LEGAL NOTICE LEGAL NOTICE

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

82-7097
BATTLE RIDGE LAND & TIMBER CO.
622 W. MAIN ST., GRANGEVILLE, ID 83530
Source: CLEARWATER RIVER, SOUTH FORK tributary to CLEARWATER RIVER
Date Filed: 06/01/1982
Amount: 400.00 CFS
Diversion Point:SWSW Sec 36 T 30N R 03E SWSW Sec 30 T30N R 04E, IDAHO CO.
Use: POWER (400.00CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 30 T 30N R 04E NWNW Sec 36 T 30N R 03E Diversion Means: WING DAM, PIPELINE AND GENERATING FACILITIES.

82-7143
BALDWIN, DANIEL A.
P.O. Box 211, ELK CITY, ID 83525
Source: TWENTYMILE CREEK tributary to CLEARWATER RIVER, SOUTH FORK
Date filed: 10/29/1984
Diversion Point: SESW Sec 07 T28N R 06E
Use: POWER (20.00 CFS)
In: SWNE Sec 06 T 28N R 06E

83-7065
HY-TECH CO.
P.O. Box 1305, LEWISTON, ID 83501
Source: BULL RUN CREEK tributary to ELK CREEK
Date Filed: 12/02/1982
Amount: 56.00 CFS
Diversion Point: NESW Sec 10 T 39 N R 02E, CLEARWATER CO.
Use: POWER (56.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 22 T 39N R 02E
Diversion Means: CONCRETE DIVERSION STRUCTURE.

83-7080
BEAVER CREEK HYDRO INC.
P.O. Box 1016, LEWISTON, ID 83501
Source: BEAVER CREEK tributary to CLEARWATER RIVER, NORTH FORK
Date Filed: 12/02/1983
Diversion Point: NWNW Sec 24 T 40N R 06E
Use: POWER (130.00 CFS)
In: SENE Sec 06 T 40N R 07E

83-7081
GOLDEN HYDRO PARTNERSHIP
GREER, MICHAEL C.
1212 TAMARACK, MOSCOW, ID 83843
Source: CLEARWATER RIVER, NORTH FORK tributary to CLEARWATER RIVER
Date Filed: 03/14/1985
Diversion Point:SWNE Sec 15 T 39N 07E
Use: POWER (750.00 CFS)
POWER (1500.00 CFS)
In: SENE Sec 06 T 40N R 07E

91-7096
MARBLE CREEK HYDRO INC.
P.O. Box 1016, LEWISTON, ID 83501
Source: MARBLE CREEK tributary to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Point: SWNW Sec 25 T 45N R 03E
Use: POWER (305.00 CFS)
In: SWSE Sec 24 T 45N R 03E

92-7172
ST. MARIES RIVER HYDRO INC.
P.O. Box 1016 LEWISTON, ID 83501
Source: SAINT MARIES RIVER tributary to SAINT JOE RIVER
Date Filed: 12/02/983
Diversion Point: NWSE Sec 34 T 44N R 02W
Use: POWER (490.00 CFS)
In: NWNW Sec 34 T 44N R 02W

Affidavit of Publication

No 16939

STATE OF IDAHO, } ss.
COUNTY OF TWIN FALLS }

I, Linda Copps McBurse being first duly sworn upon oath, depose and say that I am Legal Clerk of the TIMES-NEWS published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for Two consecutive Weeks, commencing with the issue dated December 4, 1986, and ending with the issue dated December 11, 1986.

And I do further certify that said newspaper is a consolidation, effective February 16 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

Linda Copps McBurse

Subscribed and sworn to before me on this 11 day of December 1986.

Quanna Burse

Notary Public in and for the County of Twin Falls, State of Idaho, residing at Twin Falls, Idaho

86-8388
VAN STONE, DALE
DENTON RD., P.O. Box 305, HOPE, ID 83836
Source: RISER CREEK tributary to PEND OREILLE LAKE
Date Filed: 01/27/1984
Diversion Point: NESW Sec 31 T 57N R 02E
Use: POWER (15.00 CFS)
In: NESE Sec 01 T 56N R 01E

96-8412
LAPHAM, JOSEPH G.
2910 W. ODEN BAY RD., SANDPOINT, ID 83864
Source: TRAPPER CREEK tributary to RAPID LIGHTNING CREEK
Date Filed: 08/27/1984
Diversion Point: NENE Sec 08 T 58N R 02E
Use: POWER (20.00 CFS)
In: NENE Sec 08 T 58N R 02E

98-7612
IDAHO NATURAL ENERGY, INC.
834 FALLS AVE., TWIN FALLS, ID 83301
Source: SMITH CREEK tributary to KOOTENAI RIVER
Date Filed:04/12/1985
Diversion Point: SENE Sec 01 T 64N R 03W
Use: POWER (300.00 CFS)
In: NWNE Sec 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 4055 Government Way, Suite 9, Coeur d'Alene, Idaho 83814 on or before DECEMBER 22, 1986.

KENN DUNN, Director

PUBLISH: Thursday, December 4 and 11, 1986.

MICROFILMED
JUL 29 1988

TRIBUNE PUBLISHING COMPANY, INC.
The Lewiston Morning Tribune
505 C St., P.O. Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 121186 INVOICE No. L00094006

Account No. 96475

Description 94006NOTIC

LEGAL ADVERTISING
INVOICE

Times 2 Lines 141

Tab Lines

SOLD TO: STATE OF IDAHO
DEPT. OF WATER RESOURCES
STATEHOUSE
COEURDALENE
ID 83814

$ 123.38

NOTICE:This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.

94006

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

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BATTLE RIDGE LAND & TIMBER CO
622 W. MAIN ST., GRANGEVILLE, ID 83530
Source: CLEARWATER RIVER, SOUTH FORK tributary to CLEARWATER RIVER
Date Filed: 06/01/1982
Amount: 400.00 CFS
Diversion Point: SWSW Sec 36 T 30N R 03E SWSW Sec 30 T 30N R 04E, IDAHO Co.
Use: POWER (400.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 30 T 30N R 04E NWNW Sec 36 T 30N R 03E
Diversion Means: WING DAM, PIPELINE AND GENERATING FACILITIES.

82-7143
BALDWIN, DANIEL A.
P.O. BOX 211, ELK CITY, ID 83525
Source: TWENTYMILE CREEK trib. to CLEARWATER RIVER, SOUTH FORK
Date Filed: 10/29/1984
Diversion Pt: SENW Sec 07 T 28N R 06E
Use: POWER (20.00 CFS)
In: SWNE Sec 06 T 28N R 06E

83-7065
[illegible]TECH CO.
[illegible] BOX 1305, LEWISTON, ID
[illegible]: BULL RUN CREEK trib- to ELK CREEK
[illegible] Filed: 12/02/1982
[illegible]unt: 56.00 CFS
[illegible]ersion Point: NESW Sec 10 T 39N [illegible]E, CLEARWATER Co.
[illegible]se: POWER (56.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 22 T 39N R 02E
Diversion Means: CONCRETE DIVERSION STRUCTURE.

