003

WHEREAS, the Assignees desire to finance with the Bank the purchase price to be given as consideration for the aforementioned Agreement and Assignment of Permit; and

WHEREAS, Shorock and Shoshone have entered into that certain Credit Extension Agreement effective as of May 20, 1988, with the Bank; and

WHEREAS, Shorock and/or Shoshone desire to acknowledge the assignment of the various personal and real property rights and contractual rights and obligations identified in the aforementioned Agreement and Assignment of Permit and to continue the relationship with their Bank;

NOW, THEREFORE, to induce the Bank to finance acquisition by the Assignees of the rights and properties identified in the Agreement and Assignment of Permit, the parties hereto agree as follows:

1. Shorock and Shoshone acknowledge the assignment of real and personal property interests and contractual rights and obligations as set forth in the aforementioned Agreement and Assignment of Permit and do hereby consent to such assignment and assumption by the Assignees of the rights, duties and liabilities so assigned.

2. Shoshone and Shorock do hereby reaffirm each and every duty, obligation and liability placed upon them pursuant to the aforementioned Credit Extension Agreement.

3. Shorock and Shoshone agree that they shall remain liable under the Collateral Documents as that term is used in the aforementioned Agreement and Assignment of Permit except that in

MICHAEL J. JONES

all circumstances wherein duties or obligations contained therein are owed to Frazier, the Assignees shall be substituted for Frazier.

4. All notices previously due to Frazier shall be given both to Robert A. Veeh and Betty Veeh, Route 3, Box 6736, Twin Falls, Idaho, and Lyle F. Frazier and Toni D. Frazier, 261 Los Lagos, Twin Falls, Idaho, and shall be deemed received (i) at the close of business on the date of receipt, if delivered by hand, or (ii) when signed for by recipient, if sent registered or certified mail, postage prepaid.

4. The parties hereto agree that this Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho.

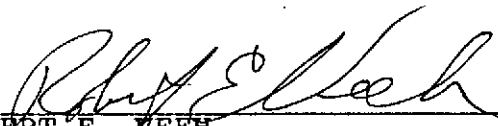
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, effective as to each with and upon the execution hereof.

FRAZIER:



DARLENE FRAZIER, individually and
in her capacity as Personal
Representative of the Estate of
Fred M. Frazier

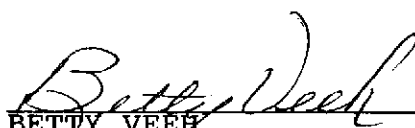
ASSIGNEES:

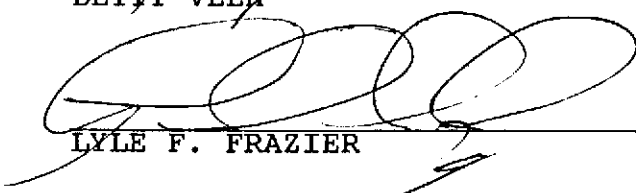


ROBERT E. VEEH

MICROFILMED

NOV 20 2003

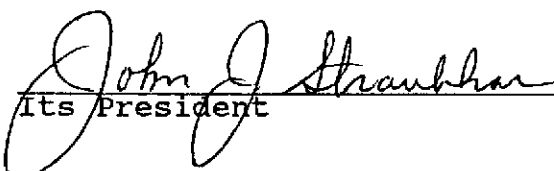

BETTY VEER


LYLE F. FRAZIER


TONI D. FRAZIER

SHOROCK:

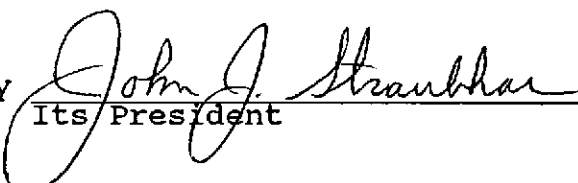
SHOROCK HYDRO, INC.

By 
Its President

SHOSHONE:

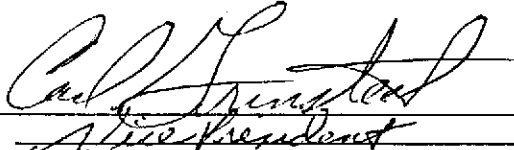
SHOSHONE LIMITED PARTNERSHIP

By Shorock Hydro, Inc.,
General Partner

By 
Its President

BANK:

WEST ONE BANK, IDAHO, N.A., f/k/a
The Idaho First National Bank

By 
Its Vice President

STATE OF IDAHO)
County of ~~Ada~~ Twin Falls } ss:

On this 27th day of July, in the year 1989, before me, the undersigned, notary public, personally appeared DARLENE FRAZIER, known or identified to me to be the person who executed the instrument individually and as Personal Representative of the Estate of Fred M. Frazier, and acknowledged to me that she executed the same.

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

Sherron A. Robinetto
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

STATE OF IDAHO)
County of ~~Ada~~ Twin Falls } ss:

On this 27th day of July, in the year 1989, before me, the undersigned, notary public, personally appeared ROBERT E. VEEH and BETTY VEEH, known or identified to me to be the persons who executed the instrument, and acknowledged to me that they executed the same.

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

Sherron A. Robinetto
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

STATE OF IDAHO)
County of Twin Falls) ss:
County of ~~Ada~~

On this 27th day of July, in the year 1989, before me, the undersigned, notary public, personally appeared LYLE F. FRAZIER and TONI D. FRAZIER, known or identified to me to be the persons who executed the instrument, and acknowledged to me that they executed the same.

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

Theresa A. Robinette
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

STATE OF IDAHO)
County of Twin Falls) ss:
County of ~~Ada~~

On this 27th day of July, in the year 1989, before me, the undersigned, notary public, personally appeared Theresa A. Robinette, known or identified to me to be the President of SHOROCK HYDRO, INC., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Theresa A. Robinette
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

STATE OF IDAHO)
County of Twin Falls) ss:
Ada

John J. Straubhaar → On this 27th day of July, in the year 1989, before me, the undersigned, notary public, personally appeared Theresa A. Robinette, known or identified to me to be the President of SHOROCK HYDRO, INC., the General Partner of SHOSHONE HYDRO LIMITED PARTNERSHIP, the partnership that executed the instrument or the person who executed the instrument on behalf of said partnership, and acknowledged to me that such partnership executed the same.

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Theresa A. Robinette
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

STATE OF IDAHO)
County of Twin Falls) ss:
Ada

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Theresa A. Robinette
Notary Public for Idaho
Residing at Twin Falls
My Commission Expires 6-13-94

INSTRUCTIONS:

- This FINANCING STATEMENT is presented to filing officer for filing pursuant to the Uniform Commercial Code.

1. Debtor(s). (last name first, and mailing address(es))

Twin Falls, Idaho 83301

No. of additional
sheets presented:

2. Secured Party(ies) and address(es):

West One Bank, Idaho, N.A.
Twin Falls Office #1-70
P.O. Box 509
Twin Falls, Idaho 83303-0509
formerly doing business as
Idaho First National Bank

3. FOR FILING OFFICER ONLY
(Date, time, number and filing office)

4. This Financing Statement covers the following types (or items) of property:
(Use this space for Real Property legal description and name of record owner, if required.)

(Use this space for Real Property legal description and name of record owner, if required.)
Accounts, Chattel Paper, General Intangibles, Instruments or other Rights to payment now and hereafter arising out of business of Debtor from Shoshone Hydro, A Limited Partnership and its successors and assigns.

Idaho Water Permit Nos. 37-7863 and 37-7911

5. Assignee(s) of Secured Party(ies)
and address(es)

CHECK ☒ IF COVERED ☒ Products of collateral are also covered.

Filed with: ☒ Secretary of State ☐ County Recorder of _____ County.

If one of the following boxes is checked, the secured party may sign the financing statement. The collateral described herein is:

- ☐ Brought into this state already subject to a security interest in another jurisdiction.
- ☐ Subject to a security interest in another jurisdiction, and the debtor's location has changed to this state.
- ☐ Proceeds of the original collateral described above in which a security interest was perfected.
- ☐ The subject of a financing statement which has lapsed.
- ☐ Subject to a security interest perfected under a prior name or identity of the debtor.

BY: Rob Elckh Betty Veek
Doni Truip
Signature of Debtor(s).

WEST ONE BANK, IDAHO, N.A.

SIGNATURE(S) OF SECURED PARTY(IES) OR ASSIGNEE OF RECORD

1 FILING OFFICER - ALPHABETICAL

IDAHO UCC-1 FORM CR00750 REV. 3/89 FORM APPROVED BY PETE T. CENARRUSA, SECRETARY OF STATE

995 3 3 2000



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

July 21, 1987

Shorock Hydro, Inc.
Box 1787
Twin Falls, ID 83303-1787

Re: Permits Nos. 37-7911 & 37-7863

Gentlemen:

By certified letter dated May 7, 1987, the Department of Water Resources requested that you determine the loss occurring within a hydropower project owned by Shorock Hydro, Inc. located on the Little Wood River, and submit the information to the Department.

The Department received a letter addressed to Mr. Marc A. Edson of Shorock Hydro, Inc., from D. W. Block of J-U-B Engineers, Inc. The letter set forth the results of various tests conducted by J-U-B Engineers to determine the water loss of the Shoshone-hydro electric project.

The Department has reviewed the test results, and has determined that the study adequately measures the losses in the delivery canal and tail-water. The Department will accept that the losses in the delivery system are negligible unless proof is submitted otherwise.

Sincerely,

L. GLEN SAXTON, Chief
Operations Bureau

LGSGS:jf

CC: Southern Region
Reid Newby, Watermaster

MICROFILMED

2013



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

M E M O

TO: Glen Saxton

DATE: June 30, 1987

FROM: Verl G. King

SUBJECT: Seepage Test at the Shorock Hydro, Inc. Facility

The report by JUB on the water losses at the Shorock Hydro facility has been reviewed. As described in the report, the procedure used appeared to provide good control and closure at both the inlet and outlet of the inlet canal. With this control, the method used can provide good accuracy of the losses that may occur.

The tailwater at the plant is a relatively short distance. The losses would be expected to be small unless abnormal conditions existed. The dye test was performed in a manner which would detect any significant losses occurring. None was found.

The method and the accuracy of this test at this hydro facility is acceptable.

MICROFILMED

SEP 2 1987



SHOROCK HYDRO, INC.

June 15, 1987

RECEIVED
JUN 17 1987

Norman C. Young
Department of Water Resources
State House
Boise, Idaho 83720

Department of Water Resources

RE: Loss measurement of Shorock Hydro, Inc. facility
Shoshone Hydro Project #4182
Re: Permit No. 37-7911 and 37-7863

Dear Mr. Young:

Enclosed are the results of the various tests requested to determine the water loss of the Shoshone Hydroelectric Project located on the Little Wood River west of Shoshone.

Please feel free to contact me if you have any questions.

Sincerely,

Marc A. Edson
Operations Manager

MAE:cj

Enclosure

cc: Watermaster 37 & 37M

MICROFILMED
NOV 20 2003



J-U-B ENGINEERS, INC.

800 Falls Avenue • Twin Falls, Idaho 83301 • Telephone (208) 733-2414

June 15, 1987

Mr. Marc A. Edson
Operations Manager
Shorock Hydro, Inc.
P. O. Box 1787
Twin Falls, Idaho 83303-1787

RECEIVED
JUN 17 1987

Department of Water Resources

Reference: Water Loss Test
Shoshone Hydroelectric Project
Shoshone, Idaho

Dear Mr. Edson:

At your request, we have conducted a water loss test of your Shoshone Hydroelectric Project on the Little Wood River west of Shoshone, Idaho. The following is the sequence leading up to the test and the procedures of the test itself.

1. I contacted Mr. Norman C. Young of the Idaho Department of Water Resources on June 5, 1987 to review with him the procedures to be used for the test. It was determined that a ponding test should be used for a duration of two (2) hours. It was also agreed that we would dye test the tailrace.
2. Also on June 5, 1987 I contacted Mr. Reid Newby, Watermaster, to inform him of our schedule to test on June 6, 1987 at 10:00 A.M.
3. On June 6, 1987 the test was conducted with Mr. Marc Edson's assistance. The Shoshone Hydroelectric Facilities consist of:
 - a. Diversion and inlet structure on the Little Wood River. Inlet structure is equipped with a radial gate.
 - b. 1200 ft. of rip rap lined power canal capable of conveying 120 cfs.
 - c. 400 ft. of concrete flume 4.5 ft. by 12 ft.
 - d. Penstock intake structure.
 - e. 600 ft. of 60 in. steel penstock.

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NOV 26 2003

Mr. Edson
June 15, 1987
Page 2

- f. Powerhouse equipped with three (3) butterfly control valves.
 - g. 400 ft. of rip rap lined tailrace.
4. The valves at the power house were closed at approximately 9:00 A.M. June 6, 1987 and the plant was taken off line.
 5. The radial gate was then closed and sealed as well as possible with a plastic fabric material.
 6. The facility was then allowed to stabilize until 10:45 A.M. when the test was started.
 7. The elevation of the water was monitored in two locations. One was a staff gauge located just downstream of the radial gate in the power canal, and the other was a bench mark located just upstream of the penstock intake structure in the concrete flume.
 8. Also at the same time the water surface elevations were taken, the minor leakage into the power canal from the radial gate was estimated, and the outflow from the toe drain at the penstock intake structure was estimated. The estimated inflow from the radial gate was 10-15 gallons per minute and the outflow from the toe drain was approximately the same.
 9. From 10:45 A.M. until 12:45 P.M., two (2) hours, the water surface elevations were recorded every fifteen (15) minutes at the locations discribed in Item 7. There was no measurable drop in the water surface elevations during the two hour duration of the test at either location.
 10. Also during the shutdown period, the tailrace was dyed with a bright yellow dye for the length of the tailrace to determine if any visable leaks could be detected. The dye did not flow and showed a stable condition throughout the length of the tailrace.

In conclusion we have determined that any water loss within the project is negligible and probably no more than if not less than the losses through the 3,000 foot bypass reach of the existing river.

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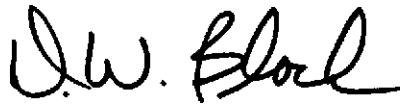
JUN 22 2009

Mr. Edson
June 15, 1987
Page 3

Please let us know if we can be of further help.

Sincerely,

J-U-B ENGINEERS, Inc.

A handwritten signature in dark ink, appearing to read "D.W. Block". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

D. W. Block, P.E.
Regional Manager

DWB/sc

MICROFILMED
SEP 18 2001

2. ADDRESS: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The returnee will be held responsible for the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:
Shorrock Hydro, Inc.
Box 1787
Twin Falls, ID 83303-1787

4. Type of Service:	Article Number
☐ Registered ☐ Insured	138509
☐ Certified ☐ COD	
☐ Express Mail	

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X

6. Signature - Agent

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

37-7911 & 37-7863

MICROFILMED

NOV 20 2003

RECEIVED

MAY 14 1987

Norm N-1
Saxton ---
Leget ---

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

39 FERC ¶ 61,114

37-8113
37-7863
37-7911

Department of Water Resources

Before Commissioners: Martha O. Hesse, Chairman;
Anthony G. Sousa, Charles G. Stalon,
Charles A. Trabandt and C. M. Naeve.

Shorock Hydro, Inc.)

Project No. 4182-009

ORDER DISMISSING STAY REQUEST AND
REQUEST FOR REHEARING

(Issued May 5, 1987)

By letter dated January 12, 1987, the Director, Division of Inspections (Director), determined that Shorock Hydro, Inc. (Shorock), holder of the exemption for Project No. 4182, located on the Little Wood River in Lincoln County, Idaho, was operating Project No. 4182 at a higher level than authorized and directed it to reduce the operating level of the project pending resolution of a competitive proceeding for the site. ^{1/} On February 11, 1987, Shorock filed an appeal of the Director's determination and a request that the Director's directive to operate at a lower level be stayed. On March 13, 1987, the Commission Secretary, by direction of the Commission, issued a notice of intent to act on the appeal but did not rule on Shorock's stay request. On April 7, 1987, Shorock filed a request for rehearing contesting the Commission's action, requesting that its request for stay be acted on.

By letter dated April 22, 1987, the Director issued a letter lifting the requirement that Shorock operate Project No. 4182 at the reduced level. Since this has mooted Shorock's February 11, 1987 stay request and its April 7, 1987 request for rehearing, we will dismiss them.

The Commission orders:

The request for stay filed on February 11, 1987, and the request for rehearing filed on April 7, 1987, in this proceeding by Shorock Hydro, Inc. are dismissed as moot.

By the Commission.

(S E A L)

Kenneth F. Plumb

Kenneth F. Plumb,
Secretary.

^{1/} See 38 FERC ¶ 61,124 (1987) for an analysis of the competitive proceeding for the site.

May 7, 1987

Shorrock Hydro, Inc.
Box 1787
Twin Falls, ID 83303-1787

CERTIFIED MAIL

Gentlemen:

Re: Permit No. 37-7911 & 37-7863

Department records show that the above referenced permits were issued to you for the purpose of hydropower generation purposes. One of the conditions of approval of the permits was that the use of water be non-consumptive. The assumption that hydropower uses are non-consumptive in nature is the very reason the department could justify approving late in time appropriations on stream systems which essentially have been fully appropriated in most cases for many years.

The department has been advised by watermasters in several water districts that substantial loss is occurring in some of the conveyance systems, particularly those where water is delivered to the power generating facility through a non-enclosed conduit, and the only use being made of the water is power generation.

You are hereby required to determine the loss occurring within your hydropower project and to provide the information to the department within twenty (20) days of the date of this letter. The determination must be made by a professional engineer licensed to practice in Idaho or by a certified water right examiner using procedures acceptable to the department. In the interim, if the watermaster has measurements indicating that water is being lost within your project and that the water is needed by holders of prior rights, he has been instructed to regulate your diversion as needed to protect the prior rights, even though the herein required loss measurement has not been completed.

The runoff from surface water sources in 1987 is by far less than a normal year, so it is very likely any diversion for hydropower use experiencing a loss will be shut off by the duly authorized water master.

Authority for regulation of diversions by the watermaster is provided in Section 42-607, Idaho Code.

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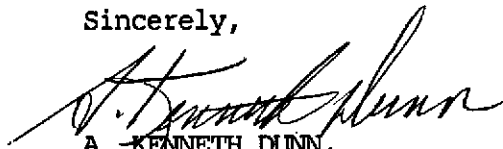
MAY 2 4 2000

Hydropower users subject to being shut off may want to augment the stream system through acquisition of stored water or non-tributary water from some external source of supply in exchange for the water being lost in their conveyance system. Such arrangements may require approval under Section 42-222, Idaho Code.

Prior notice of the watermaster's action to regulate diversions cannot always be provided. If your generating equipment is subject to damage by the reduction of water flows, it is your responsibility to contact the watermaster to arrange a procedure to provide for regulation of the diversion without damage to your facilities.

Please feel free to contact the department if you have questions.

Sincerely,



A. KENNETH DUNN,
Director

c: Regional office
Watermaster

MICROFILMED
NOV 20 2003

FROM Gary Spackman

1 DATE April 13, 1987

TO Laren Holmes

Permit Nos. 37-7863, 37-7911
Application No. 37-8113

SUBJECT

Enclosed is a letter from FERC to Shorock Hydro telling them to cut back electrical production to 335 Kw to 150 Kw. We should probably take this into account when processing the field exam.

Gary

SIGNATURE

MICROFILMED

NOV 20 1988

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D. C. 20426

JAN 12 1987

CERTIFIED MAIL

Project No. 4182-ID
Shoshone Project
Shorock Hydro, Inc.

Mr. John J. Straubhar
Shorock Hydro, Inc.
Box 1787
Twin Falls, ID 83303-1787

Dear Mr. Straubhar:

In your letter of December 22, 1986, you requested a determination on the necessity for an amendment of your exemption to increase the installed capacity for the Shoshone Hydro Project No. 4182 from 150 kW to 335 kW. The associated change in hydraulic capacity is from 60 cfs to 120 cfs an increase of 100%.

The above increase in installed capacity is considered to be a significant change to your project which will require an amendment to your exemption. Further, in consideration of the fact that this site is currently before the Commission in a competing application for license, you are directed to restrict your operation to your currently authorized capacity of 150 kW, pending final Commission action on the competition for the site. Failure to comply with the requirements of this letter will result in referral of this matter to the Commission for enforcement action.

Sincerely,

Ronald A. Corso

Ronald A. Corso, Director
Division of Inspections

MEMORANDUM

TO: Files Nos. 37-7863 & 37-7911

FROM: Gary Spackman *G.S.*

DATE: February 3, 1987

RE:

On February 3, 1987, I called Loren Holmes, of Southern Region, and told him that Sarah Thorpe, telephone number 344-7811, would be expecting copies of field examinations, notice of any amendments, 10-day license letters, or licenses proposed to be issued.

Norm has requested that we provide this information to Sarah Thorpe. I do not have record of her address, but will obtain her address when necessary by telephoning her.

MICHAEL L. WILSON

MAY 1 1988

DATE

1/26/87

FROM

Gary Spackman

TO

Norm Young

SUBJECT :

Permits Nos. 37-7863 & 37-7911 in the name of Shorock Hydro, Inc.

The database shows field exams were completed for the Shorock permits on May 9, 1984.

I called Loren Holmes and inquired why the exams had not been submitted to the State Office. Loren stated that the exams still needed to be written up. Loren reviewed the exams, and felt that an amendment was not necessary. I expressed a concern about properly advertizing an amendment, and he stated that he would carefully evaluate

SIGNATURE

FROM

DATE

TO

SUBJECT

the exam prior to submittal to the
State Office with his recommendations.
Water Allocations will also screen the
exam prior to licensing.

Bary

SIGNATURE

There is a 3rd one - Conflict between Shorack & Cogeneration -
No amendments to the permits -

INTER-DEPARTMENT MEMO — 1

FROM

DATE

TO

Sarah Thorpe 344-7811
✓ 5-9-1984 fld exam date

SUBJECT

37-7911 — Cogeneration
37-7863 — Shoshone Proj.
✓ 5-9-1984 fld exam date
60 cfs

Has your been done?

yes

SIGNATURE

INTER-DEPARTMENT MEMO — 1

FROM NCE

DATE

1/27/87

TO Gary Spachman

SUBJECT

Sarah Thorpe — 344-7811

Will be asking for copies of the field exams and wanting notice of any amendments, 10 day license letters or licenses. Please advise Loren

SIGNATURE

CLEMONS, COSHO & HUMPHREY, P. A.

LOUIS H. COSHO
HOWARD HUMPHREY
RICHARD H. GREENER
R. MICHAEL SOUTHCOMBE
STANLEY W. WELSH
MAX A. EIDEN, JR.
RANDALL C. FREDRICKS
FREDRIC V. SHOEMAKER
CHRISTOPHER BURKE
MICHAEL T. SPINK
RORY R. JONES
STEPHEN J. GLEDHILL
JANICE M. WELSH
SARA M. THORPE
JOSEPH M. MEIER
PHILIP RICHARD RAYHILL
DAVID M. PENNY

COUNSELORS AND ATTORNEYS AT LAW
CARNEGIE BUILDING
815 WEST WASHINGTON STREET
BOISE, IDAHO 83702

DALE CLEMONS (1911-1983)

TELEPHONE
AREA CODE 208
344-7811

February 2, 1987

RECEIVED
FEB 03 1987

Mr. Norm Young, Administrator
Department of Water Resources
450 W. State
Boise, ID 83720

Department of Water Resources

RE: Water Application Nos. 37-7911 and 37-7863 ✓

Dear Mr. Young:

As I have previously informed you, this office represents Conversion Industries. and the Arkooshes in connection with construction of a hydropower facility on the Little Wood River, commonly known as Geobon I. This letter is to request that your office send us copies of any and all field examinations performed by or for the Department of Water Resources in connection with Application Nos. 37-7911 and 37-7863.

We also request copies of any decisions made in connection with the above two applications as well as a copy of any ten-day license letter, or similar letter, that is sent to the applicant regarding licensing these two applications.

Thank you for your assistance in this matter.

Very truly yours,

Sara Thorpe

Sara M. Thorpe

SMT/lcb

MICROFILMED

NOV 2 4 2003



SHOROCK HYDRO, INC.

RECEIVED

DEC 3 1986

Department of Water Resources
December 1, 1986

L. Glen Saxton
Chief, Operations Bureau
Idaho Dept. of Water Resources
Statehouse
Boise, Idaho 83720

RE: Shoshone Hydroelectric Expansion Project

Dear Mr. Saxton:

As per Federal Energy Regulatory Commission's (F.E.R.C.'s) instructions we are sending you a letter and a request for additional information.

Sincerely,

SHOROCK HYDRO, INC.

Marc A. Edson

Marc A. Edson
Project Manager

MAE:cj

Enclosure

cc: F.E.R.C., Washington, D.C.

