



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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SOUTHERN REGION

March 7, 2007

C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Interim Director

Crystal Springs Hydroelectric L.P.  
PO Box 175  
Buhl, ID 83316

RE: Letter of Complaint dated 2/5/2007

Dear Mr. McCauley:

I have forwarded your letter of complaint along with copies of the associated letters between Crystal Spring Hydroelectric L.P. (CSH) and Little Mac Power Co. Inc. (LMP) and copies of stream gauge recorder charts for Cedar Draw for various time periods in 2006 and 2007 to IDWR State Office staff. I have also shared these documents with John Homan (IDWR Deputy Attorney General) and Harriet Hensley (Deputy Attorney General with the Natural Resources Division of the Office of Attorney General).

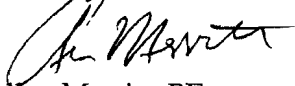
IDWR has reviewed these materials and understand that LMP, within the last year, has been periodically operated in a manner that causes abnormal fluctuation of the flow in Cedar Draw, which in turn causes problems at CSH. We are encouraged that LMP and CSH have been communicating regarding this issue. Hopefully these communications will continue and result in improved management or physical modification of the LMP facility that will minimize adverse impact of its operation on CSH.

IDWR has reviewed this stream fluctuation issue in light of the water rights licenses and their respective conditions of use and finds that the fluctuation issue is not adequately addressed in the conditions of use for these water right licenses. Because of the lack of conditioning that addresses the fluctuation issue directly, IDWR has determined not to issue a "Notice of Violation" at this time; however, the conditions of use may be revisited in the future (Year 2019). If the conditions are modified in the future it may be appropriate for issuance of a "Notice of Violation" if this problem persists. It is important to note that the priority of the water right has little to do with fluctuations of the stream that may cause injury to other users. For example, even if LMP had the senior right, they should not be fluctuating the stream flow causing injury to any users along the creek. According to the FERC exemptions, these facilities should be operated in a "run of the river mode".

It is the consensus of the deputy attorneys generals that if this dispute is not resolved soon, the most appropriate forum for addressing the dispute in a timely manner would be with FERC. You are encouraged to continue contact with FERC.

I am relaying a copy of this letter to LMP to express IDWR's concern about the operation of their facility. If either party has questions, please feel free to contact this office.

Sincerely,



Allen Merritt, PE  
Southern Region Manager

CC: -Dell Keehn, CSH, 11225 SE Sixth, Bellevue, WA 98004  
-Little Mac Power Co., 1711 W. Eleventh St., Upland , CA 91786  
-Little Mac Power Co., 812 Main Ave. N, Twin Falls, ID 83301  
-Federal Energy Regulatory Commission, 101 S.W. Main St., Suite #905,  
Portland, OR 97204  
-Harriet Hensley, Office of the Attorney General, PO Box 83720, Boise, ID  
83720-0010  
-IDWR State Office