83-7080
BEAVER CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: BEAVER CREEK trib. to CLEARWATER RIVER, NORTH FORK
Date Filed: 12/02/1983
Diversion Pt: NWNW Sec 24 T 40N R 06E
Use: POWER (130.00 CFS)
In: SENE Sec 06 T 40N R 07E

83-7081
GOLDEN HYDRO PARTNERSHIP
GREER, MICHAEL C.
1212 TAMARACK, MOSCOW, ID [illegible]3843
[illegible]ource: CLEARWATER RIVER, NORTH FORK trib. to CLEARWATER RIVER
Date Filed: 03/14/1985
Diversion Pt: SWNE Sec 15 T 39N R 07E
Use: POWER (750.00 CFS)
POWER (1500.00 CFS)
In: SENE Sec 06 T 40N R 07E

91-7096
MARBLE CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: MARBLE CREEK trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt: SWNW Sec 25 T 45N R 03E
Use: POWER (305.00 CFS)
In: SWSE Sec 24 T 45N R 03E

92-7172
ST. MARIES RIVER HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: SAINT MARIES RIVER trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt: NWSE Sec 34 T 44N R 02W
Use: POWER (490.00 CFS)
In: NWNW Sec 34 T 44N R 02W

96-8388
VAN STONE, DALE
DENTON RD., P.O. BOX 305, HOPE, ID 83836
Source: RISER CREEK trib. to PEND OREILLE LAKE
Date Filed: 01/27/1984
Diversion Pt: NESW Sec 31 T 57N R 02E
Use: POWER (15.00 CFS)
In: NESE Sec 01 T 56N R 01E

96-8412
LAPHAM, JOSEPH G.
2910 W. ODEN BAY RD., SANDPOINT, ID 83864
Source: TRAPPER CREEK trib. to RAPID LIGHTNING CREEK
Date Filed: 08/27/1984
Diversion Pt: NENE Sec 08 T 58N R 02E
Use: POWER (20.00 CFS)
In: NENE Sec 08 T 58N R 02E

98-7612
IDAHO NATURAL ENERGY, INC.
834 FALLS AVE., TWIN FALLS, ID 83301
Source: SMITH CREEK trib. to KOOTENAI RIVER
Date Filed: 04/12/1985
Diversion Pt: SENE Sec 01 T 64N R 03W
Use: POWER (300.00 CFS)
In: NWNE Sec 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 4055 Government Way, Suite 9, Coeur d'Alene, Idaho 83814 on or before DECEMBER 22, 1986.

KEN DUNN, Dir.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

J. L. Blackwell, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established paper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the

NOTICE OF APPLICATION FOR

attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 120486, or once a WEEK for 2 consecutive WEEKS, the first publication thereof being on the 120486, and the last publication thereof being on the 121186, and said NOTICE OF APPLICATION FOR was so published in the regular and entire issue of said newspaper and not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

J. L. Blackwell

SUBSCRIBED AND SWORN BEFORE ME THIS THE 17 day of December 1986

MICROFILMED
JUL 29 1988

Notary Public in and for the State of Idaho, residing at Lewiston, therein.

Proof of Publication

The Post-Register

State of Idaho,
County of Bonneville } ss

I, ..Ted .Delezene....., first being duly sworn, depose and say: That I am the .....Foreman..... of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for ..two..... consecutive weeks, first publication having been made on the .....4th..... day of ....December....., 1986.., last publication having been made on the ...11th..... day of ....December....., 19.86.., and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

.....Robb Beadle.....

Subscribed and sworn to before me, this ..16th.. day of ....December....., 19.86..

.....Leona Nagen.....
Notary Public

My commission expires ..September. 30,....., 19.88..

B10

MICROFILMED

JUL 2 9 1988

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

82-7097
BATTLE RIDGE LAND & TIMBER CO.
622 W. MAIN ST., GRANGEVILLE, ID 83530
Source: CLEARWATER RIVER, SOUTH FORK tributary to CLEARWATER RIVER
Date Filed: 06/01/1982
Amount: 400.00 CFS
Diversion Point: SWSW Sec 36 T 30N R 03E
SWSW Sec 30 T 30N R 04E, IDAHO Cty.
Use: POWER (400.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 30 T 30N R 04E
NWNW Sec 36 T 30N R 03E
Diversion Means: WING DAM, PIPELINE AND GENERATING FACILITIES.

82-7143
BALDWIN, DANIEL A.
P.O. BOX 211, ELK CITY, ID 83525
Source: TWENTYMILE CREEK trib. to CLEARWATER RIVER, SOUTH FORK
Date Filed: 10/29/1984
Diversion Pt.: SENW Sec 07 T 28N R 06E
Use: POWER (20.00 CFS)
In: SWNE Sec 06 T 28N R 06E

83-7065
HY-TECH CO.
P.O. BOX 1305 LEWISTON, ID 83501
Source: BULL RUN CREEK tributary to ELK CREEK
Date Filed: 12/02/1982
Amount: 56.00 CFS
Diversion Point: NESW Sec 10 T 39N R 02E, CLEARWATER Cty.
Use: POWER (56.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 22 T 39N R 02E
Diversion Means: CONCRETE DIVERSION STRUCTURE.

83-7080
BEAVER CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, IDAHO 83501
Source: BEAVER CREEK trib. to CLEARWATER RIVER, NORTH FORK
Date Filed: 12/02/1983
Diversion Pt.: NWNW Sec 24 T 40N R 06E
Use: POWER (130.00 CFS)
In: SENE Sec 06 T 40N R 07E

83-7081
GOLDEN HYDRO PARTNERSHIP
GREER, MICHAEL C.
1212 TAMARACK, MOSCOW, ID 83843
Source: CLEARWATER RIVER, NORTH FORK trib. to CLEARWATER RIVER
Date Filed: 03/14/1985
Diversion Pt.: SWNE Sec 15 T 39N R 07E
Use: POWER (750.00 CFS); POWER (1500.00 CFS)
In: SENE Sec 06 T 40N R 07E

91-7096
MARBLE CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: MARBLE CREEK trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt.: SWNW Sec 25 T 45N R 03E
Use: POWER (305.00 CFS)
In: SWSE Sec 24 T 45N R 03E

92-7172
ST. MARIES RIVER HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: SAINT MARIES RIVER trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt.: NWSE Sec 34 T 44N R 02W
Use: POWER (490.00 CFS)
In: NWNW Sec 34 T 44N R 02W