MICROFILMED

8/11 2 9 2003

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

DEC 11 1986

DEC 8 1986

Project No. 9967-000 - Department of Water Resources
Shoshone
Shorock Hydro, Inc.

NOV 21 1986

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

Dear Mr. Straubhar:

The amount and type of information necessary for the Commission staff to evaluate hydropower projects has changed in the recent past because of court decisions including Yakima, Merwin, and Escondido. ^{1/} Any information that is needed beyond that which is specified in the Commission's regulations must be requested as additional information under 18 C.F.R. section 4.32(f).

The Commission's staff needs additional information before it can complete its evaluation of your license application for this project. See Schedule A. Under section 4.32(f) of the Commission's regulations, which allows the Commission or its delegate to prescribe a time for the submission of additional information, you have one year from the date of this letter to provide the information. If the requested information causes any other part of the application to be inaccurate, that part must also be revised and refiled by the due date. A copy of the complete filing must be provided to each agency consulted under section 4.38 of the regulations. Also, please be aware that further requests for additional information may be sent to you at any time prior to final action on your application.

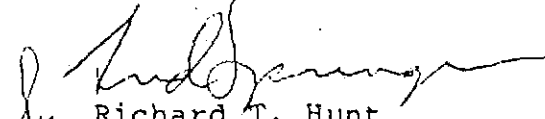
^{1/} Confederated Tribes and Bands of the Yakima Indian Nation v. FERC, 746 F. 2nd 466 (9th Cir. 1984); Clark-Cowlitz Joint Operating Agency v. FERC, D.C. Circuit No. 82-2331; Escondido Mutual Water Co. v. La Jolla Band of Mission Indians, U.S. Supreme Court No. 82-2056 (1984).

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NOV 20 1986

If an original and 14 copies of the information requested are not timely filed with the Secretary of the Commission, your application may be dismissed. You are advised to contact Ms. Deborah Frazier-Stutely on (202) 376-9527 if you have any questions concerning what information must be provided.

Sincerely,


Richard T. Hunt
Director, Office of
Hydropower Licensing

Enclosure:
Schedule A

cc: Mr. H. Wayne Gibbs
J-U-B Engineers, Inc.
250 South Beechwood Avenue
Boise, ID 83709

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NOV 2 8 2003

ADDITIONAL INFORMATION

You have one year from the date of this letter to provide the following additional information. When you file this additional information with the Commission, you should at the same time serve exact copies of the filings on the agencies that you consulted during the preparation of the exhibit E.

Within 5 days of receipt, provide a copy of this schedule and the attached letter to all agencies you will consult in response to this additional information request.

In the items listed below, you are asked to provide agency comments. You should make written requests for the comments, and must allow a minimum of 30 days for agency response before filing the information. If the agencies do not reply, you should provide the Commission with dated copies of the letters of requests.

- (1) In letters dated February 19, 1986, and March 4, 1986, the Idaho Department of Parks and Recreation stated that certain recreational facilities and measures should be provided to mitigate for project impacts upon recreationists floating on the Little Wood River. Provide a statement as to why the applicant has rejected these recommendations.
- (2) During project construction substantial quantities of spoil would be produced and would require disposal. In order to determine the environmental impacts associated with spoil disposal a description of the proposed disposal site is required. Describe the location of the disposal site, the wildlife and vegetation that would be affected by disposal activities, and any mitigative measures that are proposed to lessen or avoid the impacts of spoil disposal on vegetation and wildlife.
- (3) Energized transmission lines and transformers pose an electrocution potential to large, perching raptorial birds. In order to protect these birds (which include the federally listed endangered bald eagle) it is necessary to determine if the project transmission line(s) pose(s) a current hazard. Provide either a description of the transmission line (including scale drawings) that demonstrates that the transmission line is not a hazard or a description and plan for implementing design changes that would be necessary to meet the criteria outlined in "Suggested Practices for Raptor Protection of Power Lines," Raptor Research Foundation, Inc., 1981. The comments of the U.S. Fish and Wildlife (FWS) and Idaho

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NOV 24 2003

Department of Fish and Game (IDFG) on the adequacy of the description and plan should be included when they are filed with the Commission.

- (4) The applicant has indicated that flushing flows and irrigation water would be provided to maintain the riparian zone. The extent and adequacy of this proposal could not be judged by the information provided in the application. In order to evaluate these mitigative measures additional information is needed. Describe the measures that would be taken to maintain the riparian zone, including a detailed plan to provide flushing flows and irrigation water, and a schedule for providing these measures. The comments of FWS and IDFG on the adequacy of the description, schedule, and plan should be included when they are filed with the Commission.
- (5) The copy of the Idaho State Historic Preservation Officer's letter to the applicant dated March 6, 1986, included in the license application is of poor quality. Provide a more legible copy of this letter.
- (6) On page 23 of the license application, the applicant indicates that instream fishery enhancement structures would be constructed in the river. Construction of these structures could be considered a significant mitigative measure and, therefore, a more detailed description of the structures is necessary to determine the benefits to the fishery resource. This description must include structural designs, materials to be used, locations of the structures, and anticipated beneficial effects on the fishery resource.
- (7) Depending on the location of stocking sites in the Little Wood River, brown trout stocked by IDFG may be subject to impacts directly associated with project construction and operation. Provide the location of brown trout stocking sites in relation to the proposed project, the number of trout stocked, and the frequency of stocking at any sites affected by the proposed project.
- (8) The applicant indicates that water quality in the Little Wood River varies on a seasonal basis due to irrigation and other agriculture-related practices. A more detailed description of the existing water quality conditions is needed so that an accurate determination of how the proposed project would affect water quality can be made. This description must include seasonal dissolved oxygen, pH, and temperature levels in the Little Wood River at locations: (a) immediately above the project diversion; and (b) immediately above and below its confluence with the project tailrace.

- (9) Initial review of the license application indicates that there may be a potential for fish entrainment and subsequent turbine-related mortality at the project during operation. Fish loss due to turbine mortality can significantly affect fish population and, therefore, must be prevented and/or mitigated for to minimize adverse impacts to the resource. Provide a discussion of the potential for brown trout entrainment at the project diversion and intake structure. The discussion should include water velocity at the intake and a description of measures to mitigate fish loss.
- (10) Preliminary staff study of the proposed project indicates that all project areas disturbed by construction may subsequently impact adjoining wetland habitat areas, particularly as a result of the construction of the penstock and the stockpiling of excavated spoil material. These disturbed ground areas may potentially produce erosion, sedimentation, and mass movement impacts of substantial proportions. In order for staff to more fully understand the degree of impacts from construction, and the degree to which they could be successfully mitigated, the applicant must: (a) furnish an estimate of the quantity of material to be excavated and discuss its proposed use through each stage of movement until its final disposal; and (b) describe and show on topographic plan maps the proposed holding and disposal sites with treatment measures to be implemented to control erosion, sedimentation, and mass movement at these sites. Consult with the Soil Conservation Service, the FWS, and the IDFG on preparing your response, and provide their comments and recommendations. If you do not agree with any agency comment or recommendation, provide a detailed explanation based on actual observed site conditions.
- (11) The application did not contain sufficient information on the proposed transmission line. All project facilities including any transmission lines necessary to reliably deliver project power to the interconnected system or market must be licensed. Additional information is needed in order that staff can clearly understand the project proposal and to determine what transmission facilities must be included as part of the license. Therefore, provide: (a) the generator voltage and transformer data of the proposed plant, (b) the name and/or circuit number, voltage level, length, and feeder substation of the Skamania line to which the project will connect; and (c) a statement as to whether the proposed transmission line will be owned by the applicant.

MIC-50-1111

NOV 2 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

February 11, 1986

H. Wayne Gibbs, Project Coordinator
J-U-B Engineers, Inc.
250 South Beechwood Ave., Suite 1
Boise, ID 83709

Re: Shoshone Hydroelectric Project Expansion -
Initial Consultation (37-7863, 37-7911, 37-8113, 37-8120)

Dear Mr. Gibbs:

In your February 6, 1986 letter you have asked for preliminary input with respect to the above-referenced expansion project.

Department records show that Permit Nos. 37-7911 and 37-7863, providing a total of 120 cfs, have been approved by the Department. Our records also show that Application No. 37-8113, filed by Cogeneration Inc. for 180 cfs, has been protested. Application No. 37-8120, filed by George Arkoosh for 300 cfs, is also protested but is a prior application to No. 37-8113.

Administrative hearings on the protested applications may be required before the Department to determine whether either Application No. 37-8120 or No. 37-8113 will be approved by the Department. To my knowledge, the hearings have not yet been scheduled.

As a general comment, it is not apparent to me how the existing water right applications or permits filed for the project relate to the "additional 285 cfs" discussed in the project description forwarded for initial review and comment.

We appreciate the opportunity to comment.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

1s

RECEIVED
NOV 2 1986



J-U-B ENGINEERS, INC.

250 South Beechwood Avenue, Suite I • Boise, Idaho 83709 • Telephone (208) 376-7330

February 6, 1986

Mr. Glen Saxton
Idaho Department of Water Resources
Statehouse
Boise, ID 83720

RECEIVED
FEB 7 1986

Dear Mr. Saxton:

Re: Shoshone Hydroelectric Project ^{Department of Water Resources}
Initial Consultation

In accordance with the requirements of the Federal Energy Regulatory Commission (FERC), we are requesting your preliminary input on the ~~Shoshone~~ Hydropower Expansion Project. Your concerns will be included in the Draft License Application which will also be submitted to you for comment. Location maps, preliminary project design and flow data for the proposed project are enclosed for your review.

The proposed project involves the expansion of an existing hydropower project which was exempted by FERC in 1981 (FERC No. 4182). The existing project is operating on a water right of 120 cfs which was issued as two separate permits for 60 cfs each (Dockets Nos. 37-7911 and 37-7863). Cogeneration, Inc., filed a permit application for an additional 180 cfs on June 2, 1983 (Docket No. 37-8113). An application (No. 37-8120) has been filed for 300 cfs for a parallel project by George Arkoosh.

If you have questions or need additional information, please give me a call.

Sincerely,

J-U-B ENGINEERS, Inc.


H. Wayne Gibbs
Project Coordinator

HWG:ss
Enclosures

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7. Brief Project Description. The proposed project is located on the Little Wood River approximately one and one-half miles northwest of the City of Shoshone in Lincoln County, Idaho. The project will reconstruct an existing hydroelectric project which is operating under a FERC exemption (#4182). It will not be necessary to modify the existing diversion structure but other existing facilities will be expanded to accommodate the additional flow.

The existing project consists of a diversion structure across the Little Wood River, a radial control gate, a power canal approximately one-quarter mile long, a concrete power flume approximately 480 feet long, 760 lineal feet of 60-inch diameter steel penstock, and a powerhouse containing three generating units with a capacity of 450 Kilowatts. A 3-phase 12.5 KV transmission has been constructed directly to the powerhouse. The existing project is based on a water right authorizing the diversion of 120 cfs of water from the Little Wood River.

Reduced minimum-in-stream flows approved by the fish and game agencies and long-term flow records indicate a maximum flow of 405 cfs will be available for hydropower generation. In order to utilize the additional 285 cfs of water, the following improvements will be necessary: enlarge the existing inlet into the power canal; widen the power canal to accommodate 405 cfs; construct a small reservoir on the north side of the existing power flume; construct a new intake structure; install a new 84-inch diameter penstock and a 60-inch diameter tie in to the existing penstock; construction of a new powerhouse to accommodate three additional generating units; and enlarge the existing tailrace to accommodate the increased flow. The lower end of the existing power flume and the existing penstock intake structure will be abandoned. The upper part of the concrete power flume will be tied into the small reservoir and will function as a sedimentation removal channel.

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1973 2 0 2000

The proposed reservoir will utilize an existing depression along the north side of the existing concrete flume. It will be added primarily to remove sediments and to accommodate the ice build-up which invariably occurs along the system each winter. Placement of the intake structure well below the reservoir water level will allow the power plant to operate at partial capacity during winter. The upper end of the reservoir will also contain a concrete weir wall for sedimentation removal.

Instream fishery enhancement structures will be constructed to help mitigate the impact of reduced bypass flows. The location and design of these structures will be determined by the fish and game agencies.

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JUN 2 1988

B. EXHIBIT A

DESCRIPTION OF PROJECT AND PROPOSED MODE OF OPERATION
SHOSHONE HYDROELECTRIC PROJECT

1. Project Data

- | | | |
|----|---|---|
| a. | Number of Generating Units | 6 |
| | Capacity of Each Unit: | |
| | Number 1. | 269.26 kW |
| | Number 2. | 269.25 kW |
| | Number 3. | 269.25 kW |
| | Number 4. | 147.38 kW |
| | Number 5. | 91.81 kW |
| | Number 6. | 91.81 kW |
| | Total | 1139.00 kW |
| | Provisions for Future Units | None |
| b. | Type of Hydraulic Turbine | Vertical Shaft, Fixed Hydraulic Geometry, Propeller |
| c. | Description of Plant Operations | Automatic |
| d. | Estimated Average Annual Energy Generation | 5.76 KWH |
| e. | Estimate Average Head | 44 Feet |
| f. | Reservoir (Storage/Sedimentation Basin - Located on Power Canal System) | |
| | Surface Area at Crest | |
| | Water Surface Elevation at Crest | |

Storage Capacity

g.	Estimated Hydraulic Plant Capacity	405 cfs
	Estimated Average Stream Flow at Diversion Point	248.7 cfs
	Flow Duration Curve	See Figure A-1
	Drainage Area	Upper Little Wood River- App. 1953 Sq.Mi.

h. Sizes, Capacities and Construction Materials:

Diversion Weir

Existing	Reinforced Concrete
Elevation (Top of Diversion Weir)	498.00' (All project elevations referenced to survey base datum of 500.00').

Height of Weir
Length of Weir
Capacity
Other Features

Penstock Intake

Construction	Reinforced Concrete
Elevation (Floor)	
Height	
Length	
Width	
Other Features	

Penstocks

Construction
Diameter

Existing

Steel
60-inch

Proposed

Steel
84-inch/60inch

Wall Thickness

Length

610 Feet

938 Feet/290 Feet
(60" Tie in)

Other Features

Buried

Above Ground

Powerhouse

Existing

Proposed

Construction

Reinforced Concrete Reinforced Concret

Length

30'6"

40'

Width

20'

22'

Floor Elevation

459.00'

459.00'

Transmission

Length

At Powerhouse

Rating

12.5 kV

Intertie

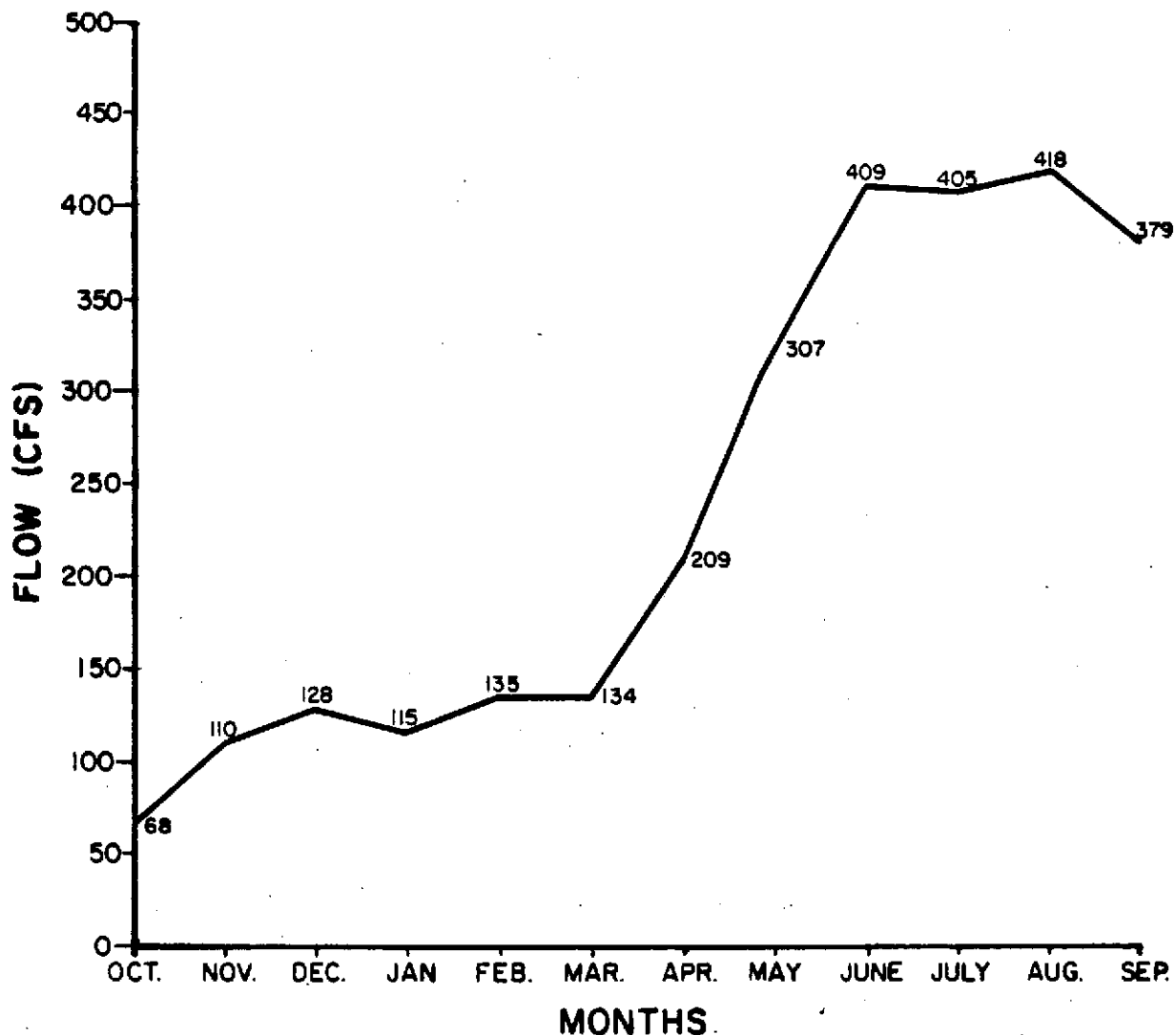
At Powerhouse

i. Estimated Project Cost

2. Purpose of Project. Generation and sale of electric energy to Idaho Power Company pursuant to the PURPA of 1978.

APPROVED

-8- DATE 2.1.2000



NOTE: FLOWS SHOWN ARE HISTORICAL DATA FROM THE SHOSHONE GAUGING MODIFIED TO THE DIVERSION SITE BY DELETING REQUIRED BYPASS AND DIVERSIONS FROM THE *LITTLE WOOD RIVER* BETWEEN THE GAUGING STATION AND THE PROJECT.

FIGURE A-2

SHOSHONE HYDROELECTRIC PROJECT

HYDROGRAPH



J-U-B ENGINEERS, INC.
Engineers Surveyors Planners
Boise, Idaho

DE. **DRBAK** CK. SHEET OF

SCALE AS SHOWN

DATE FEB., 1986

DWG NO. B860203

NOV 1986

NOV 20 1986

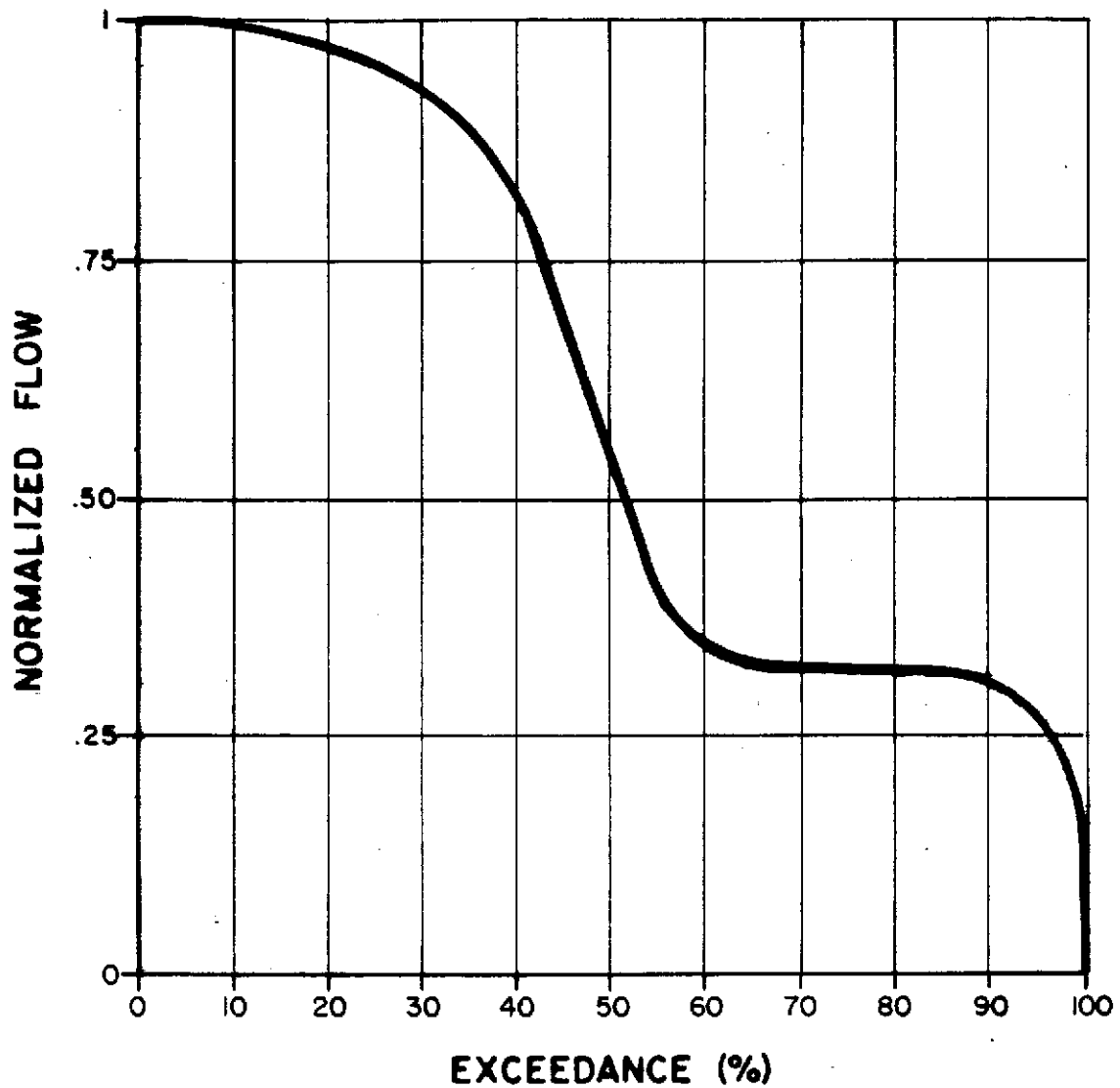


FIGURE A-1

SHOSHONE HYDROELECTRIC PROJECT

FLOW DURATION CURVE



JUB ENGINEERS, INC.
Engineers Surveyors Planners
 Boise, Idaho

DE. 025-44 SHEET 1 OF 1

SCALE AS SHOWN DATE FEB. 1988 DRAWING NO. 880205

PROJECT PLAN SHOSHONE HYDROPOWER PROJECT

SCALE: 1" = 1000'



29

28

Flume

PROPOSED
POWERHOUSE

PROPOSED
84" PENSTOCK

PROPOSED
RESERVOIR

EXISTING DIVERSION

TAIL RACE
POWERHOUSE
(EXISTING)

60"
PENSTOCK
(EXISTING)

12.5 KV
TRANSMISSION LINE
(EXISTING)

EXISTING
CANAL

RANCH HOUSE

BM 3933

32

PACIFIC

33

U.S. HIGHWAY 26

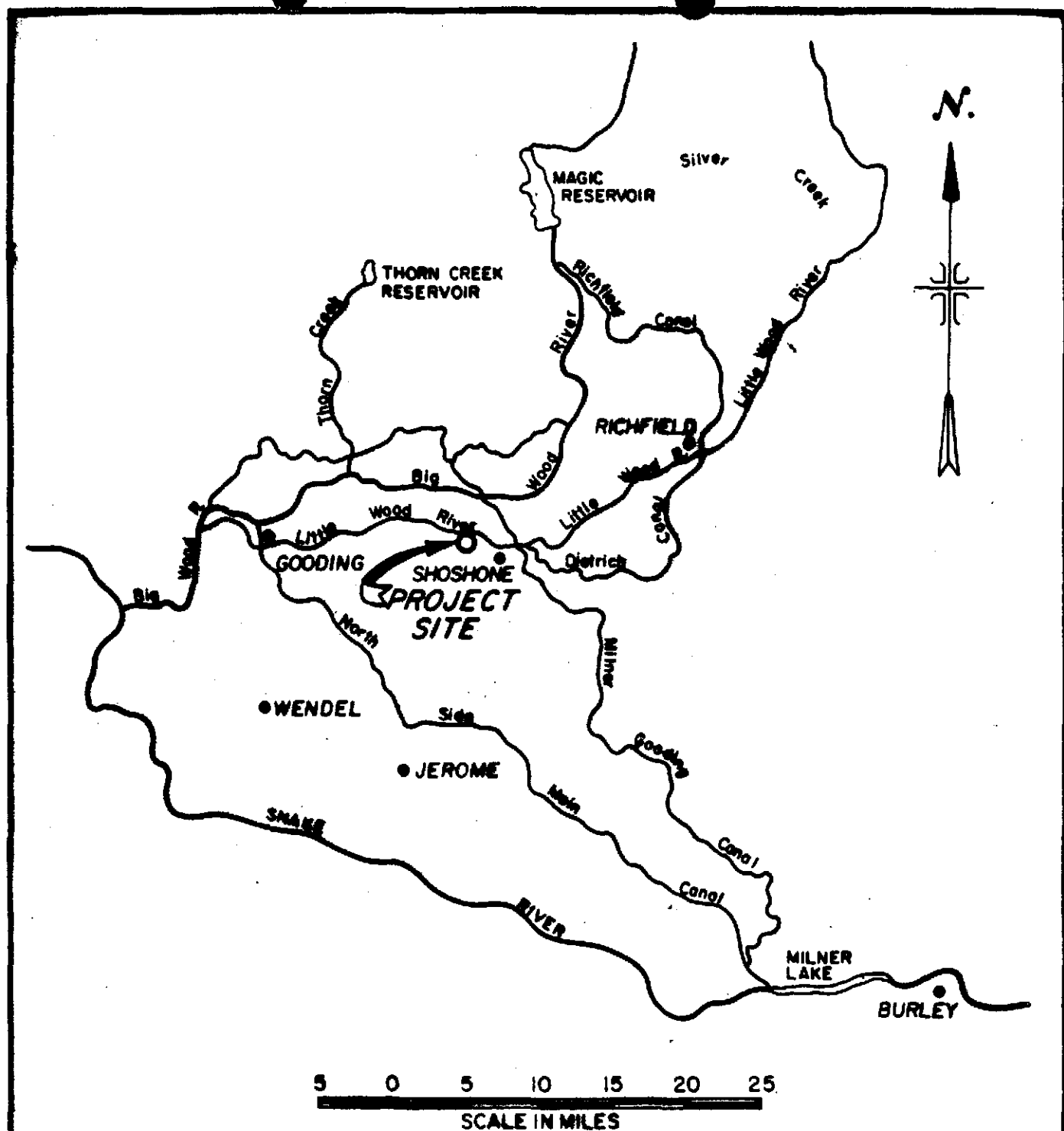


FIGURE E-2

SHOSHONE HYDROELECTRIC PROJECT

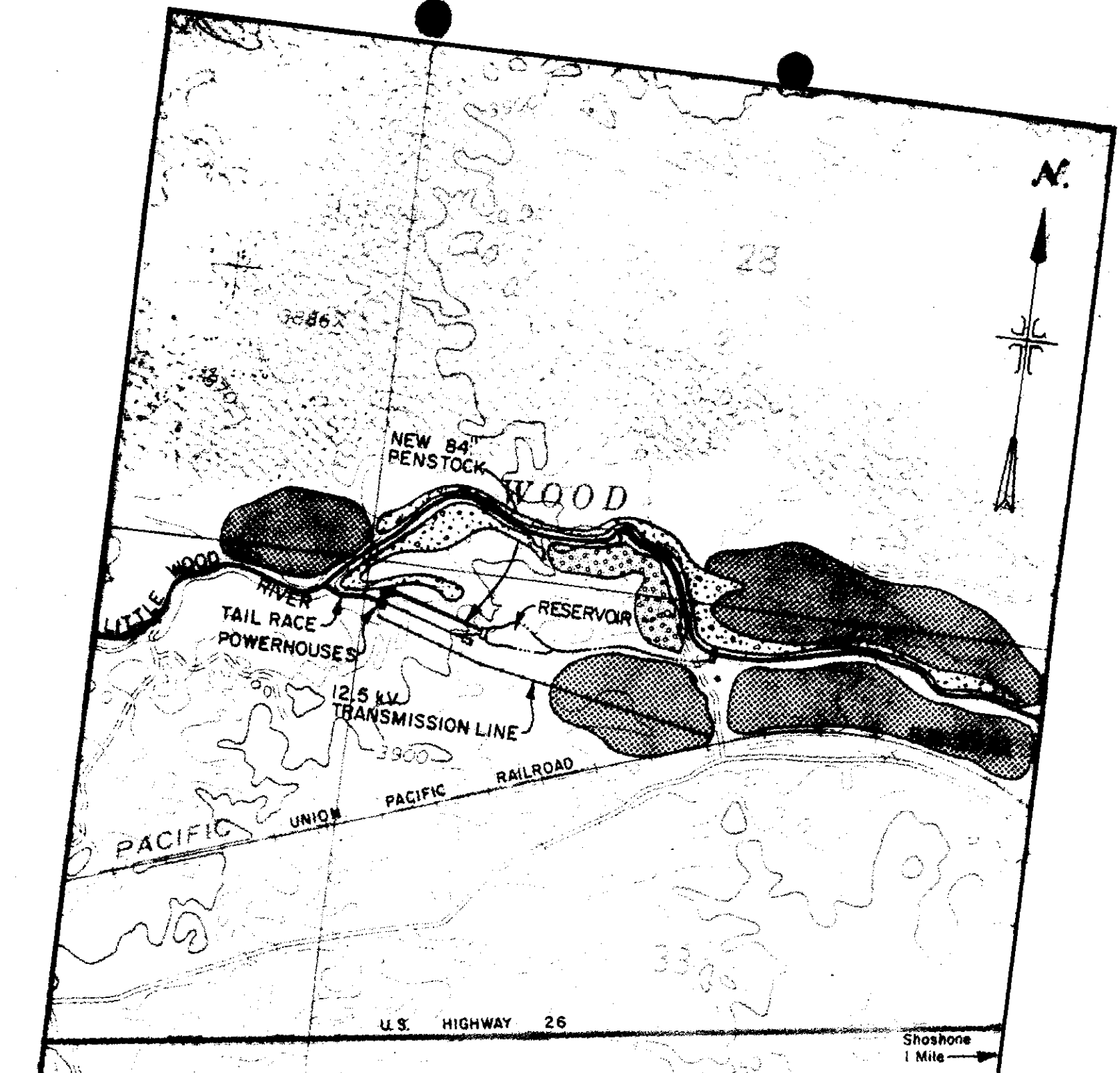
**RIVERS AND CANAL SYSTEMS
GENERAL PROJECT AREA**



JUB ENGINEERS, INC.
Engineers Surveyors Planners
Boise, Idaho

SCALE AS SHOWN

SHEET OF
NO. 0203



-  Livestock Barns/Corrals
-  Cultivated Land
-  Riparian Areas
-  Lava Scabland/Sagebrush

FIGURE E-1

SHOSHONE HYDROELECTRIC PROJECT

VEGETATION AND LAND USE



SCALE AS SHOWN

JUB ENGINEERS, INC.
Engineers Surveyors Planners
 Boise, Idaho

DE.	DR3AK	CK.	SHEET	OF
DATE FEB., 1986			DWG. NO. 8860203	

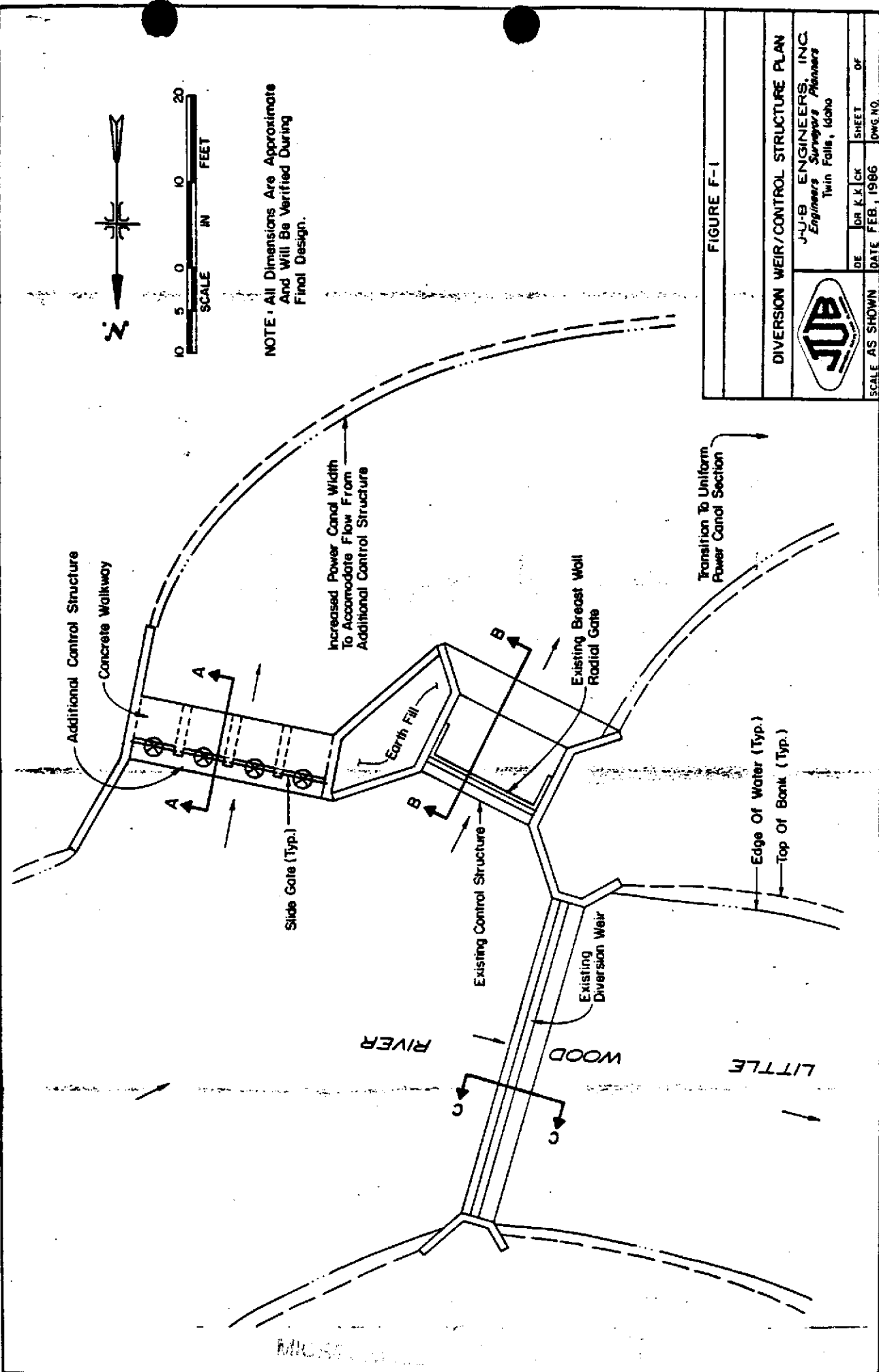
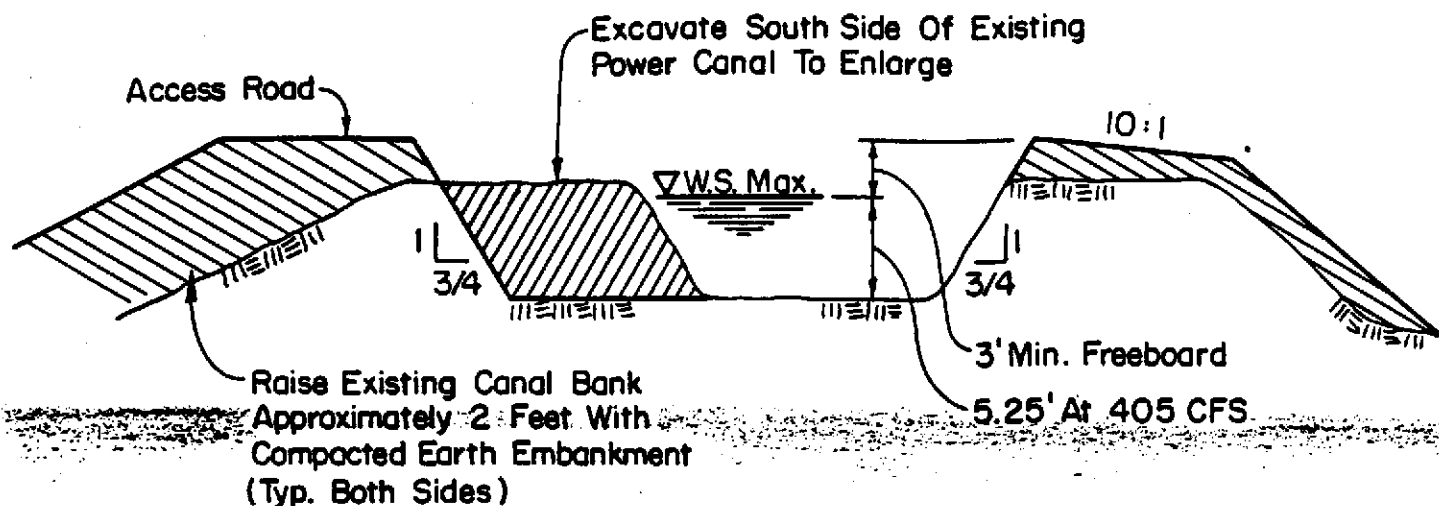
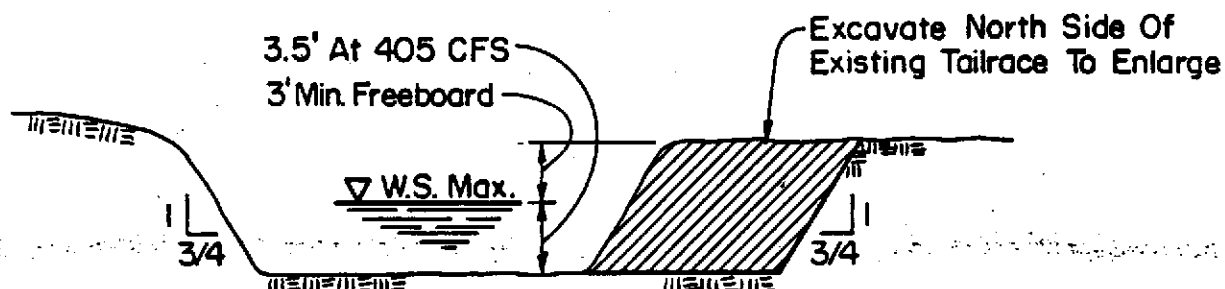


FIGURE F-1

DIVERSION WEIR/CONTROL STRUCTURE PLAN			
J-J-B ENGINEERS, INC. <i>Engineers Surveyors Planners</i> Twin Falls, Idaho			
SCALE AS SHOWN	DATE FEB, 1986	SHEET OF	DWG NO.



TYPICAL POWER CANAL ENLARGEMENT
CROSS-SECTION



TYPICAL TAILRACE ENLARGEMENT
CROSS-SECTION



NOTE: All Dimensions Are Approximate
And Will Be Verified During
Final Design.

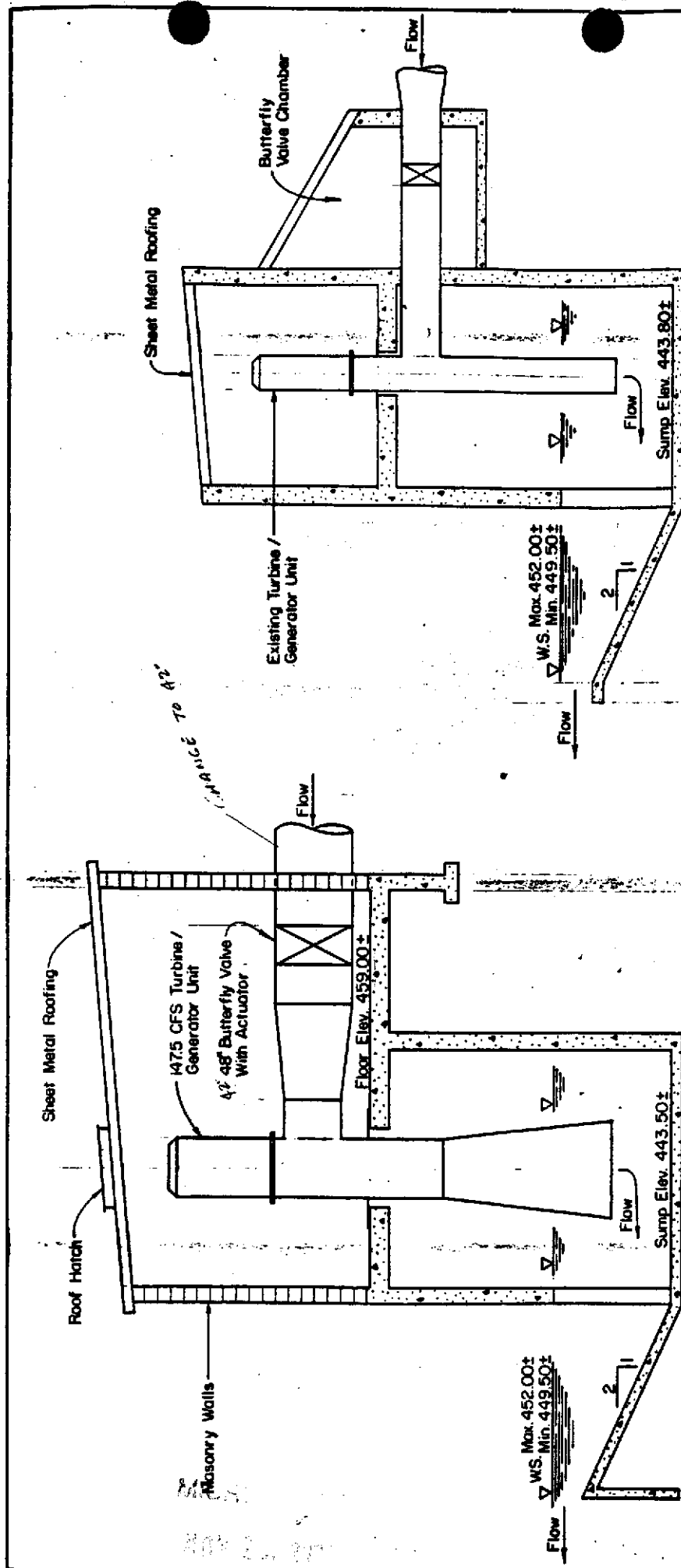
FIGURE F-4

POWER CANAL / TAILRACE SECTIONS



JUB ENGINEERS, INC.
Engineers Surveyors Planners
Twin Falls, Idaho

DE.	DR. K.K.	CK.	SHEET	OF
SCALE AS SHOWN	DATE FEB., 1986	DWG. NO.		



SECTION
EXISTING POWERHOUSE

SECTION
ADDITIONAL POWERHOUSE



NOTE: All Dimensions And Elevations Are
Approximate And Will Be Verified
During Final Design

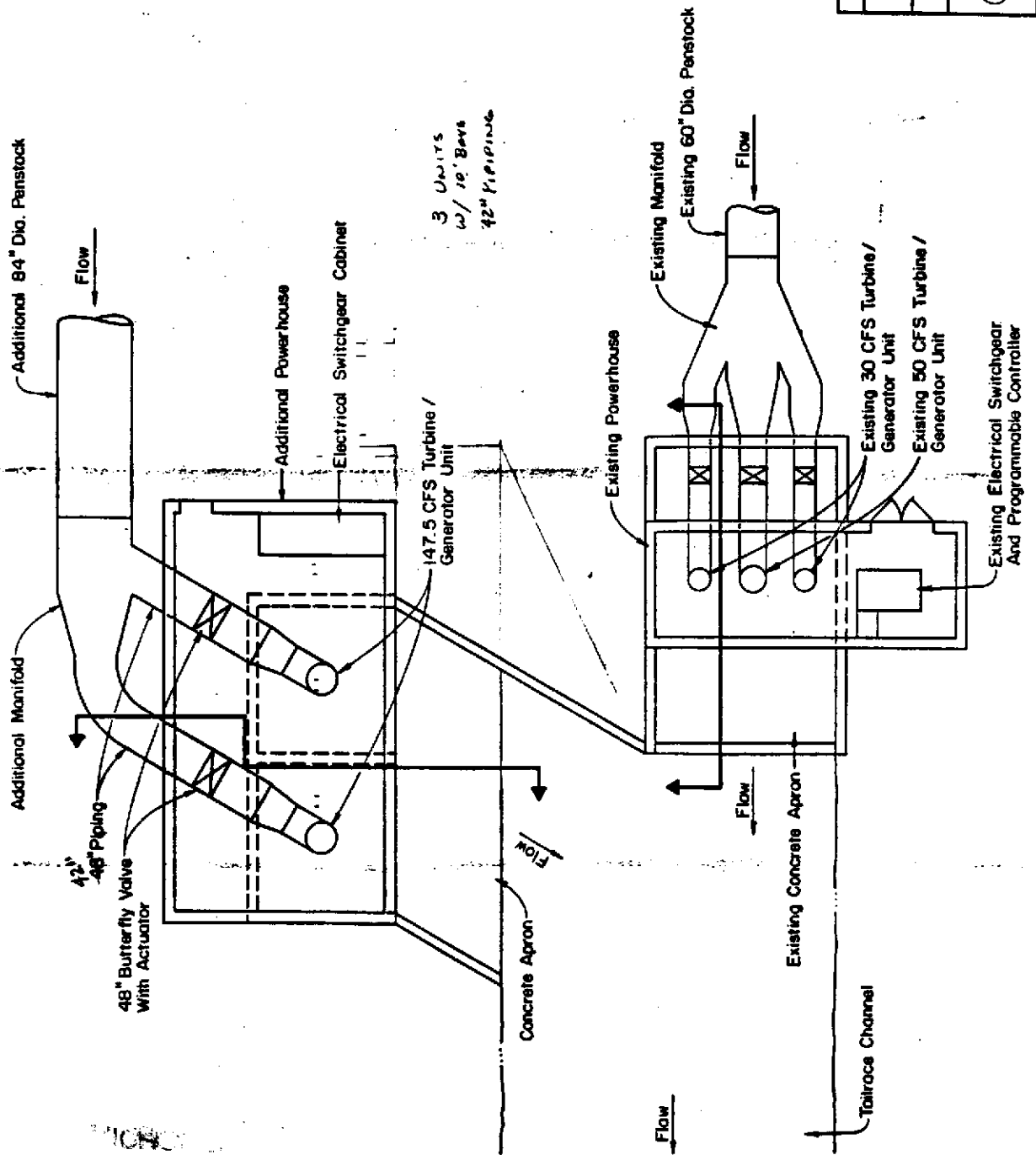
FIGURE F-

POWERHOUSE SECTIONS



JUB ENGINEERS, INC.
Engineers Surveyors Planners
Twin Falls, Idaho

DE	DR	CK	SHEET	OF
SCALE AS SHOWN			DATE	FEB. 1986
			DWG. NO.	



10 5 0 10 20
SCALE IN FEET



NOTE: All Dimensions Are Approximate
And Will Be Verified During
Final Design.

FIGURE F-

POWERHOUSE PLAN

JUB ENGINEERS, INC.
Engineers Surveyors Planners
Twin Falls, Idaho



SCALE AS SHOWN

DATE FEB, 1986

DR K L CH SHEET 07 DWG NO.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd. N.
Twin Falls, Idaho 83301
(208) 734-3578

MARCH 22, 1984

DARLENE FRAZIER
P.O. BOX 1787
TWIN FALLS ID 83303

RE: Permit No. 37-7863

Dear Permit Holder:

We acknowledge receipt of your statement submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this department.

A field examiner will contact you to arrange to examine your system.

If you have any questions regarding the field examination, please contact this office by phone at 734-3578 or in person at our office at 1041 Blue Lakes Blvd. N. Twin Falls, Idaho.

Sincerely,
s/Mary A. Newby
Secretary

MICROFILMED

NOV 20 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL

138216

Darlene Frazier
1795 Julie Lane
Twin Falls, ID 83301

PROOF DUE NOTICE

NOVEMBER 30, 1983

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 37-7863 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE FEBRUARY 01, 1984. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A POSTCARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER THE BENEFICIAL USE POSTCARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

DA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

c/s Marc Edson, c/o Cogeneration

CONVERSATION MEMORANDUM

DATE April 7, 1983FILE 37-7863NAME OF PARTY Marc EdsonEMPLOYEE Dave TutthillRE: Cogeneration Power Plant & the relationship to W.D. 37-m

Mr. Edson called to say he had been hired by Cogeneration, Inc. to ramrod troubleshooting, etc., for the power plant described by the above-referenced app. He indicated that he is attempting to set up a meeting between the watermaster, his advisory board, the Dept and members of Cogeneration Inc, to resolve this situation.