96-9388
VAN STONE, DALE
DENTON RD., P.O. BOX 305, HOPE, ID 83836
Source: RISER CREEK trib. to PEND OREILLE LAKE
Date Filed: 01/27/1984
Diversion Pt.: NESW Sec 31 T 57N R 02E
Use: POWER (15.00 CFS)
In: NESE Sec 01 T 56N R 01E

96-8412
LAPHAM, JOSEPH G.
2910 W. ODEN BAY RD., SANDPOINT, ID 83864
Source: TRAPPER CREEK trib. to RAPID LIGHTING CREEK
Date Filed: 08/27/1984
Diversion Pt.: NENE Sec 08 T 58N R 02E
Use: POWER (20.00 CFS)
In: NENE Sec 08 T 58N R 02E

98-7612
IDAHO NATURAL ENERGY, INC.
834 FALLS AVE., TWIN FALLS, ID. 83301
Source: SMITH CREEK trib. to KOOTENAI RIVER
Date Filed: 04/12/1985
Diversion Pt.: SENE Sec 01 T 64N R 03W
Use: POWER (300.00 CFS)
In: NWNE Sec 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Department of Water Resources, 4055 Government Way, Suite 9, Coeur d'Alene, Idaho 83814 on or before DECEMBER 22, 1986.

KEN DUNN, Director

Published: December 4, 11, 1986

12/23/86

RECEIVED
DEC 22 1986
Department of Water Resources
Northern District Office

only advertised once

TRIBUNE PUBLISHING COMPANY, INC.
The Lewiston Morning Tribune
505 C St., P.O. Box 957
Lewiston, Idaho 83501
(208) 743-9411

LEGAL ADVERTISING
INVOICE

Date 111386 INVOICE No. L00092268

Account No. 96475

Description 92268NOTIC

Times 1 Lines 150

Tab Lines

SOLD TO: STATE OF IDAHO
DEPT. OF WATER RESOURCES
STATEHOUSE
BOISE
ID 83720

RECEIVED
NOV 24 1986
Department of Water Resources

$ 75.00

12/1/86

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.

92268

NOTICE OF APPLICATION FOR WATER RIGHT

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Place of Use: SWNE Sec 30 T 30N R 04E NWNW Sec 36 T 30N R 03E
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82-7143
BALDWIN, DANIEL A.
P.O. BOX 211, ELK CITY, ID 83525
Source: TWENTYMILE CREEK trib. to CLEARWATER RIVER, SOUTH FORK
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Diversion Pt: SENW Sec 07 T 28N R 06E
Use: POWER (20.00 CFS)
In: SWNE Sec 06 T 28N R 06E

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P.O. BOX 1305, LEWISTON, ID 83501
Source: BULL RUN CREEK tributary to ELK CREEK
Date Filed: 12/02/1982
Amount: 56.00 CFS
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Diversion Means: CONCRETE DIVERSION STRUCTURE

83-7080
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98-7612
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834 FALLS AVE., TWIN FALLS, ID 83301
Source: SMITH CREEK trib. to KOOTENAI RIVER
Date Filed: 04/12/1985
Diversion Pt: SENE Sec 01 T 64N R 03W
Use: POWER (300.00 CFS)
In: NWNE Sec 26 T 65N R 02W

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KEN DUNN, Dir.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

RECEIVED
NOV 28 1986
Department of Water Resources
Northern District Office

J. L. Blackwell being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established paper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the

NOTICE OF APPLICATION

attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 1 time(s). Publication being on 111386
WEEK for 1 consecutive WEEKS, or once a week, the first publication thereof being on the 111386, and the last publication thereof being on the 111386, and said NOTICE OF APPLICATION was so published in the regular and entire issue of said newspaper and not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

J. L. Blackwell

SUBSCRIBED AND SWORN BEFORE ME THIS THE 18 day of November 1986

Sherrel M. Lantz

Notary Public in and for the State of Idaho, residing at Lewiston, therein.

MICROFILMED
JUL 29 1988

only published one time had to be readvertised

RECEIVED
NOV 28 1986
Department of Water Resources

Affidavit of Publication

No 16853

STATE OF IDAHO, }
COUNTY OF TWIN FALLS } ss.

I, Linda Copps McGuire, being first duly sworn upon oath, depose and say that I am Bruc Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for One consecutive Time Only, ~~commencing with the issue dated~~ , 19 , ~~and ending~~ with the issue dated November 13, 1986.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

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Linda Copps McGuire

Subscribed and sworn to before me on this 14 day of November 19 86.

Deanna Bruce

Notary Public in and for the County of Twin Falls, State of Idaho, residing at Twin Falls, Idaho

Department of Water Resources Northern

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The following application(s) have been filed to appropriate the public waters of the State of Idaho:

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Place of Use: SWNE Sec 30 T 30N R04E NWNW Sec 36 T 30N R 03E
Diversion Means: Wing Dam, Pipeling and Generating Facilities.

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P.O. Box 211 Elk City, ID 83525
Source: Twentymile Creek tributary to Clearwater River, South Fork
Date Filed: 10/29/1984
Diversion Point: SENW Sec 07 T 28N R 06E
Use: Power (20.00 CFS)
In: SWNE Sec 06 T 28N R 06E

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P.O. Box 1305, Lewiston, ID 83501
Source: Bull Run Creek tributary to Elk Creek
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Amount: 56.00 CFS
Diversion Point: NESW Sec 10 T 39N R 02E, CLEARWATER Co.
Use: Power (56.00 CFS) from 01/to 12/31
Place of Use: SWNE Sec 22 T 39N R 02E
Diversion Means: Concrete Diversion Structure

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P.O. Box 1016, Lewiston, ID 83501
Source: Beaver Creek tributary to Clearwater River, North Fork
Date Filed: 12/02/1983
Diversion Point: NWNW Sec 24 T 40N R 06E
Use: Power (130.00 CFS)
In: SENE Sec 06 T 40N R 07E

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GREER, MICHAEL C.
1212 Tamarack, Moscow, ID 83843
Source: Clearwater River, North Fork tributary to Clearwater River
Date Filed: 03/14/1985
Diversion Point SWNE Sec 15 T 39N R 07E
Use: Power (750.00 CFS); Power (00.00 CFS)
In: SENE Sec 06 T 40N R 07E

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P.O. Box 1016, Lewiston, ID 83501
Source: Marble Creek tributary to Saint Joe River
Date Filed: 12/02/1983
Diversion Point: SWNW Sec 25 T45N R 03E
Use: Power (305.00 CFS)
In: SWSE Sec 24 T 45N R 03E

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P.O. Box 1016, Lewiston, ID 83501
Source: Saint Maries River tributary to Saint Joe River
Date Filed: 12/02/1983
Diversion Point: NWSE Sec 34 T 44N R 02W
Use: Power (490.00 CFS)
In: NWNW Sec 34 T 44N R 02W

96-8388: VAN STONE, DALE
Denton RD., P.O. Box 305, Hope, ID 83836
Source: Riser Creek tributary to Pend Oreille Lake
Date Filed: 01/27/1984
Diversion Point: NESW Sec 31 T 57N R02E
Use: Power (15.00 CFS)
In: NESE Sec 01 T 56N R 01E

96-8412: LAPHAM, JOSEPH G.
2910 W. Oden Bay Rd., Sandpoint, ID 83864
Source: Trapper Creek tributary to Rapid Lightning Creek
Date Filed: 06/27/1984
Diversion Point: NENE Sec 08 T 58N R 02E
Use: Power (20.00 CFS)
In: NENE Sec 08 T 58N R 02E

98-7612: IDAHO NATURAL ENERGY, INC.
834 Falls Ave., Twin Falls, ID 83301
Source: Smith Creek tributary to Kootenai River
Date Filed: 4/12/1985
Diversion Point: SENE Sec 01 T 64N R 03W
Use: Power (300.00 CFS)
In: NWNE Sec 26 T 65N R 02 W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. Water Resources, 4055 Government Way, Suite 9, Coeur d'Alene, Idaho 83814 on or before DECEMBER 1, 1986.
Ken Dunn, Director
PUBLISH: Thursday, November 13 and 20, 1986.

OK

MICROFILMED
JUL 29 1988

only advertised once

Proof of Publication

The Post-Register

State of Idaho,
County of Bonneville } ss

I, J. Robb Brady, first being duly sworn, depose and say: That I am the Principal Clerk of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for one issue ~~consecutive weeks~~, first publication having been made on the 13th day of November, 19 86, last publication having been made on the 13th day of November, 19 86, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

J. Robb Brady

Subscribed and sworn to before me, this 28th day of November, 19 86.

Leon K. Napier
Notary Public

My commission expires September 30, 19 88

B10

In: SWNE Sec 06 T 28N R 06E
83-7065
HY—TECH CO.
P.O. BOX 1305, LEWISTON ID 83501
Source: BULL RUN CREEK tributary to ELK CREEK
Date Filed: 12/02/1982
Amount: 56.00 CFS
Diversion Point: NESW Sec 10 T 39N R 02E CLEARWATER CTY.
Use: POWER (56.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 22 T 39N R 02E
Diversion Means: CONCRETE DIVERSION STRUCTURE.

83-7080
BEAVER CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: BEAVER CREEK trib. to CLEARWATER RIVER, NORTH FORK
Date Filed: 12/02/1983
Diversion Pt: NWNW Sec 24 T 40N R 06E
Use: POWER (130.00 CFS)
In: SENE Sec 06 T 40N R 07E

83-7081
GOLDEN HYDRO PARTNERSHIP
GREER, MICHAEL C.
1212 TAMARACK, MOSCOW, ID 83843
Source: CLEARWATER RIVER, NORTH FORK trib. to CLEARWATER RIVER
Date Filed: 03/14/1985
Diversion Pt: SWNE Sec 15 T 39N R 07E
Use: POWER (750.00 CFS); POWER (1500.00 CFS)
In SENE Sec 06 T 40N R 07E

91-7096
MARBLE CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: MARBLE CREEK trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt: SWNW Sec 25 T 45N R 03E
Use: POWER (305.00 CFS)
In: SWSE Sec 24 T 45N R 03E

92-7172
ST. MARIES RIVER HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: SAINT MARIES RIVER trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt: NWSE Sec 34 T 44N R 02W
Use: POWER (490.00 CFS)
In: NWNW Sec 34 T 44N R 02W

96-8388
VAN STONE, DALE
DENTON RD., P.O. BOX 305, HOPE, ID 83836
Source: RISER CREEK trib. to PEND OREILLE LAKE
Date Filed: 01/27/1984
Diversion Pt: NESW Sec 31 T 57N R 02E
Use: POWER (15.00 CFS)
In NESE Sec 01 T 56N R 01E

96-8412
LAPHAM, JOSEPH G.
2910 W. ODEN BAY RD., SANDPOINT, ID 83864
Source: TRAPPER CREEK trib. to RAPID LIGHTING CREEK
Date Filed: 08/27/1984
Diversion Pt: NENE Sec 03 T 58N R 02E
Use: POWER (20.00 CFS)
In: NENE Sec 08 T 58N R 02E

98-7612
IDAHO NATURAL ENERGY, INC.
834 FALLS AVE., TWIN FALLS, ID 83301
Source: SMITH CREEK trib. to KOOTENAI RIVER
Date Filed: 04/12/1985
Diversion Pt: SENE Sec 01 T 64N R 03W
Use: POWER (300.00 CFS)
In: NWNE Sec 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 4055 Government Way, Suite 9, Coeur d' Alene, Idaho 83814 on or before DECEMBER 1, 1986.

KEN DUNN, Dir.

Published: November 13, 20, 1986

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

82-7097
BATTLE RIDGE LAND & TIMBER CO.
622 W. MAIN ST., GRANGEVILLE, ID 83530
Source: CLEARWATER RIVER, SOUTH FORK tributary to CLEARWATER RIVER
Date Filed: 06/01/1982
Amount: 400.00 CFS
Diversion Point: SWSW Sec 36 T 30N R 03E SWSW Sec 30 T 30N R 04E, IDAHO CTY.
Use: POWER (400.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 30 T 30N R 04E NWNW Sec 36 T 30N R 03E
Diversion Means: WING DAM, PIPELINE AND GENERATING FACILITIES.

82-7143
BALDWIN, DANIEL A.
P.O. BOX 211, ELK CITY, ID 83525
Source: TWENTYMILE CREEK trib. to CLEARWATER RIVER, SOUTH FORK
Date Filed: 10/29/1984
Diversion Pt: SENW Sec 07 T 28N R 06E
Use: POWER (20.00 CFS)