We will postpone any further action until June 1, 1983.

DET 4/12/83

MICROFILMED

CONVERSATION MEMORANDUM

DATE 3-2-1983

FILE 37-7863

NAME OF PARTY Bill Brock (Cogeneration)

EMPLOYEE Dave Tutthill

RE: Concerns of the Dept and the Watermaster (See letter dated 10/12/82.)

Mr. Brock indicated that he had been forwarded the above-referenced letter that was sent to Mr. Frazier. His responses to the problems are as follows:

1. The power plant is currently being fitted with some new baffling, and the plant rate of flow will not be finalized until the end of this month. Based on the flows required by the retrofitted plant, a filing will be made for flows > 120 cfs.

2. Payments to the water district. Mr. Brock stated that he has been advised that the advisors to the water district may opt for a lower rate for power diversions. Therefore, he is attempting to have this done for the 1982 charges. I advised him that there is urgency in the matter because normally the watermaster does not allow diversions after April for water rights for which the previous year's ^{delivery} payments have not been made.

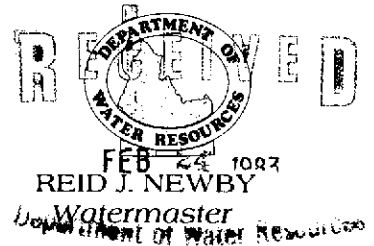
3. Rating of a channel (measuring device). Mr. Brock indicated that they will soon install the staff gauges that were purchased from the watermaster. One structure has already been rated, but some additional measurements may be needed to establish a valid curve.

I indicated that we will take no further action until April 1, 1983.

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37M
P.O. Box T
Shoshone, Idaho 83352
886-2451



February 22, 1983

Department of Water Resources
State Office
Attention: David R. Tuthill, Jr. P.E.
Supervisor, Water Allocation Section
Statehouse
Boise, Idaho 83720

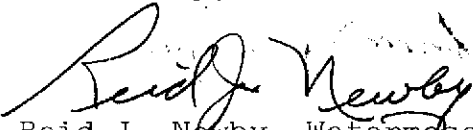
Dear Dave: Re: Permits No 37-7863 & 36-7911

Mrs. Darlene Frazier has paid her normal water bill for 1983 with no reference whatsoever to the power bill.

Upon repeated visits to the site there has been no change in the status of the diversion point, therefore, I recommend that Mrs. Frazier be contacted by registered mail at- 1795 Julie Lane, Twin Falls, Idaho 83301, and informed that the Watermaster of Water District #37 & 37M will be instructed to turn this diversion off as of April 1, 1983 unless a measuring device has been installed as requested.

Also, that the water bill for the power plant will have to be paid prior to this time before any water can be turned on.

Sincerely,


Reid J. Newby, Watermaster
Water District #37 & 37M

RJN:bl



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

February 15, 1983

Mr. Reid Newby
Water Master, Water District 37-M
Box T
Shoshone, ID 83352

Re: Permits Nos. 37-7863 and 37-7911

Dear Reid:

As you are aware, I sent a letter to Mrs. Darlene Frazier regarding the above-referenced permits on October 12, 1982. To date, I have received no response from Mrs. Frazier.

Before I follow up on the matter, I would like to solicit your thoughts. Would you please write me a brief note outlining any contact to date as well as your recommendations for future action?

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

cc: Southern Region

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FEB 17 1983
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

October 12, 1982

Ms. Darlene Frazier
1201 Madrona Street North
Twin Falls, Idaho 83301

RE: Permit Nos. 37-7863 and 37-7911

Dear Ms. Frazier:

Because you are the current holder of the above referenced permits, I am writing to you concerning some water right matters that need to be clarified with respect to the power plant built and operated by Cogeneration, Inc.

Last week I had an opportunity to view the facility via the ASAE tour, and found Bill Brock to be very knowledgeable about the system. He mentioned that approximately 130 cubic feet per second (cfs) are currently being utilized by the turbines. Since the above referenced permits add up to only 120 cfs, you will need to file on the additional flow to insure that your water rights are fully protected.

In addition, it is my understanding that a measuring device has not yet been installed. As you are aware, the Little Wood River Water District is very closely regulated and managed due to its many users and extremely competitive uses. The watermaster must be provided with a means of measuring the water to enable proper billing for the diversion and delivery of the proper quantity so a measuring device requirement was placed on each of the permits.

You have a number of options as to the type of measuring system that can be provided. Three of the options are to: install a staff gauge in a rated channel, install a Parshall flume, or place a meter in the penstock. Regardless of the option that you select, the measuring system should be operational prior to the next irrigation season.

Ms. Darlene Frazier
October 12, 1982
Page 2

If you have any questions regarding these items please feel free to call me in Boise at 334-4104, or our Southern Regional Office in Twin Falls, at 734-3578. We will be happy to assist you.

Sincerely,

DAVID R. TUTHILL, JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

cc: Southern Regional Office
Reid Newby Water master, Water District 37-M

RECEIVED

April 19, 1982

RE: Permits Nos. 37-7863 and 37-7911

Darlene Frazier
1201 Madrona St. North
Twin Falls, ID 83301

Dear Ms. Frazier:

This office acknowledges receipt of the Assignment of the above referenced permits to you.

Enclosed for your records are copies of the permits. Be sure to note the special conditions of approval on the fourth page that identify requirements necessary for developing the permits into licensed water rights.

If you have any questions on this matter, please feel free to contact us.

Sincerely,

ROBYN CARLSON
Chief Clerk

RC:kw
Enclosures

RECEIVED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

January 26, 1982

RE: Applications for Permit Nos. 37-7863, 37-7911 and 47-7676

Cogeneration, Inc.
250 South Beechwood
Boise, ID 83709

Dear Sirs:

Enclosed are copies of approved Permits Nos. 37-7863, 37-7911 and 47-7676. We direct your attention to the conditions of approval on the fourth page. The Department would also like to point out that Departmental staff have not conducted flow-duration studies of the sources in the area of your proposed developments. This analysis, when considered together with prior existing water rights however, must be an integral part of the feasibility consideration in your detailed engineering review of the project.

The permits have been issued without regard for minimum streamflow considerations, since the Idaho Water Resource Board has not submitted minimum streamflow applications pursuant to Chapter 15, Title 42, Idaho Code in the reach of your proposed projects.

We have enclosed a form entitled "Making Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop these permits into licenses.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:kw
Enclosures

NOTED
1/27/82

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JAN 22 1982

Department of Water Resources

January 15, 1982

Dept. of Water Resources
State House
Boise, Idaho

ATTN: L. Glen Saxton

SUBJECT: Explanation of transfer of water permit application
#37-7863, #37-7911 (Wood River) and #47-7676 (Rock Creek)
from Bruce C. Mecham to Cogeneration Inc.

Dear Mr. Saxton:

At the time Cogeneration Inc. received authorization from the land owners to file on water passing through their property, there were no officers of Cogeneration Inc. available. Time being of the essence and due to my being one of the original stock holders in Cogeneration Inc. as well as being a member of the executive committee, I agreed to personally make application and at a later and more convenient time, make the transfer from myself to Cogeneration Inc.

I can assure you that I did not do this for a personal profit. I have only been reimbursed by Cogeneration Inc. for the actual amount of the filing fee as was agreed upon at the time of application. If there are any further questions or if I can be of any further assistance, please let me know.

Sincerely,



Bruce C. Mecham

P.S. To further varify that I am one of the original stockholders of Cogeneration Inc., please find enclosed a copy of the organisational minutes.

Enc: 1

January 18, 1982

Mr. Jack J. Straubhar, President
Cogeneration, Inc.
250 S. Beechwood Avenue
Boise, Idaho 83709

Dear Mr. Straubhar:

This letter is intended to provide further clarification of our lease agreement dated November 19, 1981. The existing power canal is entirely on our property and will be used for the subject power project. It is not, and has never been part of a irrigation canal system. Therefore, with this letter we further clarify the Lease Agreement in giving Cogeneration, Inc. permission to utilize the existing power canal for conveying water for power generation.

Sincerely,



Darlene Frazier

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JAN 22 1982

Department of Water Resources

MINUTES OF
THE ORGANIZATION MEETING
OF
COGENERATION, INC.

The organization meeting of shareholders was held at Twin Falls, Idaho on August 6, 1980, at o'clock .M.

The following were present:

John J. Straubhar
James W. Barber, Jr.
Delbert W. Block
R. James Coleman
Bruce C. Mecham
Michael D. Preston
Jack Witherspoon

being all the shareholders of the corporation.

John J. Straubhar was appointed chairman of the meeting and Delbert W. Block was appointed secretary.

The secretary then presented and read to the meeting the waiver of notice of the meeting, subscribed by all the persons named in the certificate of incorporation, and it was ordered that it be appended to the minutes of the meeting.

The secretary then presented and read to the meeting a copy of the certificate of incorporation and reported that on , 1980, the original thereof was filed in the office of the Idaho Secretary of State. The copy of the certificate of incorporation was ordered to be filed in the Corporate Minute Book.

The chairman then stated that nominations were in order for election of directors of the corporation to hold office until the first annual meeting of stockholders and until their successors shall be elected and shall qualify.

The following persons were nominated:

John J. Straubhar
James W. Barber, Jr.
Delbert W. Block
R. James Coleman
Bruce C. Mecham

No further nominations being made nominations were closed and a vote was taken.

After the vote had been counted, the chairman declared that the foregoing named nominees were elected directors of the corporation.

The chairman then stated that the newly elected directors would assume their responsibilities immediately and that this meeting would be considered as the first meeting of directors to organize the corporation and to transact such business as should properly come before the meeting.

The secretary then presented a proposed form of by-laws prepared by John A. Rosholt, counsel to the corporation. The proposed by-laws were read to the meeting, considered and upon motion duly made, seconded and carried, were adopted as and for the by-laws of the corporation and ordered appended to the minutes of the meeting.

The chairman of the meeting then called for the election of officers of the corporation. The following persons were nominated to the office preceding their name:

President	John J. Straubhar
Vice-President	James W. Barber, Jr.
Secretary/Treasurer	Delbert W. Block

No further nominations being made the nominations were closed and the directors proceeded to vote on the nominees. The chairman announced that the foregoing nominees were elected to the offices set before their respective names.

The secretary submitted to the meeting a seal proposed for use as the corporate seal, a specimen stock certificate proposed for use as the corporate certificate for stock, the corporate record book, and the stock transfer ledger. Upon motion duly made, seconded and carried, it was

RESOLVED, that the seal now presented at this meeting, an impression of which is directed to be made in the minutes of this meeting, be and the same hereby is adopted as the seal of the corporation, and further

RESOLVED, that the specimen stock certificate presented to this meeting be and hereby is adopted as the form of certificate of stock to be issued to represent shares in the corporation, and further

RESOLVED, that the corporate record book, including the stock transfer ledger, be and hereby is adopted as the record book and stock transfer ledger of the corporation.

Upon motion duly made, seconded and carried, it was

RESOLVED, that the treasurer of the corporation be and hereby is authorized to pay all charges and expenses incident to or arising out of the organization of the corporation and to reimburse any person who has made any disbursement therefor.

Upon motion, duly made, seconded and carried, it was

RESOLVED, that an office of the corporation be established and maintained at 2405 Spring Mountain Drive, in the City of Boise, State of Idaho, and that meetings of the board of directors from time to time may be held either at the principal office or at such other place as the board of directors shall from time to time order.

Upon motion, duly made, seconded and carried, it was

RESOLVED, that for the purpose of authorizing the corporation to do business in any state, territory or dependency of the United States or any foreign country in which it is necessary or expedient for this corporation to transact business, the proper officers of this corporation are hereby authorized to appoint and substitute all necessary agents or attorneys for service of process, to designate and change the location of all necessary statutory offices and, under the corporate seal, to make and file all necessary certificates, reports, powers of attorney and other instruments as may be required by the laws of such state, territory, dependency or country to authorize the corporation to transact business therein.

The chairman then stated that it was desirable to designate a depository for the funds of the corporation. Thereupon, on motion duly made, seconded and unanimously adopted, it was

RESOLVED, that the treasurer be and hereby is authorized to open a bank account in behalf of the corporation with the Idaho First National Bank, Blue Lakes Branch, located

at 748 Blue Lakes Blvd. North, Twin Falls, Idaho, and a resolution for that purpose on the printed form of said bank was adopted and was ordered appended to the minutes of this meeting.

Upon motion duly made, seconded and carried, it was

RESOLVED, that the fiscal year of the corporation shall begin on the 1st day of January in each year.

Upon motion duly made, seconded and carried, it was

RESOLVED, that the board of directors be and hereby is authorized to issue the unsubscribed capital stock of the corporation at such times and in such amounts as it shall determine, and to accept in payment thereof, cash, labor done, personal property, real property or leases thereof, or such other property as the board may deem necessary for the business of the corporation.

The chairman presented to the meeting a form of plan to offer shares of common stock for sale so that any loss sustained by a stockholder on the sale or exchange of stock of the corporation may qualify for ordinary loss deduction treatment on the stockholders' personal income tax return. Upon motion duly made, seconded and carried, it was

RESOLVED, that the board of directors hereby approve and adopt the plan to offer common stock for sale as set forth below, and it is further

RESOLVED, that the proper officers of the corporation are authorized and directed to sell and issue common stock in the total amount not to exceed \$400,000 in accordance with said plan.

PLAN TO OFFER COMMON STOCK FOR SALE
PURSUANT TO IRC SEC. 1244

The corporation is a "small business corporation" as defined in IRC Sec. 1244(c)(2) and there is not now outstanding any prior offering of the corporation to sell or issue any of its common stock. The corporation shall sell and issue shares of its common stock in the total amount of not more than \$400,000 in a manner such that in the hands of qualified stockholders such shares shall receive the benefits of IRC Sec. 1244, as amended.

The officers of the corporation shall sell and issue as many shares of common stock and at such prices, payable in cash or other property (other than stock and securities) as from time to time they deem to be in the best interests of the corporation, subject to the following:

- (1) In no event shall the total amount of cash and the value of property received for the common stock exceed \$400,000.
- (2) The offer to sell and issue common stock shall remain in full force and effect until said shares are sold, or until the corporation shall make a subsequent offering of common stock or securities convertible into common, or for a period of two years from the date of adoption of this plan by the board of directors, whichever occurs first.

This plan shall be interpreted and construed in such manner, and the officers of the corporation will take such further steps as will enable this plan to qualify under Section 1244 of the Internal Revenue Code of 1954, as amended, and as will enable the shares of common stock issued hereunder to qualify as "Section 1244 stock," as defined in said section.

RESOLVED, that the corporation proceed to carry on the business for which it was incorporated, and further

RESOLVED, that the signing of these minutes shall constitute full ratification thereof and waiver of notice of the meeting by the signatories.

There being no further business before the meeting, on motion duly made, seconded and carried, the meeting was adjourned.

DATED: August 6, 1980.

John J. Straubhan
Chairman
William W. Block
Secretary

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January 12, 1982

Cogeneration Inc.
260 S. Beechwood
Boise, ID 83709

Gentlemen:

Re: Application for Permit Nos. 37-7863, 37-7911 and 47-7676
Bruce C. Mecham

This office has reviewed in detail the above-referenced applications for permit. Legal review indicates that in order to comply with the safeguards of Section 42-207, Idaho Code, Mr. Mecham, the applicant, shall file with the department a copy of the deed, bill of sale, mortgage or other document of transfer to Cogeneration, Inc. This is in addition to the assignment of application form which Mr. Mecham has executed and filed with the department.

While Section 42-207, last amended in 1947, refers to permits, the meaning of a department permit issued prior to 1967 was of a lesser significance than permits issued after 1967.

The department files do contain the necessary affidavit in compliance with Section 42-206 showing that Cogeneration, Inc. is a corporation qualified to do business in the State of Idaho.

Please also clarify whether the existing canals to be used on the Shoshone Project are or ever have been used for irrigation.

Your prompt response will allow the department to further process the applications.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

cc: Marc A. Auth, JUB

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners:

Charles B. Curtis, Chairman;
Georgiana Sheldon, Matthew Holden, Jr.,
George R. Hall and J. David Hughes.

Exemption from All or Part of)
Part I of the Federal Power)
Act of Small Hydroelectric)
Power Projects with an)
Installed Capacity of 5)
Megawatts or Less)

Docket No. RM80-65

ORDER NO. 106

FINAL RULE

(Issued November 7, 1980)

The Federal Energy Regulatory Commission (Commission) establishes procedures for exempting from all or part of Part I of the Federal Power Act (Act) certain small hydroelectric power projects (projects) having a proposed installed generating capacity of 5 megawatts or less. The rule implements in part section 408 of the Energy Security Act of 1980 (ESA). 1/ The Commission will provide such exemptions based on case-by-case determinations and will consider further rulemakings to exempt classes or categories of projects, as permitted by section 408(b) of the ESA. The final rule is effective November 7, 1980.

1/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends, inter alia, sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§ 2705 and 2708).

Docket No. RM80-65

- 2 -

I. BACKGROUND

Title IV of the ESA, also known as the Renewable Energy Resource Act of 1980, contains a provision that amends the Public Utility Regulatory Policies Act of 1978 (PURPA) to authorize the Commission to exempt certain small hydroelectric power projects, on a case-by-case basis or by class or category of such projects, from all or part of Part I of the Act, including any licensing requirement.

Section 408 grants the Commission discretion to provide exemption under the following specified conditions. The proposed installed capacity of an exemptible project may not exceed 5 megawatts. To be exemptible, a project must utilize the water power potential of an existing dam, unless it is a project that will utilize a so-called "natural water feature" that does not require the creation of a dam or man-made impoundment. Such a natural water feature will commonly be an elevated lake or a waterway the topographical features of which permit diversion of some waters for purposes of power generation. Finally, section 408 provides that certain environmental requirements apply to those projects that the Commission exempts from licensing. Those requirements include the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, and the consultation provisions in section 30 of the Federal Power Act that apply to exemption of small conduit hydroelectric facilities.

DC-C-45

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Department of Water Resources

The Notice of Proposed Rulemaking in this docket was issued for public comment on August 28, 1980. 2/ Prior to issuing the proposed rule, the Commission issued a Notice of the Availability of a Draft Rule and of Informal Conferences. 3/ Pursuant to that notice, the Commission's staff took informal comments on the draft rule and related inquiries and held informal conferences on them in Washington, D. C. on August 1, 1980 and August 12, 1980. In addition to requesting written comments on the rule as finally proposed, the Commission held a third public meeting to discuss the rule, on September 23, 1980. The comments, including transcripts of the three meetings, are available for inspection in the public files of the Commission.

This phase of the implementation of section 408 of the ESA utilizes case-by-case determinations based on information provided by individual applicants to provide exemptions for small hydroelectric power projects. 4/ The Commission will exempt small hydroelectric power projects in much the same way it now exempts small conduit hydroelectric facilities. 5/

2/ 45 Fed. Reg. 58368, September 3, 1980.

3/ 45 Fed. Reg. 49591, July 25, 1980.

4/ The Commission's staff is currently developing further rulemakings to implement the provision in section 408(b) of the ESA allowing the Commission to exempt "classes or categories" of projects, thereby obviating any application procedure.

5/ See, Order No. 76, 45 Fed. Reg. 28085, April 19, 1980.

This exemption rule has several important features. First, only a person who has sufficient property interests to develop a small hydroelectric power project may apply for exemption. Secondly, a project owner may apply for exemption from licensing or from any of the other provisions of Part I of the Act, but application procedures for each of these two kinds of exemption differ. Third, all, but not part, of a currently licensed water power project is exemptible. Fourth, the rule explains in detail a system of priorities and preferences among the various kinds of applicants that seek to develop a project. Finally, an applicant may seek, consistent with the statute, waiver of any provision of the rule.

II. COMMENT ANALYSIS

Two related issues received the most extensive commentary. The proposed rule permitted only a project owner, i.e., someone with a real property interest sufficient to develop the project, to apply for exemption and provided that exemption applications timely filed will be preferred to applications for preliminary permit or, all other things being equal, for license. The proposed rule, had the effect of eliminating the preference that section 7(a) of the Act would afford a non-owner state or municipality that applies for a license or preliminary permit insofar as such applicant competes with an accepted application for exemption. Instead, the proposed rule provided project owners a priority over non-owners, regardless of state or municipal status.

Municipalities and associations of local public power systems oppose both the proposed abandonment of the statutory municipal/state preference in relation to the exemption process and the preference given to exemption applicants over non-owner license or permit applicants. The public power entities argue that states and municipalities that are not project owners are entitled to preferential treatment under the Act when competing with exemption applicants for the right to develop a site. They contend that in providing the Commission with the power to exempt certain projects from the Act, the Congress intended only to cut the red tape that accompanies licensing, not to establish a new system of priorities or preferences. These commenters assert that the preference is a controlling factor in dealing with any water power project within the Commission's jurisdiction, whether in an exemption context or not, and is not a licensing requirement from which a project may be exempted under section 408 of the ESA. They argue for the primacy of the licensing over the exemption process based on the safeguards they allege the former process to provide for the public interest. Licensing is to be supplemented by the exemption process, they say, only to the extent that licensing fails to encourage the development of a project. Based on this presumption, the American Public Power Association (APPA) proposes a procedure wherein any competition arising before the Commission between exemption applicants and license or permit

applicants would convert the process to one for a permit or a license, with the municipal and state preferential rights under section 7(a).

The approach reflected in the proposed rule is supported by most of the private hydropower developers and investor-owned utilities. They claim that the statutory preference, as well as the threat of condemnation by a successful state or municipal licensee under section 21 of the Act, deters private developers from even identifying a site by applying for a permit or license. If the preference system were invoked under the proposed exemption rule, these commenters contend that it would also deter exemption applicants. The Congress did not prohibit the Commission from providing exemption from section 7(a) of the Act when it granted the Commission discretion to exempt projects "in whole or in part from the requirements (including the licensing requirements) of part I" of the Act. One commenter cited changes in economic circumstances since the enactment of the preference as a basis for eliminating the preference, at least from the exemption process.

The Commission agrees that the legislative history of section 408 of the ESA does not address this issue; the statute is clear on its face, however. The Commission may choose to exempt any or all projects under 5 megawatts from the provisions of section 7(a) or any other requirement of Part I of the Act. Thus, the Commission may regard as equals all applicants that

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seek to develop a small hydroelectric power project, within the context of the exemption process, without regard to whether they are governmental entities or not. There are several important reasons for doing so. Moreover, when competitors are otherwise equal, there are good reasons for generally preferring the project owner.

The exemption authority was provided by the Congress to encourage small hydropower development. This will occur as a result of removing regulatory impediments where possible and by allowing market forces relatively free reign consistent with that purpose. In light of this objective, the Commission believes the national interest in encouraging development of a small renewable energy resource project with new or added capacity is more important than federal government control of who actually does it or who gains the immediate economic benefit.

APPA argues that, where competition for a site exists, an exemption is unnecessary; the exemption process is intended to encourage development of previously ignored sites, not necessarily or primarily to expedite development of known and usable sites. The Commission believes APPA's position misses several significant points. First, unless those persons with first-hand knowledge about available sites, frequently project owners, are encouraged to come forward with plans for development, the question of competition will never arise with respect to much currently

unexploited hydropower potential. Few non-public project owners will venture to formulate development plans and apply for exemption, if they would thereby expose their projects to taking facilitated by the municipal/state preference. Moreover, even where hydropower sites are known to be available for further development, speed of development would likely be sacrificed by undertaking a comparison of the relative merits of the applications submitted by public and private developers and by the inevitable conversion, under the APPA proposal, to a licensing proceeding at any time that a public entity that is not the project owner filed a competing application. Many years of experience in administering the Act show that cases involving competing applications take significantly longer to decide and demand more time and money from the perspective of developers. Thus, encouraging states and municipalities to file competing applications increases the institutional barriers to rapid hydropower development.

Other considerations support the Commission's decision not to apply section 7(a) to the exemption process. The procedures in the proposed and final rules do not prevent a state or municipality from developing a site. A non-owner public entity will be in at least as good a position as any other non-owner; it may still negotiate with the project owner for access to the project, whether by sale, lease, or other available contractual device. In other words, a state or municipality may do business like anyone else

in order to obtain an interest sufficient to develop the site. 6/ If that fails, the alternative of a condemnation proceeding under the state laws governing eminent domain is often available. A state or municipality that obtains the necessary property rights by purchase or condemnation may then obtain an exemption as the project owner. Or, as APPA itself pointed out, the state or municipality may often be able to condemn an exempted project under state law after it has been exempted. In fact, APPA acknowledged that the primary benefit of retaining the preference under section 7(a) would be that the state or municipal licensee would suffer less adverse political reaction by condemning a project under Federal law, as a licensee, than under state law.