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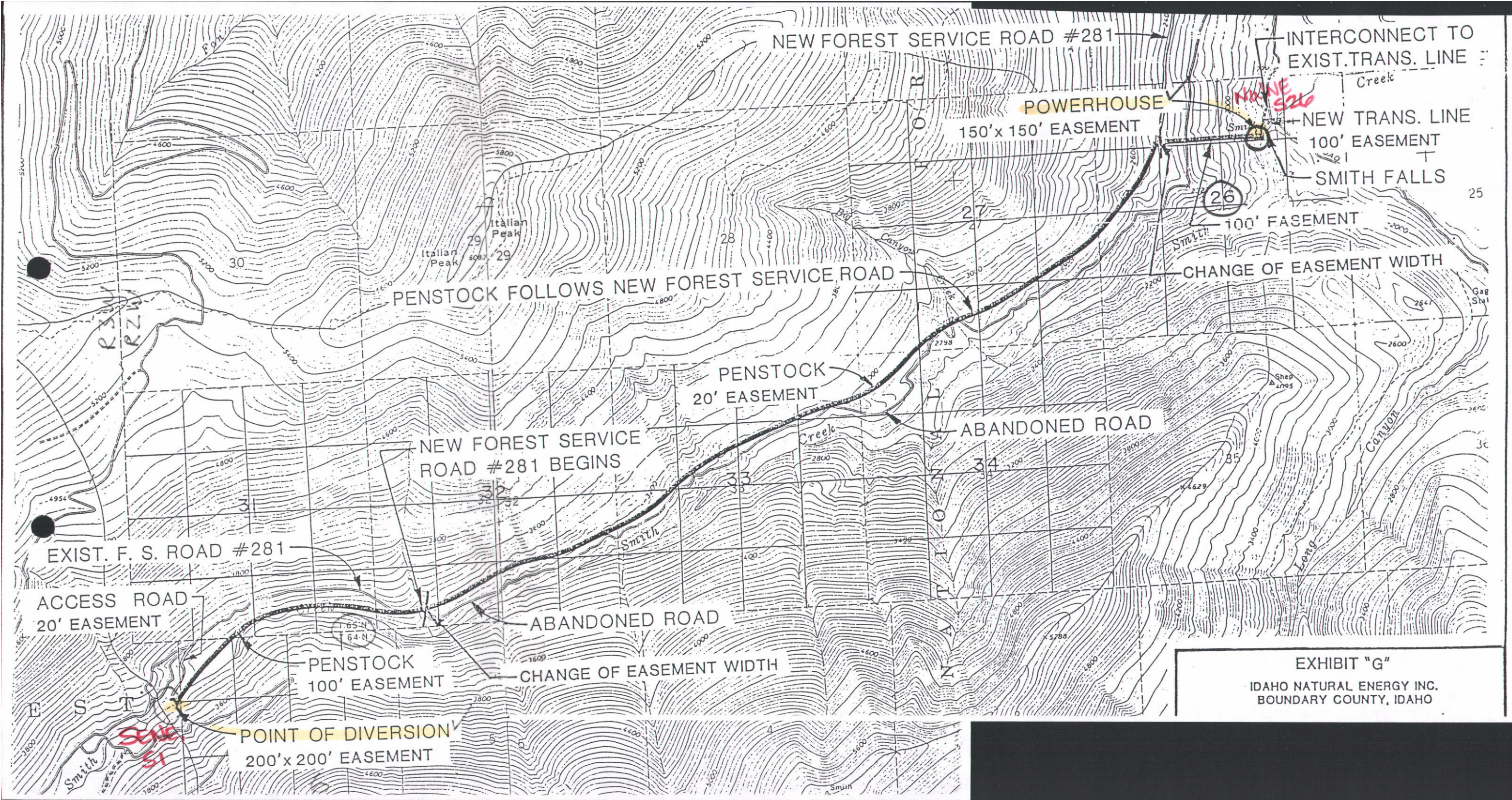
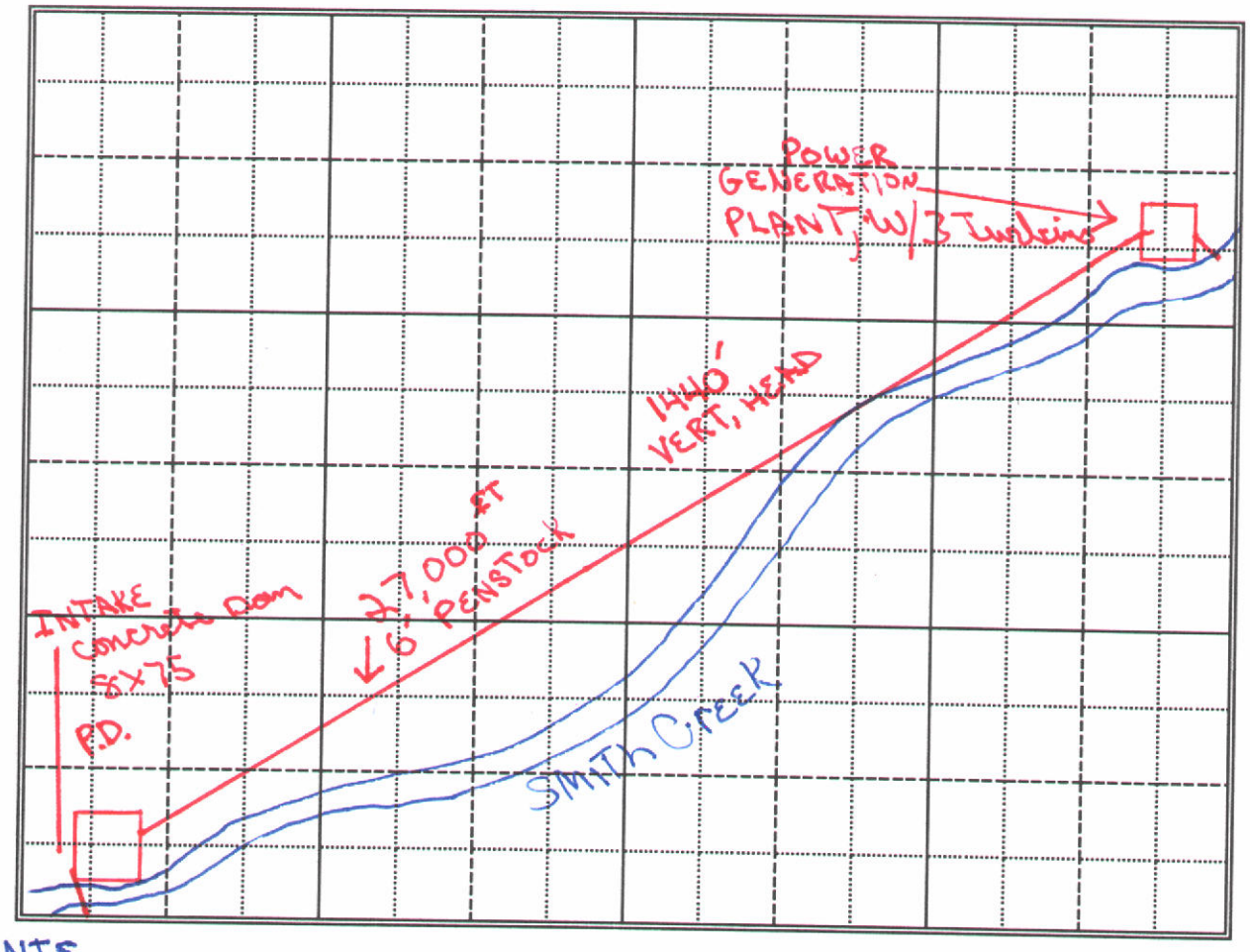


EXHIBIT "G"

IDAHO NATURAL ENERGY INC.
BOUNDARY COUNTY, IDAHO

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



Scale: 1" = N.T.S.