Project owners, public or private, should be able to go forward expeditiously to develop small projects. The operation of a statutory preference should not be allowed to encourage competing applications by non-owners and infuse uncertainty into the development of small hydroelectric power plants and thereby defeat Congressional objectives. The Commission can most effectively use its authority under section 408 of the ESA

6/ The Commission also notes that this rule gives a state or municipality that is a project owner protections and preference against other interested states or municipalities that are non-owners, who might otherwise get a license for the project and condemn it under the federal power of eminent domain.

by dealing only with persons that have the requisite property interests to bring new capacity on line as soon as possible.

Some commenters oppose the preference given project owners under the proposed rule. The proposed rule provided, under § 4.103, that exemption applications filed by project owners would be preferred to permit or license applications, if filed within the public notice period prescribed for the permit application, with some exceptions. Opponents point out that the statute says nothing about project owners, that non-owner private or public developers will be reluctant to file for a permit or license in light of the preference for exemption applicants, that some project owners may seek just to block development, and that speculation in hydropower sites may result from a rule that puts a premium on project ownership.

First, the Commission anticipates that, because of the project owner preference, in a few instances persons who are not project owners may indeed be dissuaded from applying for licenses or permits for projects which are recognized as ripe for further development. In most instances, however, the absence of an automatic preference for public developers, the lower likelihood of competition, the prospect of an exemption from licensing, and the new economic attractiveness of hydropower will be strong incentives for a previously reluctant owner to apply to develop

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a project. The more attractive development is economically, the more likely it is that market forces will lead a project owner to develop a project or a non-owner to make an offer that will induce the current owner to sell sufficient rights to render the non-owner an owner. Moreover, the exemption authority in the ESA is founded upon the presumption that more capacity will be developed sooner by means of exemption than by license. Therefore, in the interest of expeditious development, it makes sense not only to favor exemption applications over those for permits or licenses, but also generally to favor that class of persons more immediately capable of capitalizing on exemptions by undertaking to add or rehabilitate generating capacity -- those who already own sufficient property interests.

It is important to note that, although project owners are in a more "favored" position than normally under the Act -- in that they are subject only to market pressures and not to artificially created regulatory pressures -- the final rule does not isolate the owner entirely from regulatory pressures. The final rule clarifies that a project owner will not obtain an exemption where a non-owner who was also a preliminary permittee has made timely application for a license. In addition, however, it provides that where a non-owner license applicant has filed first, the Commission will favor that application unless the plans of the subsequent exemption applicant would better develop the water

power potential of the project. The final rule also allows a non-owner to file for a license after the exemption application, if it proposes a plan of power development that would render the project significantly better than any exemptible project.

The hierarchy of application preferences in § 4.104 balances the public interest in expeditious development under an exemption with some opportunity for non-owners to compete and propose more comprehensive development of a site. A permit application reflects an intent by the applicant only to study a site for development. A license application manifests both the plans and the capability for imminent development. Because exemption applications for projects 5 megawatts and less will be similar in content and imminence of development to license applications, they will be preferred to permit applications, just as license applications are preferred to permit applications (see § 4.33). Similarly, because the exemption applicant must be a person with sufficient real property interests in any non-Federal lands involved to develop a site immediately, the rule provides such applicants with advantages over license applicants who have no such property interests. For example, a first-filed exemption application will bar any license application, with the one limited exception noted above. Favoring a project owner will also tend to reduce the costs of litigation

associated with competition for a power site and the transaction costs of transferring the project involuntarily from the owner to some other developer.

One commenter advocated that no exemption application should be considered by the Commission if there is a previously filed license application. This approach was originally set forth in the draft rule. If a project owner failed to seek a permit or an exemption or license to develop a site, the price of that failure would be to risk loss of the site to a non-owner who first proposed development in a permit or license application. While this approach itself has not been adopted, the Commission recognizes that there is a problem. The Commission believes that the rule should not discourage interested non-owners who wish to exploit the full water power potential of a site in circumstances where the project owner does not take timely action to protect itself and develop the site adequately. Therefore, under § 4.104 the protection afforded the project owner has been restricted as follows: a project owner may not file for exemption for a project for which there is a preliminary permittee that files a timely application for license, i.e., before the permit expires; even where there has been no permit, a non-owner license applicant will be preferred to an exemption applicant that files second and in competition with the license applicant, unless the plans of the exemption applicant would better develop the water power potential of the affected water resources; and a non-owner may

file for a license in competition with an accepted exemption application, if the non-owner proposes significantly better power development that would make the project ineligible for exemption, i.e., at least 7.5 megawatts, or 50% more capacity than the maximum allowed under the statute.

One commenter suggested that exemptions be limited to a term of 30 years. The final rule does not limit the term of exemption; the Commission has chosen to grant exemptions in perpetuity, subject to standard conditions. A project with only a 30-year exemption would be virtually a licensed project by another name. The only considerations that would warrant reexamination of whether to continue the exemption for a project after a term of years are more appropriate for licensed projects or are, like the possibility of more comprehensive development, provided for under the scheme of exemption.

It was proposed that a project owner be given the latitude to apply for an exemption at any time up to final Commission action on a pending license or permit application or to convert a license application to an exemption application at any time before the license application is approved. The proposals have been rejected because they pose unreasonable burdens upon efficient administration of the permit, license, and exemption programs. To provide some certainty to the Commission, its staff, and other interested agencies and persons and to allow expeditious completion of

proceedings, the nature of the proceeding and the participant must be fixed at a relatively early point. Therefore, the project owner is afforded only a limited time either to file in competition with a non-owner's application for a license or permit or to request that a license application be treated as one for exemption.

Numerous commenters opposed the exclusion of projects located on Federal lands from this case-by-case exemption process. The failure to include such projects was described as especially burdensome on project owners in the western United States, where a large portion of all land is Federally-owned and a high probability exists that a project will involve Federal land in some way, even if the dam and powerhouse, for example, are located on private property. Some commenters proposed deletion of the reference to Federal lands in the definition of "small hydroelectric power project," leaving project owners to negotiate access to Federal lands within one year. If rights to use public lands were not obtained, the procedure could then be changed to a licensing procedure. It was also suggested that the rule should exempt projects with only transmission lines on Federal lands or that any project on Federal lands leased for power purposes be made exemptible.

The Commission acknowledges the difficulty facing western developers with respect to this issue under the proposed rule.

The Commission's concern is both to protect lands in the public domain and to permit development of projects that depend on such lands for power generation or distribution. In light of the comments, the Commission has lifted the proposed restriction relating to projects on Federal lands. The reference to Federal lands has been removed from the definition of "small hydroelectric power project." Projects that use Federal lands may therefore be exempted from any portion of Part I of the Act, subject to the standard condition in Article 5 [§ 4.106(e)], which states that an exemption from licensing in no way confers any right to use or occupy Federal lands. Such rights must be obtained from the appropriate Federal land management agency. If the right to use any Federal lands involved is not obtained for the project within one year, the Commission may accept a license application for the project from any person to whom it is authorized to issue licenses under section 4(e) of the Act, and may revoke the exemption.

Although there was general approval for the Commission's decision not to use the broad definition of "project" in the Federal Power Act in establishing the scope of an exemptible facility, it was further suggested that, for purposes of exemption, a "project" be defined as an individual generation site, presumably the power-plant and appurtenant facilities. This would, of course, have the effect of preventing aggregation

of the capacity of more than one powerhouse that uses water from the same impoundment for purposes of determining whether a project is within the 5 megawatt limitation. In those few cases where several small, independent power generating sites depend on a single impoundment, whether or not under license, a narrower definition would probably optimize the developmental impact of the exemption process. However, there are various practical difficulties in defining "project" solely in terms of a generation facility, without, among other things, encouraging applications that might attempt to circumvent the 5 megawatt statutory limitation; or failing to include the dam and impoundment in either an exempted project or a licensed project where the Commission could impose conditions on their use and maintenance -- for environmental or dam safety reasons, for example. The Commission nevertheless recognizes the value, in some circumstances, of exempting certain sites that clearly are separate and distinct from other generating sites at the same dam and impoundment and has provided an opportunity for applicants to obtain waiver of the provisions that necessitate aggregation of all capacity at a single impoundment.

The definition of "small hydroelectric power project" includes run-of-river projects, a concern of two commenters. The 5 megawatt capacity limitation will not be applied only to capacity added to a project, as requested by another commenter. Such application

of this statutory limitation would permit exemption of large projects based on a comparatively insignificant addition to capacity. That could be an unfortunate result from an environmental or safety perspective. It appears from the language of Title IV of PURPA, as amended by § 408 of the ESA, that Congress intended to give the Commission authority to exempt small hydroelectric projects, as a whole, not small increments of capacity at large hydroelectric projects. In response to a related comment, the installation or increase in capacity that is required for a project to qualify for exemption does include replacement or rehabilitation of old capacity as well as adding increments of new capacity, so long as the project owner is proposing to develop capacity that was not previously being used. Although this was explained in the preamble to the proposed rule, a new definition of "install or increase" clarifies this position.

The proposed rule excluded from exemption any project that is part of a licensed project with more than one development or impoundment. Insofar as the licensing and relicensing of projects is concerned, the exemption from licensing of small portions of these larger projects will frequently produce some confusing results, such as how to apply and coordinate license and exemption conditions, especially in light of the limitation on license term and the possibility of competition for a new license. The

Commission believes that a licensee may often be able to amend its license to accommodate the addition of a small generation facility with about the same filing obligations and waiting time as provided under the exemption process. 7/ Two changes in the rule have evolved from consideration of this issue, however. First, the Commission will not accept an application for exemption from licensing of only a part of any licensed project. The entire licensed project may be exempted, if it is eligible for exemption under the rule. This limitation may of course be waived under § 4.103(d), if consistent with the statute in a particular case. Secondly, if a person applies for exemption from provisions other than licensing, that application should occur in relation to a license application or application for amendment of license. The rule therefore treats such applications differently from applications for exemption from licensing. Procedurally, they will be handled within the context of the licensing process. In addition, the form and content of the application will be significantly different, and much simpler, under § 4.108.

7/ The Commission will consider a rulemaking designed to extend most of the advantages of short-form license applications to all water power projects at existing dams with a total capacity of 5 megawatts or less. This would also be the form used to amend an existing license to include a facility of this size. The Commission has in the past completely processed such license amendments in as little as 3 months.

Commenters addressed various issues relating to project ownership and the question of who may apply for exemption. The argument made by some commenters (discussed above) that license applicants should be preferred to, or given consideration equal to, exemption applicants is offered in conjunction with a request that project owners not be preferred to non-owners, based on the fact that an exemption is arguably a special type of license to develop a project. Based on this assumption (which is incorrect given the differences between license and exemption procedures, conditions, privileges, and responsibilities), it is argued that persons other than project owners should be able to obtain exemptions and that not to permit this will lead to the speculative acquisition of power sites.

The Commission continues to believe that of granting exemptions to persons who lack the requisite property interest to develop the site is generally likely to lead to confusion over the right of owners and non-owner exemption applicants. Moreover, an exemption is of little use to a non-owner, especially if the project owner is already a licensee or license applicant that seeks to develop the project under a different series of conditions and responsibilities. Any speculative activity that arises as a result of the value which the final rule places on project ownership ought to be regarded as an expected result of free market activity. If speculation is not accompanied by actual

development of a site, the exemption may be revoked by the Commission under Article 3 which, as amended from the proposed rule, would also prevent the site from being exemptible for the following two years, thereby diminishing the economic attractiveness of being the project owner and failing to develop the project.

In conjunction with the modification of the proposed rule to accommodate Federal lands, the definition of "project owner" has been eliminated. The same concept appears in § 4.103(b), however, for circumstances involving all non-Federal lands or a mix of Federal and non-Federal. Where a project involves only Federal lands, there is no "project owner" of non-Federal lands affected, and thus the final rule allows any person one to file for exemption of that kind of project.

In a related matter, the rule has also been revised with respect to who may apply for a license after an exemption is granted. As proposed, if the real property interests in non-Federal lands necessary for development were split among two or more persons, only the combination of owners could apply for a license for the project in the first instance. In instances like changes in a joint venture that obtained exemption (such as an acrimonious falling out of partners) or splitting of unitary property interests to disparate persons (such as, through death and distribution), the proposed rule might have created an undue barrier to expeditious development. Thus, the final rule allows

any person with any necessary real property interest in the non-Federal lands involved to apply for a license after an exemption has been granted. One commenter requested that a project owner who acquires a project after a license application is filed should be permitted to apply for exemption. If the new owner is not a former permittee and the public notice period has not expired, he may apply for exemption. If the former owner has already applied for exemption, that application may be amended to reflect the new owner as the applicant, just as permit or license applications are sometimes amended under § 1.11 of the Commission's regulations.

The question is raised about how conflicting claims of sufficient property rights would be resolved. The application for exemption from licensing requires evidence of ownership for that purpose. There is nothing unusual about the nature of such rights in the case of exemptions; they will range from fee title to rights-of-way to options to buy. 8/ The proposed and final rules give examples of what constitutes project ownership. If there were no Federal licensing at all, the same ownership interests

8/ Possession of state power of eminent domain is not an adequate substitute for ownership of non-Federal lands. The possibilities of bitter and lengthy condemnation litigation before development could go ahead and the 18-month limit on commencing construction portend too great a risk that exemptions in such circumstances would be wasted proceedings. An entity with state power of eminent domain may, of course, take the necessary interests and then apply for exemption.

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would have to be perfected to develop a site. Of course, a fee owner and a person with an option to buy would each qualify to file for exemption before the option is exercised. However, since the exemption attaches to the project and not the owner, any conflict that arose between the two would be left for private resolution, subject to the conditions of the exemption.

But, a mistake about the sufficiency of an exemption applicant's property interests will not invalidate an exemption that has been granted. In addition, the problems that a project owner may face with respect to other kinds of regulatory approvals must be resolved outside the exemption process.

Article 2, in § 4.106(b), requires compliance with any conditions prescribed by fish and wildlife agencies. Commenters claim that this is a forfeiture of Commission responsibilities which will deter exemption applications. They request that the Commission prescribe lenient environmental conditions where appropriate or possible, eliminate Article 2 where state licensing procedures exist, or at least urge other agencies to make conditions minimal. Section 408 of the ESA, which incorporates part of section 30 of the Act, gives fish and wildlife agencies authority to establish binding exemption conditions for carrying out the purposes of the Fish and Wildlife Coordination Act. The Commission will not interpret the statute otherwise. However, it is for the Commission to insert the recommendations

of those other agencies as conditions of an exemption. In order to provide a project owner with fair notice of the conditions imposed on the exempted project and to administer the exemption process efficiently, Article 2 requires compliance with fish and wildlife agency conditions that have been included with the applicant's Exhibit E or submitted directly by the agency within the time provided for comment.

One state agency posed several questions about environmental matters. A state need not intervene to participate in the environmental consultation process prescribed in Exhibit E. An applicant must supply evidence of the consultation which it must undertake with appropriate state and Federal agencies or the application will be considered patently deficient and rejected. In response to the request for a definition of critical habitat, the Commission notes that the U. S. Fish and Wildlife Service establishes and publishes a list of critical habitats in its regulations. Finally, the Commission will, as requested, provide a list of fish and wildlife agencies on request. Such a listing would be too cumbersome to include in the rule.

Two commenters argue that projects at "existing dams" include those at breached dams, no matter how badly breached a dam may be, and that the Commission should clarify this in the rule. Such projects should be made exemptible if the project owner proposes

to reconstruct the dam, they say. The commenters point to section 408(a)(6) of PURPA which defines "existing dam" for purposes of small hydroelectric power projects as "any dam, construction of which was completed on or before April 20, 1977, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction)

...". (Emphasis added.) One commenter states that the Department of Energy, in granting PURPA loans, considers this to have the effect of including among existing dams even badly breached dams. It is not clear that a dam so badly breached that nothing remains but abutments is an "existing dam."

Section 408(a)(1) of PURPA defines a small hydroelectric power project as one located "at the site of an existing dam", and this definition limits the scope of our authority to grant exemptions. The explanatory statement of the Conference Committee which accompanied the original Title IV of PURPA states that "the phrase 'at the site of an existing dam' should be strictly construed to mean at the site of an existing impoundment." ^{9/} Badly breached dams will have no impoundment and an argument may be made that such dams do not qualify for the financial assistance program under Title IV. Whether Congress intended such dams to be excluded from exemption under the 1980 amendment to PURPA is unclear.

^{9/} H.R. Rep. No. 95-1750, 95th Cong., 2d Sess. 106 (1978).

Several comments focused on the contents of the application under proposed § 4.106, now § 4.107. One commenter argued that exemption and license applications should be the same for small projects and another stated that the exemption application was too similar to a license application with respect to the information required. The Commission has held the amount of information required of exemption applicants to the minimum necessary to discharge its responsibilities under section 408 of the ESA and to determine a project's eligibility for exemption. The application is similar to, but has fewer filing requirements than, the short-form license application which may become applicable to any project of 5 megawatts or less at an existing dam. Of course, if a license is sought under Part I of the Federal Power Act, safety, comprehensive development, environmental, and engineering considerations generally necessitate a greater volume of data. Both in terms of the input and the end result, the exemption process is far simpler than the licensing process. The Director of the Division of Hydropower Licensing or any regional engineer will supply prospective applicants with an example of a completed exemption application, on request.

It is important to note that, unlike the proposed rule, the final rule provides two kinds of exemption applications in §§ 4.107 and 4.108. Exemptions from licensing will require submittal of data on a project's location, its structural and

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operational features, and its environmental impact. Exemption from provisions other than licensing require only identification of those provisions.

It was suggested that older dams be exempted from the requirements of Exhibit G to supply drawings of the project, because original drawings may no longer be available. The Commission will insist on such drawings, even if they have to be prepared anew, because they are essential to Commission evaluation of the project's structural integrity.

If the developer varies its project design somewhat from that described in Exhibit A, the Commission will not revoke the exemption, as one commenter feared. Exhibit A is not submitted in order for the Commission to approve the design. As long as there is no new impoundment, capacity in excess of 5 megawatts, or radical change in construction that suggests a lack of good faith, the Commission will not be concerned, unless dam safety considerations make exemption from regulation otherwise unreasonable.

The Environmental Protection Agency (EPA) requests that Exhibit E contain analysis of flows downstream from any diversion structure and a request for state certification under section 401 of the Clean Water Act. Exhibit E now contains sufficient water resource data and analysis for interested agencies to evaluate the application. In addition, if no license is issued, there is no applicable section 401 requirement.

Some commenters claim that Article 3 did not allow an applicant sufficient time to begin construction, because of probable delays in power market negotiations, state approvals, consultation, and feasibility studies. The Commission has extended this time provision to 18 months to accommodate such potential difficulties. However, further extension would be contrary to the general purpose of the exemption process. The applicant must anticipate and solve these problems independently either before or during the time that it is seeking exemption, if necessary. In any case, revocation is not automatic under any term or condition of the rule. It should be pointed out that feasibility studies, delays from which concerned the Department of Energy, should not occur after the grant of an exemption, but are best performed before that time. An exemption application is, as noted earlier like a license application in terms of the stage of planning, investigation, and readiness to develop. The Commission will not require progress reports with respect to construction schedules because such enforcement mechanisms are more appropriate for licenses.

There are numerous miscellaneous comments to which a response would be useful.

1. EPA requests notice of any exemption application. EPA is already on a list of recipients for all permit, license, and exemption applications. EPA also requests an Exhibit E with such notice; the exhibit may be obtained from the applicant.

2. EPA argues that only projects operating in the run-of-river mode should be exempted; the Commission does not wish to prejudice the environmental impacts of projects that are not run-of-river. They will be considered on a case-by-case basis.

3. EPA advocates a standard term requiring that the instantaneous flow releases directly below the dam must equal or be greater than the seven consecutive day mean low flow within a 10 year recurrence. The Commission will entertain comments on appropriate flow released from EPA and other Federal and state agencies in individual cases under this case-by-case rule.

4. The 120-day automatic grant provision is too short to allow for proper safeguards from environmental problems, argues EPA; if an EA is required, EPA states that this time period should be suspended. The Commission expects that a satisfactory and complete environmental assessment of a project will occur within 120 days, in most cases. The statutory goal of expeditious development requires appropriately short deadlines. If necessary, the 120-day period may be suspended.

5. One commenter states that the Commission should exempt all projects 5 megawatts and less, leaving such projects to state regulation. The Commission is examining the extent to which a generic exemption should be granted, separately from this rule.

6. Although licenses for projects are transferrable from one licensee to another with Commission approval, no transfer provision is necessary for an exempted project. The exemption is for a project, not a person, and sale or other transfer of the project does not affect the exemption. No Commission approval of transfer is required. However, new project owners may wish to notify the Commission of the transfer of ownership for purposes of any later proceeding relevant to the exempted project; otherwise, any notices will only be published in the Federal Register and possibly a local paper and sent to the last known owner.

7. One comment contended that no exemption application should be considered for one year after revocation of an existing exemption. This would arguably encourage development within the prescribed time by exposing the owner to a license application by a state or municipality, with preference. The Commission generally agrees, but adopts a two-year rule under standard Article 3.

8. One commenter would have the Commission dismiss an exemption application if water rights disputes arise. This would be an invitation for some parties to dispute water rights. As indicated above, any such disputes should be worked out at the state level.

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9. Some commenters state the rule should address the issue of later, more comprehensive development plans and a procedure should be established to accommodate such proposals. The Commission will consider proposals to better develop the water resources of the region in a manner that may affect a previously exempted project. An exemption does not preclude later creation of another licensed project that contains, overlaps, or otherwise is mutually exclusive with an exempted project, subject to whatever compensation to property owners--including owners of the exempted project--may be necessary. The procedure to develop a waterway more comprehensively is licensing.

10. One comment indicated that an exemption can be used to circumvent the requirements and safeguards of licensing and that the Commission should ensure that an exemption applicant will significantly add to the project's capacity, recommending a 20% increase. The Congress intended to encourage "circumvention" of the licensing process, and imposed no prerequisite like a 20% increase in capacity or a showing that improvements would be uneconomical without the exemption. The Commission believes such restrictions would unduly restrict the availability of exemptions.

11. A state agency requested that much more time be allowed for the consultation process and that the rule impose a consultation fee. Since additional hydropower works to everyone's benefit, all

agencies should cooperate to speed its development. The final rule does not extend the proposed deadline. Nor is a fee appropriate for performing consultations on exemption applications when no fee is required for consultations on license applications. An agency that does not believe the value to the public it serves warrants consultation on a particular case may decline to consult and comment on that case.

12. One commenter questioned whether the exemption amounted to a waiver of Commission jurisdiction; another commenter quite correctly pointed out that the conditions of an exemption demonstrate that the Commission has continuing responsibility for a project, to some extent. We agree.

III. SECTION-BY-SECTION SUMMARY OF THE RULE.

The rule applies to applications for exemptions of small hydroelectric power projects having a proposed installed generating capacity of 5 megawatts or less from all or part of Part I of the Act. A small hydroelectric power project is defined as a project that uses the water power potential of an existing dam or a natural water feature without need for a dam or man-made impoundment.

§ 4.101 Purpose.

This rule provides case-by-case exemption procedures.

§ 4.102 Definitions.

The proposed rule defines the term "project" more narrowly than does section (3)(11) of the Act. Neither the ESA nor PURPA defines "project". Under the final rule, a project would include only those facilities directly associated with a single man-made impoundment or a natural lake. Under section (3)(11) of the Act, a "complete unit of development" might include more than one impoundment and a series of hydraulically coordinated dams. As stated above, a project, as defined by this rule, is not exemptible from licensing requirements if it comprises only a part of any licensed project, as the term "project" is used in section (3)(11) of the Act, unless the licensee obtains waiver of this restriction under § 4.103(d). Because the definition of "project" in this rule is more circumscribed and therefore may include fewer generating units, eligibility for exemption will be greater than if "project" were construed to include all dams, impoundments, and powerhouses in a large coordinated unit of development. The scope of the definition of "project" is sufficiently broad to exclude from exemption any in a series of separately developed generation facilities that have an aggregate capacity in excess of 5 megawatts and that use the same impoundment. However, the final rule contains a waiver provision (§ 4.103(d)) that would permit individual generation facilities to be exempted if waiver were granted.

If there is no lake or impoundment, "project" is defined in the rule to include the diversion structure and the facilities associated with it. However, a diversion structure that obstructs most of a natural body of water will be considered a dam, a distinction that bears on the physical scope of a project and the probable environmental impacts.

The statutory term "proposed installed capacity" is defined in the final rule to mean that an applicant must propose to add some new generating capacity at a project in order for the project to qualify for an exemption.

The definition of "install or increase," a phrase initially used in the definition of "small hydroelectric power project," states that this capacity includes proposals to install capacity where none existed previously, to replace or rehabilitate abandoned or unused existing capacity at a project, and to add capacity where there is existing operable capacity. The proposed installed capacity will be computed as the sum of both newly-developed capacity and existing capacity and may not exceed 5 megawatts in the aggregate.