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

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

___ Photo of Diversion and System Attached

4.

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

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
On site flow indication						

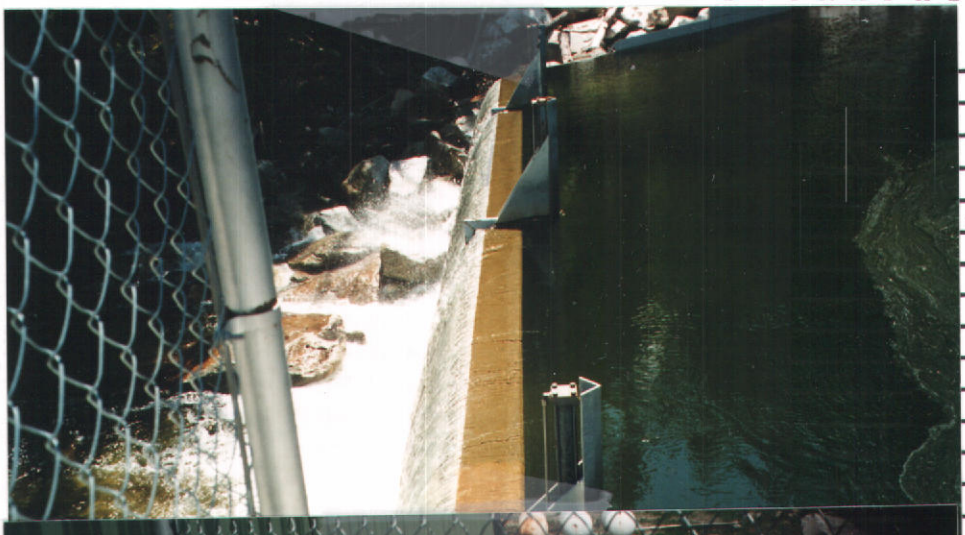
2. **Measurements:**

MICROFILMED
JAN 1 1 1999

PERMIT # 98-7612

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
FIELD REPORT SUPPLEMENT

PHOTOGRAPHS



open flow at P.D.



- P.D intake



P.D. - Water Returned To Creek

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JAN 1 1 1999

98-07612



← Diversion House



← Power STATION



COMPOTER
Showing PLANT
Power generation
and consumption of water
(370 cfs)

MICROFILMED
JAN 1 1 1999

SMITH FALLS HYDROELECTRIC PROJECT

STANDARD OPERATING PROCEDURES

1. Organizational Unit:

Smith Falls Hydroelectric
Bonners Ferry, Idaho

2. Scope of Operation:

Intake structure including (spillway, [illegible] gates, fish ladder, fish screens, fish bypass notch, spillway windows) and associated equipment at the [illegible]. Penstock air\vac valves, visual inspection of penstock, powerhouse, switchyard (operation and inspection), and associated equipment at the powerhouse. Project roadways, buildings and grounds.

3. Headquarters location:

Smith Falls Hydroelectric
Powerhouse
Mile Marker 21.5
Westside Road
Copland, Idaho
Phone 208 - 267-5551
208 - 276-2744

Smith Falls Hydroelectric
Business Office Bonners Ferry
PO Box 3100 113 Eisenhower
Bonners Ferry, Idaho 83805

Phone 208 - 267-7511
Fax 208 - 267-7512

Smith Falls Hydroelectric
Corporate Offices
699 East South Temple, Suite 220
Salt Lake City, Utah 84102