This section also defines "dam," "existing dam," "fish and wildlife agencies," "Federal lands," "non-Federal lands", "real property interests", "person," "qualified exemption applicant," and "qualified license applicant."

§ 4.103 General provisions.

Section 4.103 describes which projects the Commission may exempt from all or part of Part I of the Act. This section also places a limitation on exemption of portions of licensed projects. Without a waiver only an entire licensed project may be exempted, if otherwise eligible under other criteria. This section also contains a general waiver provision.

This section also states who may apply for exemptions. If only Federal lands would be used for development, anyone may apply for exemption from licensing. If any non-Federal lands would be necessary to develop and operate the project, only a person, or group of persons holding all of the real property interests necessary to develop and operate that project (such as ownership in fee, a leasehold, easement, right-of-way, or an option to obtain such interest) may apply for an exemption from licensing. This prevents a person who lacks the requisite non-Federal real property interests to develop the project from obtaining an exemption for another person's project. ^{7/} The rule does not require that a person have such ownership interests in all of the land occupied by the entire project (e.g., all of the lands

^{7/} Under Part I of the Federal Power Act and Part 4 of the Commission's regulations, a person need not have sufficient property interest to develop power at a site in order to obtain a preliminary permit or a license. However, property interests must always be perfected to develop a project.

for the impoundment) to be considered a qualified exemption applicant. A person need only possess interests in the project necessary to develop and operate hydroelectric power at the site.

§ 4.104 Relationships among applications, exemptions, permits, and licenses.

This section sets forth how exemptions from licensing and applications for exemption from licensing will be treated in relation to other kinds of applications relating to development of a project and any permits or licenses. Section 4.104 of the rule sets forth a system of priorities and preferences for persons who file to develop a site. Paragraph (a) establishes rules that apply when there is an outstanding license or permit for a project or when a permit or license application has been filed before the exemption application. Paragraph (c) prescribes what happens when a project is exempted or the project owner has applied for exemption before a license or permit application is submitted.

This section protects a person other than the project owner who has already applied for a permit or license, from being defeated by a project owner's untimely application for exemption from licensing. The Commission will accept an exemption application, or a notice of intent to submit one, that competes with a pending permit or license application only if it is submitted during the protest and intervention period prescribed in the public notice for the permit or license application. But the

any time during the period for filing protests and petitions for intervention prescribed in the public notice for its license application. A preliminary permit applicant that is a qualified exemption applicant may submit an exemption application during the public notice period for its permit application, if its permit application was the first filed for the project.

Paragraph (e) of § 4.104 contains noteworthy provisions about Commission treatment of applications that propose to develop the same project. An exemption application submitted in competition with an application for a preliminary permit will be preferred to the permit application. However, as between license applicants and exemption applicants, the Commission will favor the first-filed application unless the plans of the subsequent applicant would better develop the water power potential at the project.

Municipalities or other public entities that are not project owners and that apply for preliminary permits or licenses that compete with exemption applications will be governed by the same rules as other applicants for permits or licenses, and will not receive the preferential treatment provided under section 7(a) of the Act.

§ 4.105 Action on exemption applications.

Section 4.105 of the final rule contains the procedures and timing provisions for Commission action on an exemption application. If the application is for exemption from provisions other

Commission will not accept an exemption application if a preliminary permittee has made timely application for license, even if the exemption application is submitted during the public notice period. Moreover, the Commission will not accept an application for exemption from licensing if a person other than the exemption applicant then has an unexpired preliminary permit or license.

This section also protects first-filing exemption applicants who own the non-Federal lands necessary for an exempt project from later permit or license applicants that would seek to take and develop the project. If an exemption application is pending, the Commission will not accept an application for a preliminary permit; nor will it accept a license application from a person other than the exemption applicant, unless the license application proposes total installed capacity of at least 7.5 MW. An exemption applicant may file a license application, but the exemption application will be deemed withdrawn and other interested persons may compete for the license. Similarly, any person owning non-Federal real property interests necessary to permit development of an exempted project may file a license application, but will then be exposed to competition by other interested developers, including municipalities with a preference under Section 7(a) of the Act.

A license applicant that is a qualified exemption applicant may request that its application for license be first considered as an application for exemption, if its license application was the first filed for the project. Such a request may be filed at

than licensing, the Commission will act in the context and according to the procedures for the related application for license or amendment of license. The procedures for exemption from licensing are provided in this section.

Once an application for exemption from licensing is submitted, the Commission will allow only 45 days for correcting deficiencies. The Commission may on its own motion, or on the motion of any party in interest, order a hearing on an application for exemption. Interested agencies will have 60 days to comment on an application. If an agency does not comment within the 60 days, that agency will be presumed to have no objection to the exemption requested. A non-responding fish or wildlife agency will be presumed to have no conditions to impose other than those specified in Exhibit E of the application. If the Commission does not act within 120 days of the notice that an application is accepted, it is automatically granted on certain standard conditions.

§ 4.106 Standard terms and conditions for exemption from licensing.

The rule specifies, in § 4.106, five standard conditions of every exemption. The installation of new capacity at the exempted project must begin within 18 months and completed within four years of the date of issuance of the exemption. Failure to begin or complete development of the project on a timely basis may lead to acceptance of license applications for the project and revocation

of the exemption. These provisions are designed to prevent tying up the project site for an unreasonable time without development. Other standard conditions relate to the Commission's enforcement powers, compliance with conditions imposed by fish and wildlife agencies during the exemption process, and the navigation servitude of the United States to which all exempted projects on navigable waters remain subject. A fifth article is added to require the acquisition of rights to use any Federal lands involved from the administering Federal land management agencies within one year. If they are not obtained timely, the Commission may accept license applications for the project and revoke the exemption.

The Commission may provide further (non-standard) conditions in each exemption from licensing, based on the circumstances of the exemptible project, under § 4.105(b)(6). Among other things, Commission will be concerned about the safety of project works. For example, if a project contains a dam that is ten or more meters in height above streambed, impounds 2.5 million or more cubic feet of water, or is determined to have a high hazard potential, the Commission may require periodic inspection of the project by an independent consultant. §

§ These criteria are in Subpart D of the Commission's proposed Regulations Governing the Safety of Water Power Projects and Project Works, issued June 16, 1980, 45 Fed. Reg. 41608, June 19, 1980 (Docket No. RM80-31).

§ 4.107 Contents of application for exemption from licensing.

The rule describes the required format and contents of the application for exemption from licensing in § 4.107. The application includes an introductory statement, which identifies the applicant and the project, as well as Exhibits A, B, E, and G. Exhibit A must include a description of the facility and the proposed mode of operation. Exhibit B is a general location map.

Exhibit E is an environmental report submitted to facilitate compliance with the National Environmental Policy Act of 1969. It also contains information to facilitate compliance with the National Historic Preservation Act, the Endangered Species Act, and the Fish and Wildlife Coordination Act.

Exhibit G is a set of drawings showing structures and equipment. These drawings will permit the Commission to review the project structures, existing and proposed, in order to understand their environmental and dam safety implications.

§ 4.108 Contents of application for exemption from provisions other than licensing.

Any applicant for exemption from selected parts of the Act other than the licensing requirements must submit a list of sections from which it seeks exemption, appended to an application for license or amendment of license.

Other amendments.

The Commission also amends its regulations to delegate to the Director of the Office of Electric Power Regulation, or his designee, the limited authority to grant applications for exemptions from all or part of Part I of the Act, provided an environmental impact statement is not required, for small hydroelectric power projects or small conduit hydroelectric power projects.

IV. EFFECTIVE DATE

The Commission finds good cause to make this rule immediately effective. 9/ The procedures established by this final rule provide the means for exemption of certain hydroelectric power projects from various statutorily imposed requirements. The rule therefore both "recognizes an exemption" and, at least potentially, "relieves a restriction." Given the determination of the Congress to encourage expeditious development of hydroelectric projects and

9/ Under the Federal Power Act (FPA), Commission action may take effect prior to the disposition of petitions for rehearing. (See § 313(c)). The Commission is of the view that the rehearing provisions contained in § 313 of the FPA apply to this rule due to the relationship of the exemption provision of PURPA to the licensing provisions of Part I of the FPA. Persons participating in this rulemaking should be aware that under § 313 of the FPA an application for rehearing is a jurisdictional prerequisite to obtaining judicial review.

the large numbers of preliminary permit and license applications being submitted to the Commission, an immediate effective date is in the public interest.

(Energy Security Act of 1980, Pub. L. 96-294, 94 Stat. 611; Federal Power Act, as amended, 16 U.S.C. §§ 792-828c; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. §§ 2601-2645; and the Department of Energy Organization Act, 42 U.S.C. §§ 7101-7352; E.O. 12009, 3 C.F.R. 142 (1978).)

In consideration of the foregoing, the Commission amends Parts 4 and 375 of Chapter I, Title 18, Code of Federal Regulations, as set forth below, effective November 7, 1980.

By the Commission.

(S E A L)

Kenneth F. Plumb

Kenneth F. Plumb,
Secretary.

1. Part 4 is amended in the Table of Contents by adding Subpart K to read as follows:

SUBPART K - EXEMPTION OF SMALL HYDROELECTRIC POWER PROJECTS OF 5 MEGAWATTS OR LESS

- | | |
|-------|---|
| Sec. | Purpose. |
| 4.101 | Definitions. |
| 4.102 | General provisions. |
| 4.103 | Relationships among applications, exemptions, permits, and licenses. |
| 4.104 | Action on exemption applications. |
| 4.105 | Standard terms and conditions of exemption from licensing. |
| 4.106 | Contents of application for exemption from licensing. |
| 4.107 | Contents of application for exemption from provisions other than licensing. |
| 4.108 | |

2. Part 4 is amended by adding Subpart K to read as follows:

SUBPART K - EXEMPTION OF SMALL HYDROELECTRIC POWER PROJECTS OF 5 MEGAWATTS OR LESS

§ 4.101 Purpose. This subpart provides a procedure for obtaining exemption on a case-by-case basis from all or part of Part I of the Federal Power Act (Act), including licensing, for certain small hydroelectric power projects.

§ 4.102 Definitions.

For purposes of this subpart --

- (a) "Dam" means any structure for impounding water, including any diversion structure that is designed to obstruct all or substantially all of the flow of a natural body of water.

(b) "Existing dam" means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project.

(c) "Fish and wildlife agencies" means the U.S. Fish and Wildlife Service, the National Marine Fisheries Service if anadromous or estuarine fish may be affected, and any state agency with administrative authority over fish or wildlife resources of the state or states in which the small hydroelectric power project is or will be located.

(d) "Federal lands" means any lands to which the United States holds fee title.

(e) "Non-Federal lands" means any lands other than Federal lands.

(f) "Real property interests" includes ownership in fee, right-of-way, easement, or leasehold.

(g) "Licensed water power project" means a project, as defined in section 3 (11) of the Act, that is licensed under Part I of the Act.

(h) "Project" means: (1) the impoundment and any associated dam, intake, water conveyance facility, power plant, primary transmission line, and other appurtenant facility, if a lake or similar natural impoundment or a man-made impoundment is used for power generation; or

(2) any diversion structure other than a dam and any associated water conveyance facility, power plant, primary transmission line, and other appurtenant facility, if a natural water feature other than a lake or similar natural impoundment is used for power generation.

(i) "person" means any individual and, as defined in section 3 of the Act, any corporation, municipality, or state.

(j) "Qualified exemption applicant" means any person who meets the requirements specified in § 4.103(b)(2) with respect to a small hydroelectric power project for which exemption from licensing is sought.

(k) "Qualified license applicant" means any person to whom the Commission may issue a license, as specified in section 4(e) of the Act.

(l) "Small hydroelectric power project" means any project in which capacity will be installed or increased after the date of application under this subpart and which will have a total installed capacity of not more than 5 megawatts and which:

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(1) would utilize for electric power generation the water power potential of an existing dam that is not owned or operated by the United States or by any instrumentality of the Federal Government, including the Tennessee Valley Authority; or

(2) would utilize a natural water feature for the generation of electricity, without the need for any dam or man-made impoundment.

(m) "Install or increase" means to add new generating capacity at a site that has no existing generating units, to replace or rehabilitate an abandoned or unused existing generating unit, or to increase the generating capacity of any existing power plant by installing an additional generating unit or by rehabilitating an operable generating unit in a way that increases its rated electric power output.

§ 4.103 General provisions.

(a) Exemptible projects. Except as provided in paragraph (d), the Commission may exempt under this subpart any small hydroelectric power project from all or part of Part I of the Act, including licensing.

(b) Who may apply. (1) Exemption from provisions other than licensing. Any qualified license applicant or licensee seeking amendment of license may apply for exemption of the related project from provisions of Part I of the Act other than licensing.

(2) Exemption from licensing. (i) Only Federal lands involved. If only rights to use or occupy Federal lands would be necessary to develop and operate the proposed small hydroelectric power project, any person may apply for exemption of that project from licensing.

(ii) Some non-Federal lands involved. If real property interests in any non-Federal lands would be necessary to develop and operate the proposed small hydroelectric power project, any person who has all of the real property interests in non-Federal lands necessary to develop and operate that project, or an option to obtain those interests, may apply for exemption of that project from licensing.

(c) Limitation for licensed water power project. The Commission will not accept for filing an application for exemption from licensing for any project that is only part of a licensed water power project.

(d) Waiver. A qualified exemption applicant may petition under § 1.7 of this chapter for waiver of any specific provision of this subpart. The Commission may grant a waiver if consistent with section 408 of the Energy Security Act of 1980.

§ 4.104 Relationships among applications, exemptions, permits, and licenses.

For purposes of this subpart, the Commission will treat preliminary permit and license applications, preliminary permits, licenses, exemptions from licensing, and applications for exemption from licensing that are related to a small hydroelectric power project as follows:

(a) Limitations on submission and acceptance of exemption applications. (1) Unexpired permit or license application. If there is an unexpired preliminary permit or license in effect for a project, the Commission will accept an application for exemption of that project from licensing only if the exemption applicant is the permittee or licensee.

(2) Pending permit or license application. (i) Pending permit application. If a preliminary permit application for a project has been accepted for filing, an application for exemption of that project from licensing, or a notice of intent to submit such an application, may be submitted not later than the last date for filing protests or petitions to intervene prescribed in the public notice issued for the permit application under § 4.31(c)(2) of this chapter.

(ii) Pending license application. (A) Submitted by permittee. If an accepted license application for a project was submitted by a permittee before the permit expired, the

Commission will not accept an application for exemption of that project from licensing submitted by a person other than the permittee.

(B) Submitted by non-permittee other than qualified exemption applicant. Except as provided in clause (A), if the first accepted license application for a project was filed by a person other than a qualified exemption applicant, an application for exemption from licensing, or a notice of intent to submit such an application, may be submitted not later than the last date for filing protests or petitions to intervene prescribed in the public notice issued for that license application under § 4.31(c)(2) of this chapter.

(C) Submitted by qualified exemption applicant. If the first accepted license application for a project was filed by a qualified exemption applicant, the applicant may request that its license application be treated initially as an application for exemption from licensing by so notifying the Commission in writing and, unless only rights to use or occupy Federal lands would be necessary to develop and operate the project, submitting documentary evidence showing that the applicant holds the real property interests required under § 4.103(b)(2)(ii). Such notice and documentation must be submitted not later than the last date for filing protests or petitions to intervene prescribed in the public notice issued for the license application under § 4.31(c)(2) of this chapter.

(b) Priority of exemption applicant's earlier permit or application. Any accepted preliminary permit or license application submitted by a person who later applies for exemption of the project from licensing under paragraph (a)(2)(i) or (ii)(C) will retain its validity and priority under Subpart D of this part until the preliminary permit or license application is withdrawn or the project is exempted from licensing under this subpart.

(c) Limitations on submission and acceptance of permit or license applications. (1) General rule. Except as permitted under subparagraph (2) or under § 4.106(c) or (e), the Commission will not accept a preliminary permit or license application for any small hydroelectric power project if:

(i) that project is exempt from licensing, under this subpart; or

(ii) the Commission has accepted an application for exemption of that project from licensing and the application has not yet been granted or denied.

(2) Exceptions. (i) If the Commission has accepted an application for exemption of a project from licensing, any qualified license applicant may submit a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application, not later than the last date for filing protests or petitions to

intervene prescribed in the public notice of the application for exemption from licensing issued under § 4.31(c)(2) of this chapter.

(ii) If a project is exempted from licensing and real property interests in any non-Federal lands would be necessary to develop and operate the project, any person who is a qualified license applicant and has any of those real property interests in non-Federal lands may submit a license application for that project.

(iii) If the Commission has accepted an application for exemption of a project from licensing and the application has not yet been granted or denied, the applicant for exemption may submit a license application for that project if it is a qualified license applicant. The pending application for exemption from licensing will be considered withdrawn as of the date that the Commission accepts the license application for filing.

(iv) If a license application submitted under clause (ii) or (iii) has been accepted for filing, any qualified license applicant may submit a competing license application in accordance with § 4.33 of this part.

(d) Requirements for notices of intent and competing applications. (1) Competing exemption applications and notices of intent. (i) Any notice of intent to file an application for

exemption from licensing submitted under paragraph (a)(2)(i) or (ii)(B) must conform to the requirements of § 4.33(b) of this chapter.

(ii) If a notice of intent is submitted under paragraph (a)(2)(i) or (ii)(B), the application for exemption from licensing must be submitted not later than 120 days after the last date for filing protests and petitions to intervene prescribed in the public notice issued for the permit or license application under § 4.31(c)(2) of this chapter.

(iii) Any notice of intent or application for exemption from licensing submitted under paragraph (a)(2)(i) or (ii)(B) must be accompanied by proof of service of a copy of the notice of intent or exemption application on the permit or license applicant.

(2) Competing license applications and notices of intent.

(i) Any notice of intent to file a license application submitted under paragraph (c)(2)(i) must conform to the requirements of § 4.33(b) of this chapter and specify the capacity that the applicant proposes to install in the project.

(ii) If a notice of intent is submitted under paragraph (c)(2)(i), the license application must be submitted not later than 120 days after the last date for filing protests and petitions to intervene prescribed in the public notice issued for the exemption application under § 4.31(c)(2) of this chapter.

(iii) Any notice of intent or application for license submitted under paragraph (c)(2)(i) must be accompanied by proof of service of a copy of the notice or application on the exemption applicant.

(e) Disposition of competing applications. (1) Exemption v. permit. If an accepted application for a preliminary permit and an accepted application for exemption from licensing propose to develop mutually exclusive small hydroelectric power projects, the Commission will favor the application for exemption.

(2) Exemption v. license. If an application for a license and an application for exemption from licensing are each accepted for filing and each propose to develop a mutually exclusive project, the Commission will favor the application first filed, unless the Commission determines the plans of the subsequent applicant would better develop the water power potential of the affected water resources.

§ 4.105 Action on exemption applications.

(a) Exemption from provisions other than licensing. An application for exemption of a small hydroelectric power project from provisions of Part I of the Act other than the licensing requirement will be processed and considered as part of the related application for license or amendment of license.

(b) Exemption from licensing. (1) General procedure. An application for exemption of a small hydroelectric power project from licensing will be processed in accordance with paragraphs (c) through (g) of § 4.31 of this part, except that notice will be published only once in a daily or weekly newspaper of general circulation in each county in which the project is or will be located. The additional time that may be allowed under § 4.31(d) of this part for correcting deficiencies in an application for exemption may not exceed 45 days.

(2) Hearing. The Commission may order a hearing on an application for exemption from licensing either on its own motion or on the motion of any party in interest. Any hearing shall be limited to the issues prescribed by order of the Commission.

(3) Consultation. The Commission will circulate a notice of application for exemption from licensing to interested agencies at the time the applicant is notified that the application is accepted for filing. If a particular agency does not comment within 60 days from the date of issuance of the notice, that agency will be presumed to have no comment on or objection to the exemption requested. Any comments submitted by a fish or wildlife agency must include any specific terms or conditions that the agency has determined are necessary to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the

provisions of the Fish and Wildlife Coordination Act, except those terms or conditions that may be included in Exhibit E of the application for exemption submitted under § 4.107(e). Any fish or wildlife agency that does not comment within the 60-day period will be presumed to have determined that no terms or conditions of exemption are necessary for the above purposes, except the terms and conditions included in Exhibit E of the exemption application.

(4) Automatic exemption. If the Commission has not taken one of the actions set forth in subparagraph (5) within 120 days after notifying the applicant that its application for exemption from licensing is accepted for filing, exemption of the project, as proposed, will be deemed to be found consistent with the public interest and granted, on the standard terms and conditions set forth in § 4.106.

(5) Affirmative action on exemption. Within 120 days after notifying an applicant that its application for exemption from licensing is accepted for filing, the Commission may take any of these affirmative actions:

- (i) grant the exemption as requested;
- (ii) grant an exemption from provisions of Part I of the Federal Power Act (and the regulations issued under those provisions) other than those for which exemption was requested, upon finding that modification of the exemption requested is in the public interest;

(iii) deny exemption if granting the exemption would be inconsistent with the public interest; or

(iv) suspend the 120-day period for action under this paragraph, upon finding that additional time is necessary for gathering additional information, conducting additional proceedings, or deliberating on the issues raised by the application.

(6) Non-standard terms and conditions. In granting an exemption from licensing, the Commission may prescribe terms or conditions in addition to those set forth in § 4.106 in order to:

- (i) protect the quality or quantity of the related water supply;
- (ii) otherwise protect life, health, or property;
- (iii) avoid or mitigate adverse environmental impact; or
- (iv) better conserve, develop, or utilize in the public interest the water resources of the region.

§ 4.106 Standard terms and conditions of exemption from licensing.

Any exemption from licensing granted under this subpart for a small hydroelectric power project is subject to the following standard terms and conditions:

- (a) Article 1. The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt project. If any term or condition of

the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) Article 2. The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that any Federal or state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act, as specified in Exhibit E of the application for exemption from licensing or in the comments submitted in response to the notice of the exemption application.

(c) Article 3. The Commission may accept a license application by any qualified license applicant and revoke this exemption if actual construction or development of any proposed generating facilities has not begun within 18 months, or been completed within four years, from the date on which this exemption was granted. If an exemption is revoked, the Commission will not accept a subsequent application for exemption within two years of the revocation.

(d) Article 4. This exemption is subject to the navigation servitude of the United States if the project is located on navigable waters of the United States.

(e) Article 5. This exemption does not confer any right to use or occupy any Federal lands that may be necessary for the development or operation of the project. Any right to use or

or occupy any Federal lands for those purposes must be obtained from the administering Federal land agencies. The Commission may accept a license application by any qualified license applicant and revoke this exemption, if any necessary right to use or occupy Federal lands for those purposes has not been obtained within one year from the date on which this exemption was granted.

§ 4.107 Contents of application for exemption from licensing.

(a) General requirements. (1) An application for exemption from licensing submitted under this subpart must contain the introductory statement and exhibits described in this section and, if the project structures would use or occupy any lands other than Federal lands, an appendix containing documentary evidence showing that the applicant has the real property interests required under § 4.103(b)(2)(ii) of this subpart. An application for exemption from licensing must conform to the requirements set forth in §§ 1.5 and 1.14 through 1.17 of this chapter.

(2) An original and fourteen copies of the exemption application must be submitted to the Secretary of the Commission, and a copy must be served at the same time on the Commission's regional engineer for the region in which the project is located and on each of the consulted fish and wildlife agencies. Full-sized prints of all required maps and drawings must be filed with the application. Maps and drawings need not conform to

the requirements of § 4.32 of this part, but must be of sufficient size, scale, and quality to permit easy reading and understanding. The Commission will request original drawings (microfilm) when it notifies the applicant that the application is accepted.

(b) Introductory statement. The application must include an introductory statement that conforms to the following format:

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

APPLICATION FOR EXEMPTION OF
SMALL HYDROELECTRIC POWER PROJECT
FROM LICENSING

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for an exemption for [name of project], a small hydroelectric power project that is proposed to have an installed capacity of 5 megawatts or less, from licensing under the Federal Power Act. [If applicable: The project is currently licensed as FERC Project No. ____.]

(2) The location of the project is:

[State or territory] _____

[County] _____

[Township or nearby town] _____

[Stream or body of water] _____

(3) The exact name and business address of each applicant are: _____

(4) The exact name and business address of each person authorized to act as agent for the applicant in this application are: _____

(5) [Name of applicant] is [specify, as appropriate: a citizen of the United States or other identified nation; an association of citizens of the United States or other identified nation; a municipality; a state; or a corporation incorporated under the laws of (specify the United States or the state or nation of incorporation, as appropriate)].

(c) Exhibit A. Exhibit A must describe the small hydroelectric power project and its proposed mode of operation. To the extent feasible, the information in this exhibit may be submitted in tabular form. The applicant must submit the following information:

(1) A brief description of any existing dam and impoundment proposed to be utilized by the small hydroelectric power project and any other existing or proposed project works and appurtenant facilities, including intake facilities, diversion structures, powerhouses, primary transmission lines, penstocks, pipelines, spillways, and other structures, and the sizes, capacities, and construction materials of those structures.

(2) The number of existing and proposed generating units at the project, including auxiliary units, the capacity of each unit, any provisions for future units, and a brief description of any plans for retirement or rehabilitation of existing generating units.

(3) The type of each hydraulic turbine of the small hydroelectric power project.

(4) A description of how the power plant is to be operated, that is, run-of-river or peaking.

(5) A graph showing a flow duration curve for the project or, if flow data are not available from United States Geological Survey records, the estimated average annual stream flow in cubic feet per second.

(6) Estimations of:

- (i) the average annual generation in kilowatt-hours;
- (ii) the average and design head of the power plant;

RECEIVED

(iii) the hydraulic capacity of each turbine of the power plant (flow through the plant) in cubic feet per second;

(iv) the number of surface acres of the man-made or natural impoundment used, if any, at its normal maximum surface elevation and its net and gross storage capacities in acre-feet.

(7) The planned date for beginning and completing the proposed construction or development of generating facilities.

(8) A description of the nature and extent of any repair, reconstruction, or other modification of a dam that would occur in association with construction or development of the proposed small hydroelectric power project, including a statement of the normal maximum surface area and normal maximum surface elevation of any existing impoundment before and after construction.

(d) Exhibit B. Exhibit B is a general location map, which may be prepared on United States Geological Survey topographic quadrangle sheets or similar topographic maps of a state agency, enlarged, if necessary, to show clearly and legibly all of the information required by this paragraph. The map must show the following information:

(1) The location of the existing and proposed physical structures of the small hydroelectric power project, including any dam or diversion structure, reservoir or impoundment, penstocks, pipelines, power plants, access roads, transmission lines, and other important features.

(2) The relationship of the project structures to the stream or other body of water on which the project is located and to the nearest town or other permanent objects that can be readily recognized in the field.

(3) A description of who owns or otherwise has real property interests in any tract of land occupied by the small hydroelectric power project or the structures to which it is directly connected.

(e) Exhibit E. This exhibit is an environmental report that must include the following information, commensurate with the scope and environmental impact of the construction and operation of the small hydroelectric power project:

(1) A description of the environmental setting of the project, including vegetative cover, fish and wildlife resources, water quality and quantity, land and water uses, recreational uses, historical and archeological resources, and scenic and aesthetic resources. The report must list any endangered or threatened plant and animal species, any critical habitats, and any sites eligible for or included on the National Register of Historic Places.

The applicant may obtain assistance in the preparation of this information from state natural resources agencies, the state historic preservation officer, and from local offices of Federal natural resources agencies.

(2) A description of the expected environmental impacts from the proposed construction or development and the proposed operation of the small hydroelectric power project, including any impacts from any proposed changes in the capacity and mode of operation of the project if it is already generating electric power, and an explanation of the specific measures proposed by the applicant, the agencies consulted, and others to protect and enhance environmental resources and values and to mitigate adverse impacts of the project on such resources.

(3) Letters or other documentation showing that the applicant consulted or attempted to consult with each of the relevant fish and wildlife agencies (specify each agency) before filing the application, including any terms or conditions of exemption that those agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the provisions of the Fish and Wildlife Coordination Act. If any fish or wildlife agency fails to provide the applicant with documentation of the consultation process within a reasonable time, in no case less than 30 days after documentation is requested, the applicant may submit a summary of the consultation and any determinations of the agency. Any exemption application that does not contain the information required in this subparagraph will be considered patently deficient and be rejected pursuant to § 4.31(d) of

this part. The applicant may obtain a list of fish and wildlife agencies from the Director of the Division of Hydropower Licensing or any Regional Engineer.

(4) Any additional information the applicant considers important.

(f) Exhibit G. Exhibit G is a set of drawings showing the structures and equipment, that is, the proposed and existing project works, of the small hydroelectric power project. The drawings must include plan, elevation, and section views of the power plant, any existing dam or diversion structure, and any other principal structure of the project.

§ 4.108 Contents of application for exemption from provisions other than licensing.

An application for exemption of a small hydroelectric power project from provisions of Part I of the Act other than the licensing requirement need not be prepared according to any specific format, but must be included as an identified appendix to the related application for license or amendment of license. The application for exemption must list all sections or subsections of Part I of the Act for which exemption is requested.

Docket No. RM80-65

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3. Section 375.308 is amended by adding a new paragraph (11) to read as follows:

§ 375.308 Delegations to the Director of the Office of Electric Power Regulation.

The Commission authorizes the Director of the Office of Electric Power Regulation, or the Director's designee, to:

* * *

(11) Grant or grant with modifications, but not suspend the time for action on or deny, any uncontested application submitted under Subparts J or K of Part 4 of this chapter for exemption from all or part of Part I of the Federal Power Act, if an environmental impact statement is not required.

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Dept. of Water Resources
Statehouse
 Boise, Idaho 83720

INTER-DEPARTMENT MEMO — 1

FROM

Dave T

DATE

11/12/81

TO

Glen S

SUBJECT

In response to your memo:

Item

11

1. Corrected
2. Corrected
3. Affidavits are enclosed
4. F&G Comments are attached
5. Per watermaster the ~~Stoshore~~ project will not bypass any irr diversions except for one very small right that will be delivered by the new system.
6. This app is downstream from the Board's ~~app~~ MSF permit reach.

SIGNATURE

FROM

Glen S

DATE

11-5-81

TO

Dave T

SUBJECT

- there are several items that need to be clarified before these apps are ready for signature.

1. app 37-7911 should show on pg 1 that it has been assigned.
2. app 37-7863 needs subordination clause
3. an affidavit of Residence by Cogeneration, Inc. needs to be completed for each file since app is now in the name of Cogeneration.

SIGNATURE

FROM

TO

SUBJECT

4) The 3rd paragraph of the exemption presents a problem. I think we need to get copies of Id F & G comments on exemption app & perhaps even Fed F & W's comments in order to determine whether the div rate under apps is available considering the fish comments. (The prob here is that we don't want FERC setting min str flows in Idaho, or Id F & G, but in a round about way FERC has some control). After receiving fish flow info we need to rethink this problem. (con't)

SIGNATURE

3/3

INTER-DEPARTMENT MEMO — 1

FROM

DATE

TO

SUBJECT

- Lets ask TUB to track down
& supply the fish comments.

- Do we need ~~that~~ comment
from the watermaster? relative
to bypassing any existing
diversions.

- Lets also be sure there is no
interf w/ the Boards
min flow on L. Wood R.



SIGNATURE

INTER-DEPARTMENT MEMO — 1

DATE 11/3/1981

FROM Jim Johnson

TO Files 37-7863 and 37-7911

SUBJECT Affidavit of qualifications to do business under the laws of Idaho.
For original affidavit of Cogeneration Inc. see File 47-7676.

SIGNATURE

INTER-DEPARTMENT MEMO — 1

DATE 12-28-81

FROM Robyn Carlson

TO File 37-7863

SUBJECT Overlap

In a search by section on the
computer, of overlap filings on same
P/O & P/U I found File 37-7911

(File 37-7911 is supplemental to file 37-7863)

SIGNATURE

August 17, 1981

Mr. Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, DC 20426

Re: Shoshone Hydro Project
No. 4182. Order granting
exemption from licensing
of a small hydroelectric
project of 5 megawatts or
less. Cogeneration, Inc.

Dear Mr. Plumb:

Our Department did not receive notice of application for exemption of licensing for the referenced project. We have reviewed the project, however, and submit the following terms and conditions for the purposes set forth in Section 408 of the Energy Security Act of 1980.

1. Every reasonable care to be taken to minimize water quality degradation during construction and to prevent long-term erosion.
2. Instantaneous minimum stream flows to be maintained by month between diversion inlet structures and return discharge to stream, as shown below:

<u>Month</u>	<u>cfs</u>	<u>Month</u>	<u>cfs</u>
October	6	April	58
November	11	May	113
December	13	June	119
January	12	July	115
February	14	August	107
March	16	September	86

3. Fish screens to be provided in the inlet diversion structure according to design and specifications and operation and maintenance criteria approved by the Idaho Department of Fish and Game (IDFG).

RECEIVED
AUG 20 1981

Mr. Kenneth F. Plumb
August 17, 1981
Page 2

4. Plans and specifications for the inlet diversion structure to be furnished to IDFG prior to the start of construction. Upstream fish passage facilities to be provided in the diversion structure if determined necessary by IDFG and according to design and specifications and operation and maintenance criteria as approved by IDFG.
5. Transmission lines, if above ground, to be designed and constructed to prevent mortalities to raptors. Design for preventing raptor mortalities to be subject to approval by the IDFG.
6. If, after construction, the applicant should at any time in the future abandon the site, the stream diversion points will be restored to pre-project condition.

Fish screen, upstream fish passage facility and transmission line design criteria are available to applicant from the IDFG.

Sincerely,

[Handwritten signature]
Jerry M. Conley
Director

Jerry M. Conley
Director

cc: Cogeneration, Inc.
USFWS
Region 4
Bur. Fisheries

JMC:MRR:jt



J-U-B ENGINEERS, Inc.

INDUSTRIAL DIVISION

250 South Beechwood Avenue, Suite III

Boise, Idaho 83709

RECEIVED
Telephone (208) 376-7330

OCT 20 1981

Department of Water Resources

October 20, 1981

Letter No. 25095

Mr. David Tuthill
State of Idaho
Dept. of Water Resources
450 West State Street
Boise, Idaho 83720

Dear Mr. Tuthill:

Re: Water Application Permit No. 37-7863 ✓
and No. 37-7911

Per request by Mr. Jim Coleman, Civil Engineer at our Twin Falls office, please find enclosed a copy of the FERC order granting exemption from licensing the Shoshone Hydroelectric Project.

Hopefully this order will be sufficient for further processing of the above-referenced water application permits.

If you have any further questions, please contact me.

Sincerely,

J-U-B ENGINEERS, Inc.
Industrial Division

Marc A. Auth
Project Coordinator

MAA:dm
Enclosure

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RECEIVED

RECEIVED

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

OCT 20 1981

Department of Water Resources

- 2 -

Cogeneration, Inc.) Project No. 4182-000

ORDER GRANTING EXEMPTION FROM LICENSING OF A
SMALL HYDROELECTRIC PROJECT OF 5 MEGAWATTS OR LESS
(Issued June 30, 1981)

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 SUBPART K (1980) implementing in part Section 408 of the Energy Security Act (Act) of 1980 for a project as described in the attached public notice. 2/ 3/

Notice of the application was published in accordance with Section 408 of the Act and the Commission's regulations and comments were requested from interested Federal and State agencies including the U. S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and petitions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

Standard Article 2/ included in this exemption, requires compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources. The terms and conditions referred to in Article 2 are contained in any letters of comment by these agencies which have been forwarded to the Applicant in conjunction with this exemption.

Should the Applicant contest any terms or conditions that were proposed by Federal or State agencies in their letters of comment as being outside the scope of Article 2, the Commission shall determine whether the disputed terms or conditions are outside the scope of Article 2.

- 1/ Cogeneration, Inc., Project No. 4182, filed on February 11, 1981.
- 2/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2708).
- 3/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation under 18 C.F.R. §375.308 (1980), as amended by 46 Fed. Reg. 14119 (1981).

DC-A-58

It is ordered that:

(A) The Shoshone Hydro Project No. 4182 as described and designated in Cogeneration, Inc.'s application filed on February 11, 1981, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in §4.106 of the Commission's regulations, 18 C.F.R. §4.106 45 Fed. Reg. 76115 (November 18, 1980).

(B) This order is final unless a petition appealing it to the Commission is filed within 30 days from the date of its issuance, as provided in Section 1.7(d) of the Commission's regulations, 18 C.F.R. 1.7(d)(1979), as amended, 44 Fed. Reg. 46449 (1979). The filing of a petition appealing this order to the Commission or an application for rehearing as provided in Section 313(a) of the Act does not operate as a stay of the effective date of this order, except as specifically ordered by the Commission.

(S E A L)

William W. Lindsay
William W. Lindsay
Director, Office of Electric
Power Regulation

SHOSHONE
HYDROGENERATION PROJECT
LINCOLN COUNTY, IDAHO
1981

APPLICATION
FOR
FEDERAL ENERGY LICENSE
EXEMPTION



BARBER ENGINEERING

a division of JUB ENGINEERS, Inc.

Office Phone: (208) 376-8480
376-7330

250 So. Beechwood Ave., Suite III
Boise, Idaho 83709

RECEIVED
MAY 1981

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

APPLICATION FOR EXEMPTION OF
SMALL HYDROELECTRIC POWER PROJECT
FROM LICENSING

(1) Cogeneration, Inc. applies to the Federal Energy Regulatory Commission for an exemption for Shoshone Hydro Project a small hydroelectric power project that is proposed to have an installed capacity of 5 megawatts or less, from licensing under the Federal Power Act.

(2) The location of the project is:

[State or territory] Idaho

[County] Lincoln

[Township or nearby town] Shoshone, Idaho

[Stream or body of water] Diversion from Little Wood River

(3) The exact name and business address of each applicant are:

Cogeneration, Inc.

250 South Beechwood Avenue

Boise, Idaho 83709

(4) The exact name and business address of each person authorized to act as agent for the applicant in this application are:

Barber Engineering

250 South Beechwood Avenue, Suite III

Boise, Idaho 83709

(5) Cogeneration, Inc., is formed under the laws of the State of Idaho.

RECEIVED

EXHIBIT A

RECEIVED

EXHIBIT A

The existing diversion dam is located on the Little Wood River approximately two and one-half (2 1/2) miles WNW of Shoshone, Idaho.

Legal Description: NENW SECT. 33, T.5S., R.17E.

The river flows in an easterly direction with a relatively winding path and water diverted rejoins the river approximately 1500 yards downstream. Exhibits B and G included herein show the general layout of the project.

Table 1 below gives necessary statistics:

TABLE 1

DAM

Design - existing diversion
Height - 3 feet
Length - 50 feet
Construction - concrete and rock

IMPOUNDMENT

Surface Elevation - 3930 M.S.L.
Storage - none

PENSTOCK

Existing canal, approximately 20 feet wide.
Existing standpipe headgate (stone and masonry), to be refurbished.
Existing wooden penstock, deteriorated, to be replaced with 42" steel penstock.

POWERPLANT

Rating - 2 units @ 75 kW each.
Manufacture - to be determined pending bids.
Operating Head - 39 feet.
Hydraulic Capacity - 60 cfs
Plant Factor - 91%
Annual Energy - 1,119, 528 kWh

CUSTOMER

Power output to be sold to Idaho Power Company under rates established by Idaho Public Utilities Commission pursuant to PURPA (order No. 16025).

TRANSMISSION

12470 V, 3Ø, 60 HZ; 3/4 mi. from powerhouse to 3-phase pole.

FLOW DURATION

See flow duration curve and data printout, Appendix A.

UNRECORDED

SHOSHONE HYDRO PROJECT

Cogeneration, Inc., proposes to redevelop the existing project whose civil works will need some degree of refurbishment. The original project site was built in 1904 to supply power to the nearby town of Shoshone, Idaho. With the inauguration of transmission service, however, the project site fell into a state of disrepair.

The new plant will use the existing diversion, install new head gates and trash racks and utilize the existing stand pipe head gate which will need refurbishment. The reach to be utilized is comprised of an existing canal approximately 20 feet wide, a stand pipe (stone and masonry) and a significantly deteriorated wooden penstock, to be replaced with a new steel penstock. The proposal is to install two turbine/generators at this site supplied by diverted water from the Little Wood River. Water diverted at this point is intended to be 60 c.f.s. with generated power of up to 170 KW. Cogeneration, Inc., plans to begin repairs and the installation of new turbines/generators April, 1981, or whenever the exemption application is approved.

An assessment performed by J-U-B ENGINEERS, Inc., for Cogeneration, Inc., has shown the project to be technically and economically viable as well as environmentally sound. The project is of significant interest due to the fact that it develops a renewable resource, thus replacing energy which, in the future, would be generated by coal or other less environmentally acceptable means.

447

EXHIBIT B

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FBI

EXHIBIT B.

I. General Location. (See attached map.)

II. Description of Owner or Real Property Interest Holder at Site.

Cogeneration, Inc., in its capacity as developer of small hydro generation sites, has leased (1) land permitting access to the site; (2) land on which the site is to be developed; and (3) land permitting access for transmission. This lease is for a 30 year renewable term, the lessor and property owner being Darlene Frazier, personal representative for the estate of Fred M. Frazier.

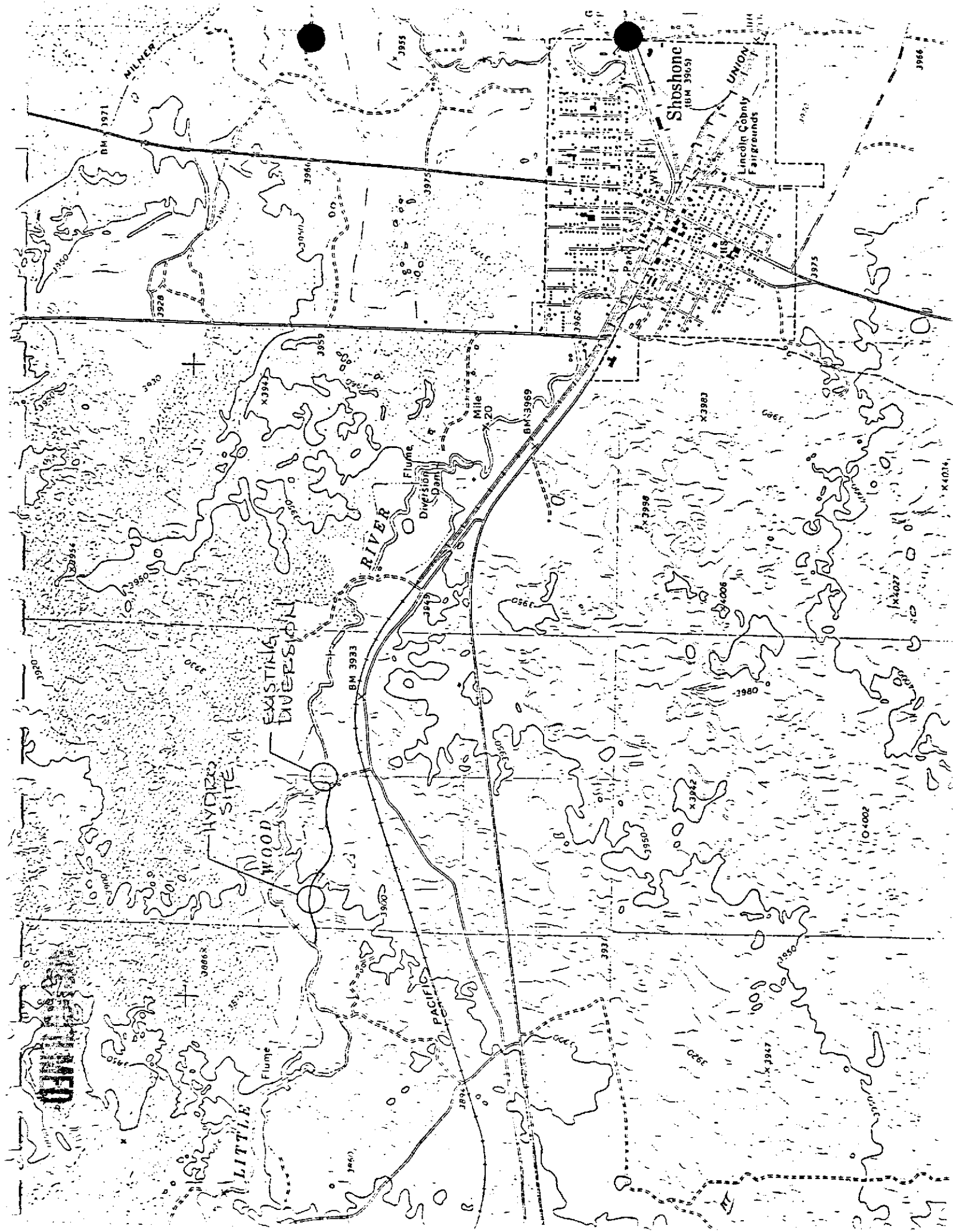


EXHIBIT E

10

EXHIBIT E

Summary

I. DESCRIPTION OF ENVIRONMENTAL SETTING

- A) VEGETATIVE COVER sagebrush and indigenous weeds
- B) FISH & WILDLIFE RESOURCES various raptors (non-threatened), coyote, rabbits and various rodents
- C) LAND & WATER USES range land for grazing as indicated by Idaho Dept. of Lands
- D) RECREATIONAL USES none as indicated by Idaho Dept. of Parks & Recreation
- E) HISTORICAL AND ARCHEOLOGICAL RESOURCES none as indicated by Idaho Historical Association
- F) SCENIC & AESTHETIC RESOURCES none as indicated by Idaho Dept. of Lands
- G) ENDANGERED OR THREATENED PLANT OR ANIMAL SPECIES none as indicated by U.S. Fish & Wildlife
- H) CRITICAL HABITATS none as indicated by U.S. Fish & Wildlife
- I) SITES AS HISTORIC PLACES none

II. DESCRIPTION OF ENVIRONMENTAL IMPACT

- A) CONSTRUCTION & DEVELOPMENT no significant effects. Inlet water to turbine will be screened to prevent ingestion of fish. Turbines to be used are of same type and design as many pumps used proximate to fish hatcheries as a run-of-river operation. No upstream wildlife habitats would be subject to fluctuations in water level. Effects on any wildlife would strictly be short-term, i.e., during construction.

UNCLASSIFIED

EXHIBIT E (Cont.)

B) PROPOSED CHANGES TO EXISTING OPERATIONS none except refurbishment

C) SPECIFIC MEASURES PROPOSED - PROTECTION & ENHANCEMENT

1) APPLICANT ~~minimum stream flow, as yet to be determined, will be~~
maintained minimum stream flow. Flow is about 10 cfs
and is maintained

2) AGENCIES CONSULTED U.S. Fish & Wildlife, Idaho Fish & Game

3) OTHERS

D) DOCUMENTED CONSULTATION WITH PERTINENT AGENCIES SEE ATTACHMENTS

TERMS & CONDITIONS (SPECIFY) pursuant to terms and conditions of
Idaho Dept. of Fish & Game

~~1) Raptor-proofing of transmission lines from site~~

2) Maintenance of minimum stream flow as determined by Idaho
Fish & Game

E) ADDITIONAL INFORMATION

END EXHIBIT E

RECEIVED

EXHIBIT G.