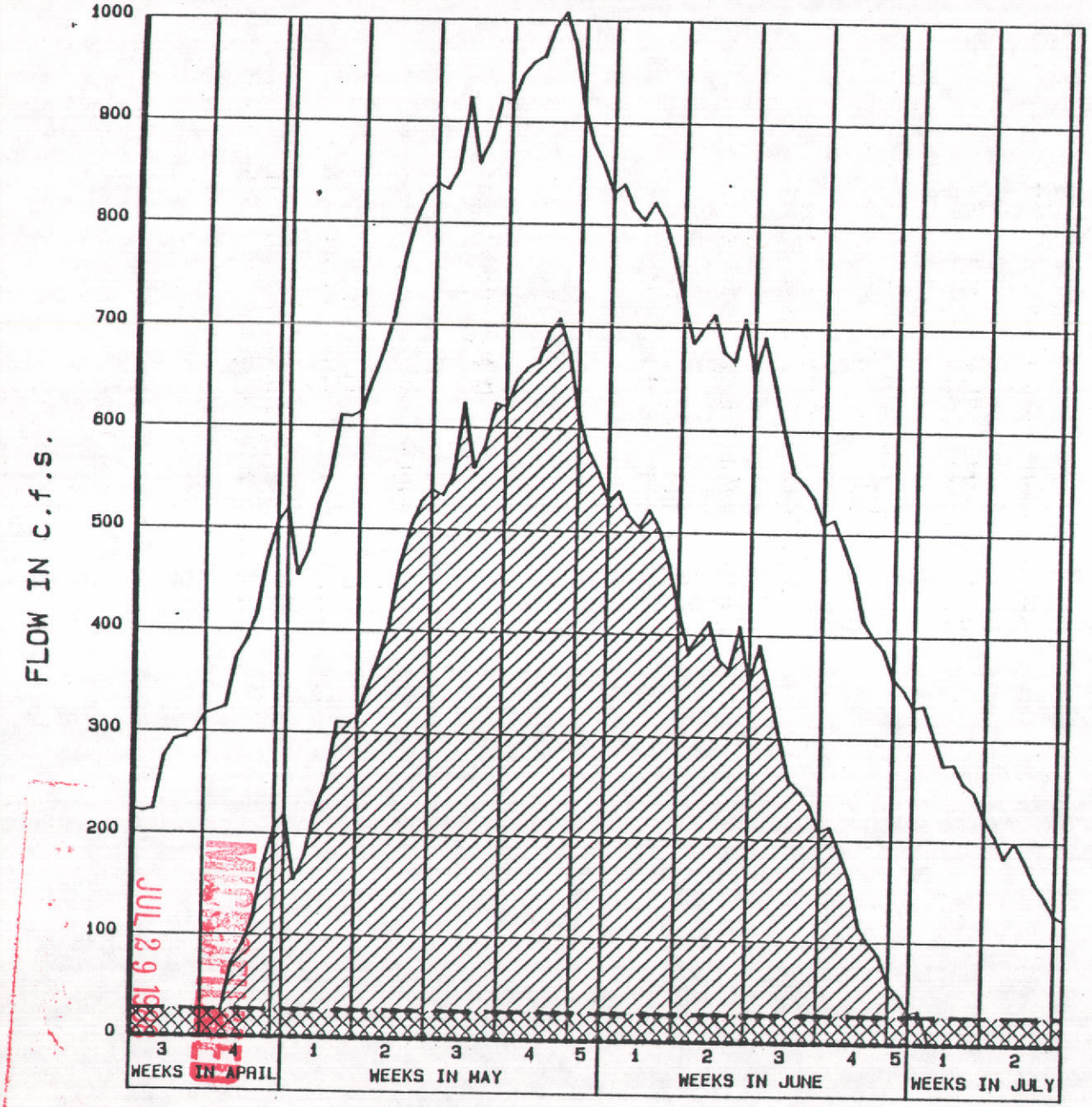
Phone 801 - 363-7007
Fax 801 - 363-6661

MICROFILMED
AUG 09 1991

4. Staffing and Organization:

The project operation and maintenance subsection is headed by Chief of Operations with Chief Plant Operator and one part time plant operator. The Chief Plant Operator is with in phone contact of the plant at all times. When off duty

TABLE 2



HIGH FLOW PERIOD - APRIL 16 TO JULY 15

CNM/JBH/CAD/8/28/87/2

LEGEND

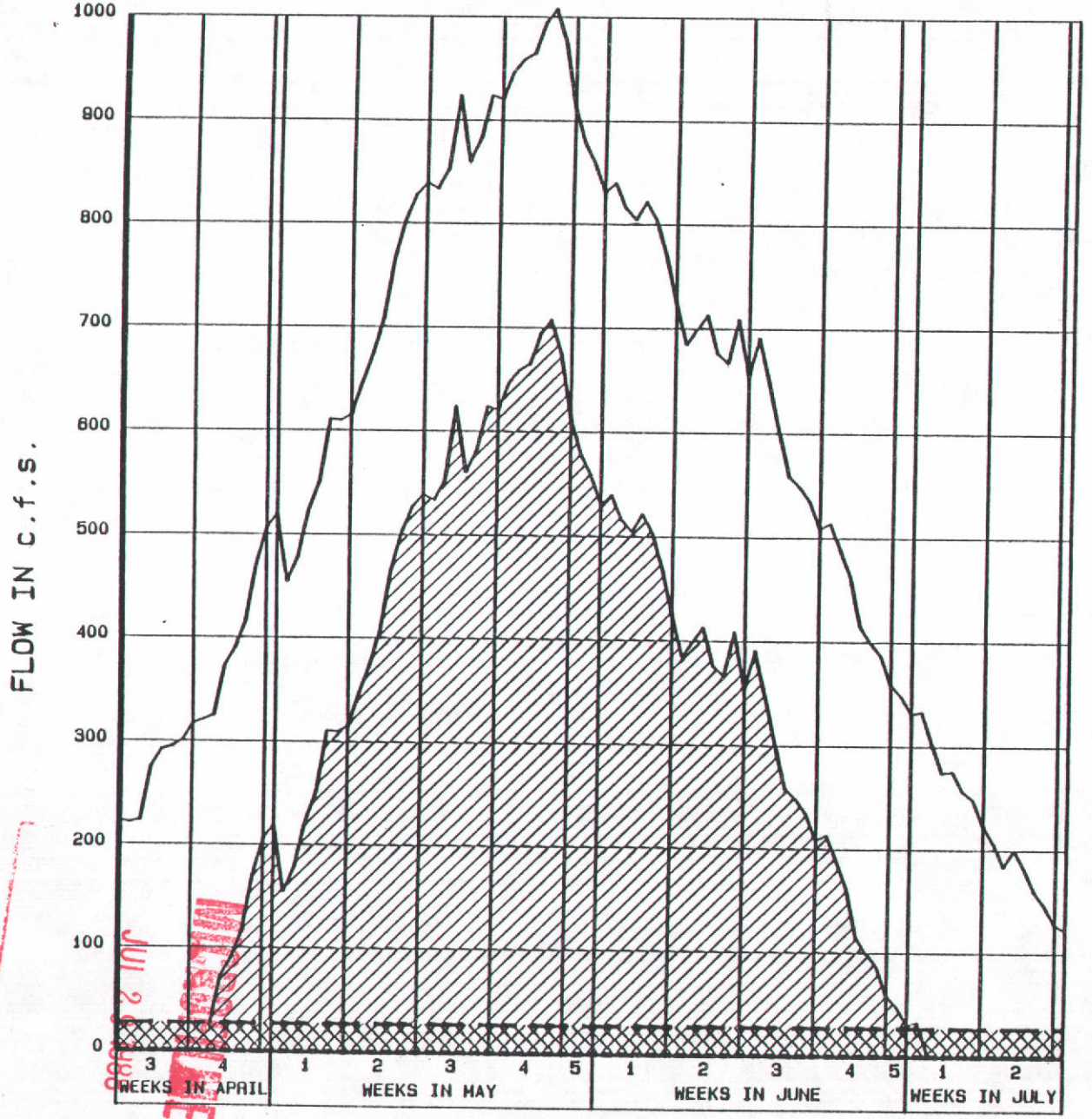
- PROJECT FLOW (300 c.f.s. MAX.)
- FLOWS REMAINING IN THE STREAM (INCLUDES BASE FLOW)
- BASE FLOW (27 c.f.s.)