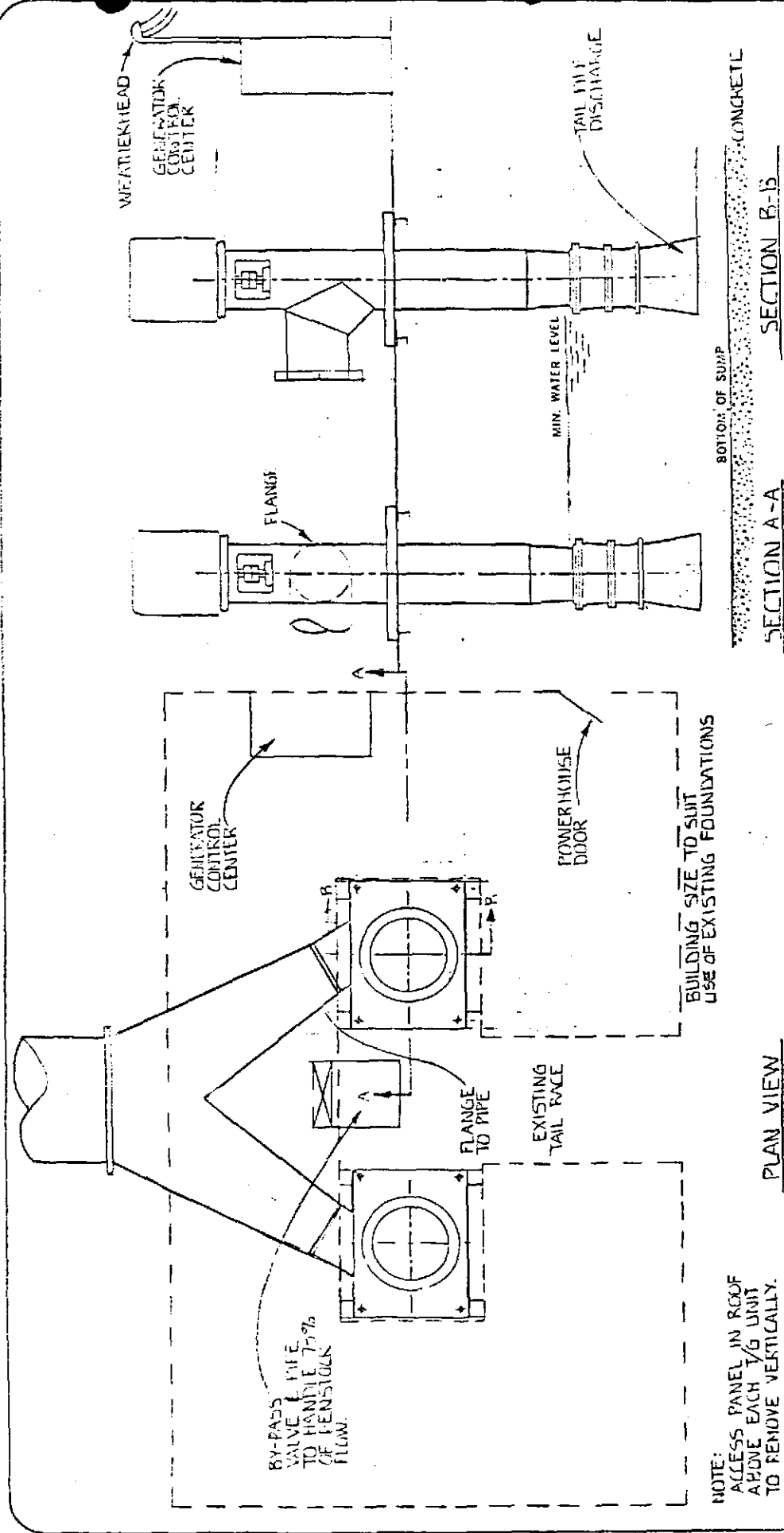
Sketch A - Proposed Structure

Sketch B - Existing Structures & Diversions, Plan View & Elevation

Sketch C - Proposed Equipment Plan

RECEIVED

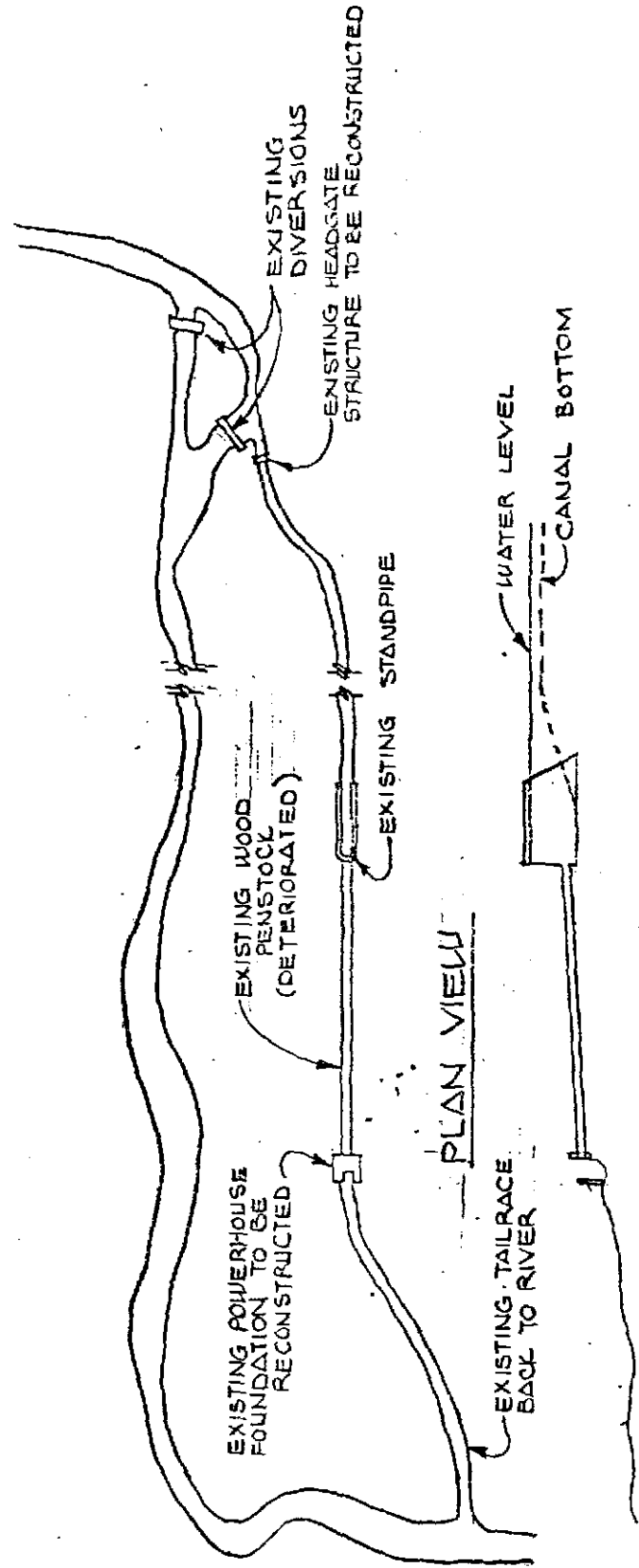
UNRECORDED



PROPOSED STRUCTURE
SKETCH A

SHOSHONE CITY HYDRO

RECEIVED



ELEVATION

EXISTING STRUCTURES, DIVERSIONS

PLAN VIEW

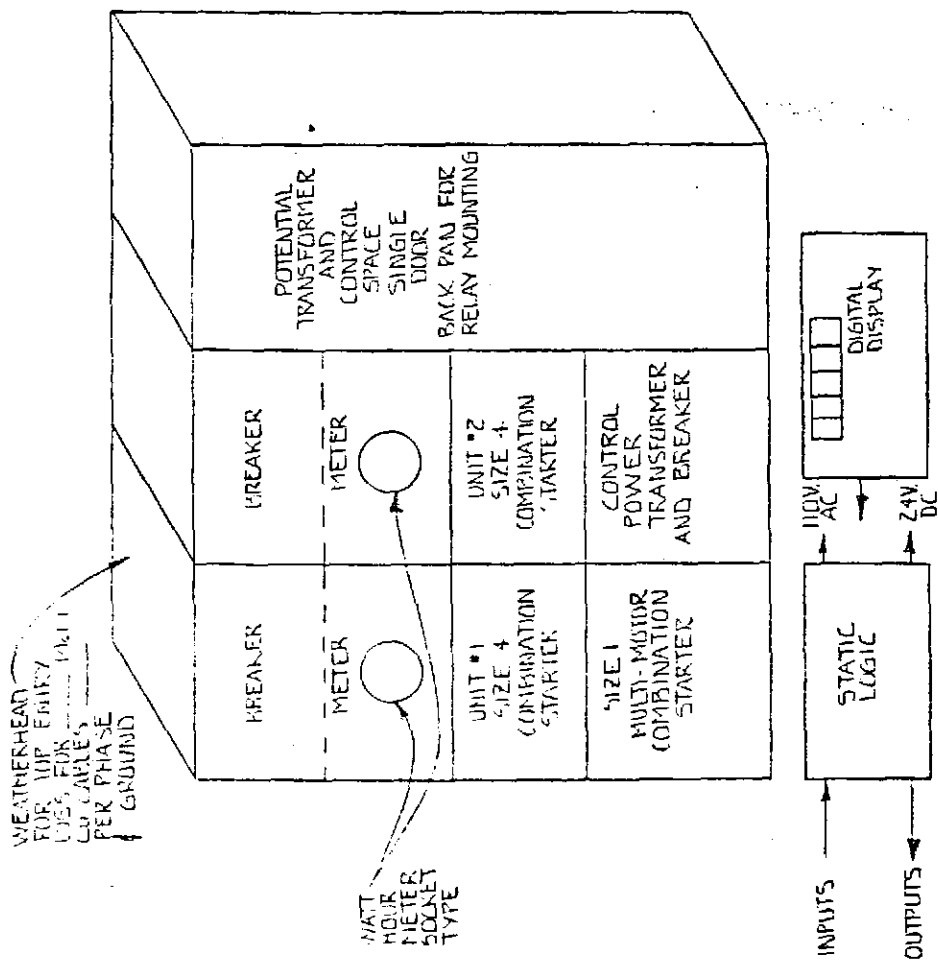
SKETCH B

SHOSHONE CITY HYDRO

JUB

JUB ENGINEERS, INC.
Engineers Surveyors Planners

11/11/77



PROPOSED EQUIPMENT PLAN SKETCH C

SHOSHONE CITY HYDRO

APPENDIX

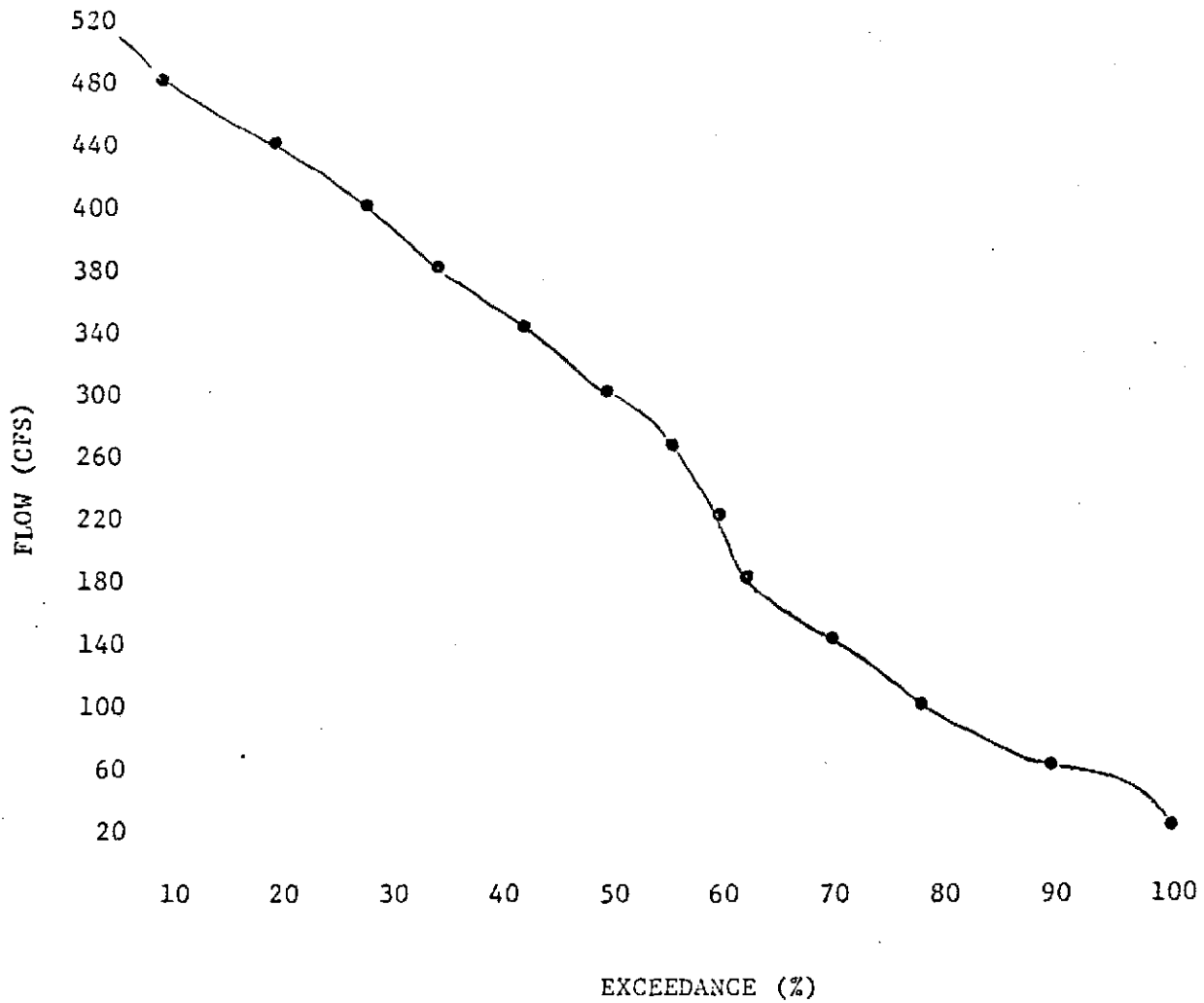
Flow Duration Curve

Water Data Printout

Correspondence

RECEIVED

-FLOW DURATION-
LITTLE WOOD RIVER AT SHOSHONE, IDAHO



UNCLASSIFIED

LITTLE WOULD RISK AT SHOWING, IT

13151500

FLOW DURATION TABLE FOR STATION 13151500

[illegible]

STILL LIFE

1997

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

2.

PERIOD OF RECORD APR 1923- DEC 1960

John V. Evans, Governor
Daniel T. Emborg, Administrator



State Capitol Building
Boise, Idaho 83720

DIVISION OF ECONOMIC AND COMMUNITY AFFAIRS

IDAHO STATE CLEARINGHOUSE

PROJECT NOTIFICATION AND REVIEW CLEARANCE

APPLICANT: Cogeneration, Inc.
250 S. Beechwood
Boise, Idaho 83709

Attn: Marc Auth

TITLE SHOSHONE HYDRO PROJECT SAI# 01205326

FEDERAL AGENCY _____ FCDA# _____

DATE PROCESSED December 29, 1980 DATE CLEARED January 29, 1981

This project was reviewed by the State Clearinghouse, Areawide Clearinghouse(s) and agencies listed below in accordance with OMB Circular A-95 requirements. Reviewer(s)' comments are attached.

Region IV Development Association
Department of Fish and Game *See comments attached.
Department of Parks and Recreation
Department of Water Resources
Department of Agriculture
Department of Health and Welfare/Division of Environment
Department of Lands
Idaho Historical Society

State Clearinghouse findings:

☐ No comment ☒ Affirmative findings ☐ Needs attention
☒ Remarks below/attached ☐ Negative findings/needs attention

STATE CLEARINGHOUSE COORDINATOR

Shirley M. Maltbatt

(208) 334-3412





Marc
United States Department of the Interior

FISH AND WILDLIFE SERVICE
ECOLOGICAL SERVICES
4620 Overland Road, Room 209
Boise, Idaho 83705

January 19, 1981

Barber Engineering
250 South Beechwood Avenue
Suite 111
Boise, Idaho 83709

Gentlemen:

This letter acknowledges receipt of your letters (Nos. 24016, 24017, and 24027) requesting early comment on your proposed Shoshone and Rock Creek Hydrogeneration projects. As Mr. Harrington explained to Mr. Ross, all future notifications should be made directly to this office in order to expedite these reviews.

Your company intends to formally apply for a FERC exemption for the above projects. The Fish and Wildlife Service and the Idaho Department of Fish and Game may determine certain conditions and/or terms for inclusion with the application, pursuant to Article 2 of Section 4.105 of the Energy Security Act of 1980.

At this time, we have two concerns which need further clarification:

1. Will the energy transmission facilities design and construction include raptor-proofing to prevent possible electrocution?
2. In regards to the amount of water to remain in the stream, the Idaho Department of Fish and Game will need flow measurements. Are you amenable to getting the specific stream data required in order to reach early agreement on maintenance flows past the diversions?



Save Energy and You Serve America!

Basically, our concerns for probable adverse impacts involve raptors and resident coldwater fishes. At this time, we foresee no problems with endangered species or unique forms of habitat. We will formally respond with particular operating restraints or needs for research or monitoring upon receipt of each of the FERC Notices requesting exemption. If you have any further requests at this time, please feel free to contact Mr. Harrington at 334-1931.

Sincerely yours,

Daniel M. Herrig

Daniel M. Herrig
Acting Field Supervisor

cc: SE, Boise, Idaho

RECEIVED
MAY 19 1971



STATE OF IDAHO

DEPARTMENT OF FISH AND GAME

600 SO. WALNUT ST. P. O. BOX 25
BOISE, IDAHO 83707

January 23, 1981

Ms. Gloria Mabbut, Coordinator
State Clearinghouse
Statehouse
Boise, ID 83720

Re: SAE# 01205326 - Shoshone
hydro project

Dear Ms. Mabbut:

The Shoshone small hydropower proposal submitted by Cogeneration, Inc., has been reviewed by our Department. Based on the description furnished it does not appear that the proposed project will have serious impact on fish and wildlife resources, provided:

1. A minimum flow to be recommended by the Department of Fish and Game is maintained.
2. The diversion facility is screened to prevent entrance of fish with screen design and specifications subject to approval by the Department of Fish and Game.
3. Adequate upstream fish passage facilities subject to Department of Fish and Game approval are provided if further investigation demonstrates a need for such facilities.

No mention of transmission or transformer facilities is made in the project description. Any transmission lines constructed should be designed to prevent electrocution of large raptors. Screen, fish passage and transmission line design criteria are available from the Department of Fish and Game.

Sincerely,

COPY

Original Signed
by Robert L. Salter

JM Jerry M. Conley
Director

cc: Barber Engineering (Auth):
Region 4
Bur. Fisheries
Bur. Engineering

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

15 FERC 162,418

- 2 -

Cogeneration, Inc.) Project No. 4182-000

ORDER GRANTING EXEMPTION FROM LICENSING OF A
SMALL HYDROELECTRIC PROJECT OF 5 MEGAWATTS OR LESS
(Issued June 30, 1981)

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 SUBPART K (1980) implementing in part Section 408 of the Energy Security Act (Act) of 1980 for a project as described in the attached public notice. 2/ 3/

Notice of the application was published in accordance with Section 408 of the Act and the Commission's regulations and comments were requested from interested Federal and State agencies including the U. S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and petitions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

Standard Article 2 included in this exemption, requires compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources. The terms and conditions referred to in Article 2 are contained in any letters of comment by these agencies which have been forwarded to the Applicant in conjunction with this exemption.

Should the Applicant contest any terms or conditions that were proposed by Federal or State agencies in their letters of comment as being outside the scope of Article 2, the Commission shall determine whether the disputed terms or conditions are outside the scope of Article 2.

- 1/ Cogeneration, Inc., Project No. 4182, filed on February 11, 1981.
- 2/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2708).
- 3/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation under 18 C.F.R. §375.308 (1980), as amended by 46 Fed. Reg. 14119 (1981).

DC-A-58

It is ordered that:

(A) The Shoshone Hydro Project No. 4182 as described and designated in Cogeneration, Inc.'s application filed on February 11, 1981, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in §4.106 of the Commission's regulations, 18 C.F.R. §4.106 45 Fed. Reg. 76115 (November 18, 1980).

(B) This order is final unless a petition appealing it to the Commission is filed within 30 days from the date of its issuance, as provided in Section 1.7(d) of the Commission's regulations, 18 C.F.R. 1.7(d)(1979), as amended, 44 Fed. Reg. 46449 (1979). The filing of a petition appealing this order to the Commission or an application for rehearing as provided in Section 313(a) of the Act does not operate as a stay of the effective date of this order, except as specifically ordered by the Commission.

(S E A L)

William W. Lindsay
William W. Lindsay
Director, Office of Electric
Power Regulation

DEPARTMENT OF WATER RESOURCES

JOHN V. EVANS
Governor

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

RE: Application for Permit No. 37-1863

The 1981 Idaho Legislature made a change in Section 42-205, Idaho Code, that may affect the above referenced application. The change requires that if a proposed hydropower project will use existing irrigation facilities, the approval of the owner of the facilities must be obtained before an application for permit to develop a water right can be approved.

Sincerely,

David R. Tuttle

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocation Section

DRT:jg

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

March 12, 1981

Bruce C. Mecham
1509 North Juniper
Twin Falls, Idaho 83301

Dear Mr. Mecham,

RE: Permit No. 37-7863

We have completed a preliminary review of the above referenced application. This review has included advertising by the regional office and a verification that all required preliminary information has been provided.

At this time we see no reason that the application will not be approved with certain conditions of approval. However, for power projects that are under the jurisdiction of the Federal Energy Regulatory Commission (FERC), we withhold final action on the application pending (1) approval of a preliminary permit by FERC, or (2) FERC granting of an exemption. If you have not yet contacted FERC, the address below is a good starting point:

Federal Energy Regulatory Commission
Regional Engineer's Office
Attn: Mr. Jerry Leach
6th Floor, 333 Market Street
San Francisco, CA 94105
(Tel. No. (415) 764-7150)

The continued validity of this application is contingent on your proceeding with due diligence toward obtaining an approval or an exemption from FERC. Please keep this office informed of progress in this regard.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

44-1111-1111

Power Calculations

$$P = \text{kW}$$

$$Q = \text{cfs}$$

$$H = \text{Head}$$

$$e = \text{efficiency}$$

$$.74 \times 350 = \underline{259} \text{ kW}$$

$$60.0$$

$$55$$

$$80\%$$

$$Q = \frac{P(11.8)}{He} = \frac{259 \times 11.8}{55 \times .8} = \frac{3056.2}{44}$$

$$= 69.46 \text{ cfs}$$

$$P = \frac{QHe}{11.8} = \frac{60 \times 55 \times .8}{11.8} = \frac{2640}{11.8} =$$

$$\underline{223.7} \text{ kW}$$

RA
3/2/81

State of Idaho
Department of Water Resources

37-

APPLICATION FOR PERMIT ANALYSIS SHEET

MECHAM, Bruce C.

INITIAL REVIEW BY: ADM

APPLICATION NUMBER: 37-7863

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Quantity of water and period of use.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☒ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☐ No* In form to receipt.

Field check by: _____

Date: _____

Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

HPS 500 => No Farm Street Road

Possible FERC Jurisdiction, depending on power use

SEND COPIES TO:

- ☐ Idaho State Health Department.
☐ Idaho Fish and Game Department.
☐ Idaho Department of Lands.
☐ U.S. Bureau of Land Management.
☐ U.S. Forest Service.

Copies sent by: _____

Date: _____

☒ Other Reid Newby

macja

11/6/80

PROCESSING:

- ☐ Yes ☒ No
☐ Yes ☒ No
☒ Yes ☐ No*
☐ Yes ☒ No

Platted by: ADM Map No. AA23

Other rights on same place of use. old right listed in Frost Decree

In form for advertising.

Final date for protests: 12/15/80

Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 12-5/80
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☒ Recommendation & initial, recorded on application.

☒ Yes ☐ No Measuring device required.

☒ Yes ☐ No Access port required.

☒ Yes ☐ No Will water be delivered by watermaster? If yes, what district? 37M

10-31-80 Date of priority recommended.

☒ Special conditions of approval or cover letter. 04, 08A, 05, 01E

This permit does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be requested

By: Loren O. Halverson Date: 2-19-81

STATE OFFICE REVIEW:

SLW/LOZ 01E, 04, 05 (37M J.H. Wood R.) 08A, &

☐ See attached sheet for more information.

By: Kolpin Date: 3/2/81

ok approve permit
Kay - please acknowledge assignment in Approval letter (copy of paragraph attached)

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

32-2863-

MECHAN, BRUCE C.

1509 N. JUNIPER, TWIN FALLS, ID 83301

Source: LITTLE WOOD RIVER tributary to MALAD RIVER

Date Filed: 10/31/1980

Amount: 60.00 CFS

Diversion Point: NENW Sec 33 T 05S R 17E, LINCOLN Co.

Use: POWER (60.00 CFS) from 01/01 to 12/31

Place of Use: NENE Sec 32 T 05S R 17E

Diversion Means: CANAL, PENSTOCK AND GENERATOR

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before DECEMBER 15, 1980.

C. STEPHEN ALLRED

Director

Published 11/27 & 12/4/80.

**NOTICE OF APPLICATION
FOR WATER RIGHT**

Notice is hereby given
that the following applica-
tion(s) have been submitted
for permit to appropriate the
public waters of the State of
Idaho:

37-7863

MECHAM, BRUCE C.
1509 N. JUNIPER, TWIN
FALLS, ID 83301
Source: LITTLE WOOD
RIVER tributary to MALAD
RIVER

Date Filed: 10/31/1980

Amount: 60.00 CFS

Diversion Point: NENW Sec
33 T 05S R 17E, LINCOLN
Co.

Use: POWER (60.00 CFS)
from 01/01 to 12/31

Place of Use: NENE Sec 32 T
05S R 17E

Diversion Means: CANAL,
PENSTOCK AND GENE-
RATOR

If issued, the permit(s)
will be subject to all water
rights. Protests against the
granting of any permit must
be filed with the Director of
the Idaho Department of
Water Resources, 1041 Blue
Lakes Blvd. North, Twin
Falls, Idaho 83301 and re-
ceived on or before DE-
CEMBER 15, 1980.

/s/ C. STEPHEN ALLRED
Director

L/11-27; 12-4

*ok
mace
12/4/80*

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd N.
Twin Falls, Idaho 83301
(208) 734-3578

NOVEMBER 13, 1980

Lincoln County Journal
P. O. Box 704
Shoshone, Idaho 83352

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a sales proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before DECEMBER 15, 1980.

Yours truly,

Mary A. Hill
Secretary

Encl.



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

John V. Evans
Governor

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

C. Stephen Allred
Director

November 6, 1980

Mr. Reid Newby
Watermaster District 37
Box T
Shoshone, Idaho 83352

Re: Application for Permit No. 37-7863

Dear Mr. Newby:

Enclosed is a copy of the above referenced application for permit for your information and files.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

NOV 10 1980