NOTE: FLOW REMAINING IS A COMBINATION OF BYPASS FLOWS (27 c.f.s.) AND EXCESS FLOWS

SMITH CREEK HYDROELECTRIC PROJECT

AVERAGE DAILY FLOWS
32 YEAR AVERAGE 1922-1960

TABLE 2



HIGH FLOW PERIOD - APRIL 16 TO JULY 15

CWH/JBH/CAD/8/28/87/2

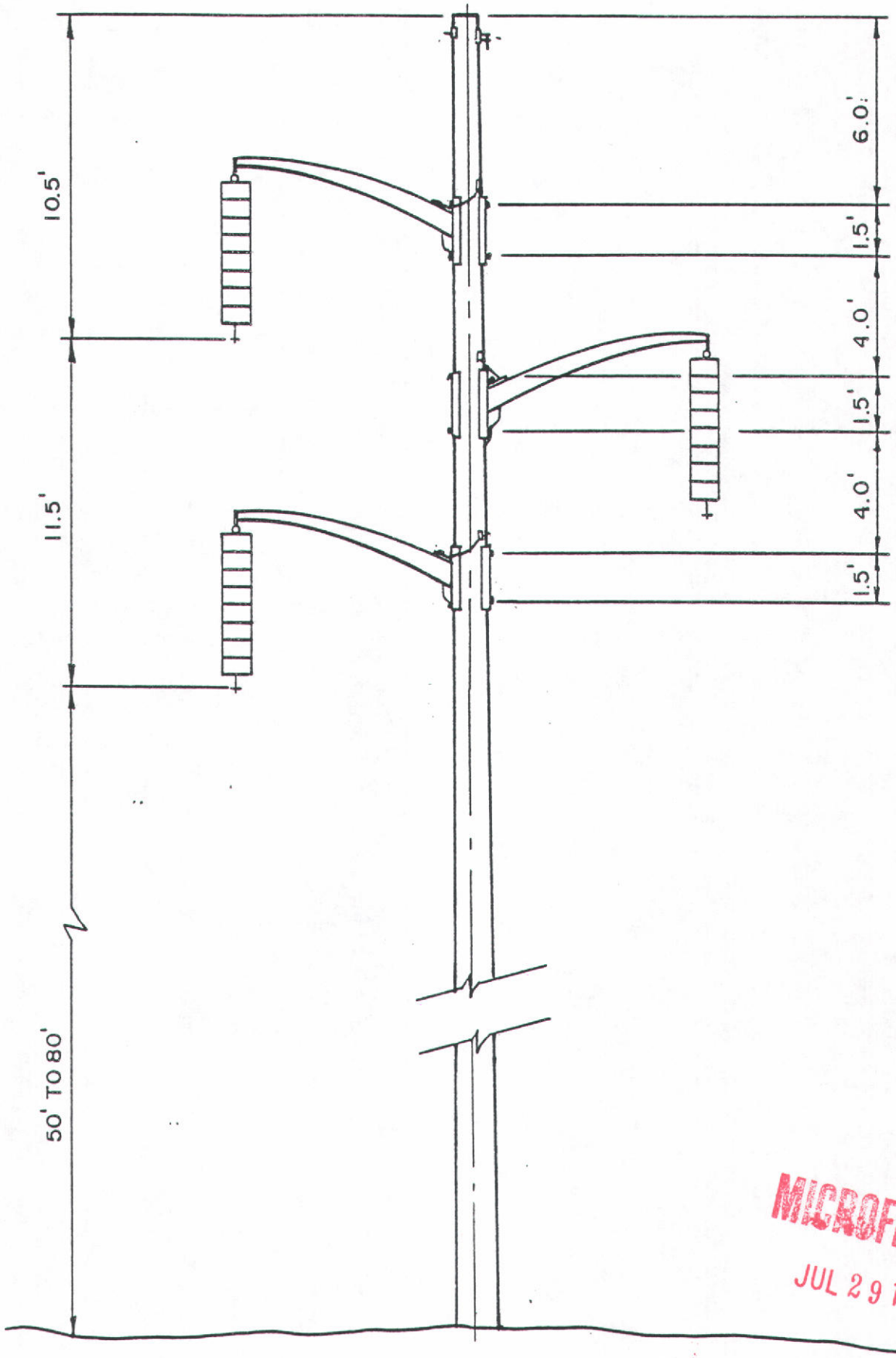
LEGEND

- PROJECT FLOW (300 c.f.s. MAX.)
- FLOWS REMAINING IN THE STREAM (INCLUDES BASE FLOW)
- BASE FLOW (27 c.f.s.)

NOTE: FLOW REMAINING IS A COMBINATION OF BYPASS FLOWS (27 c.f.s.) AND EXCESS FLOWS

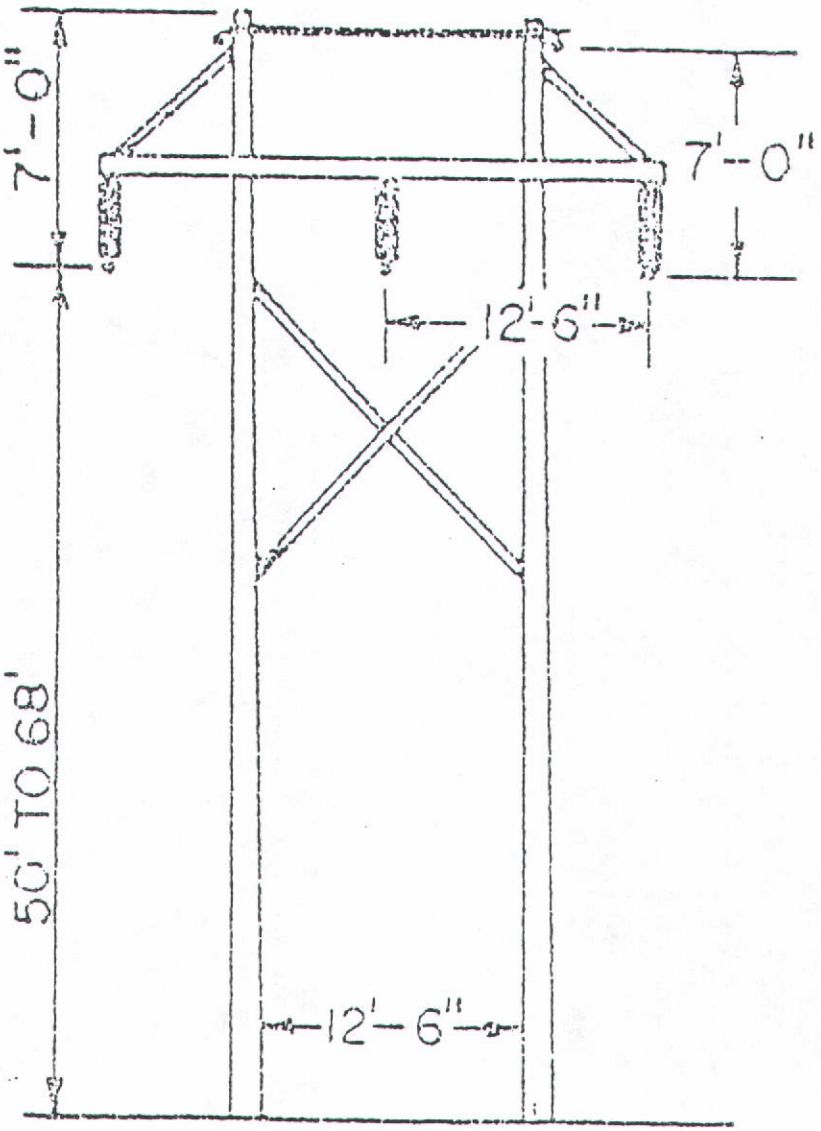
SMITH CREEK HYDROELECTRIC PROJECT

AVERAGE DAILY FLOWS
32 YEAR AVERAGE 1922-1960



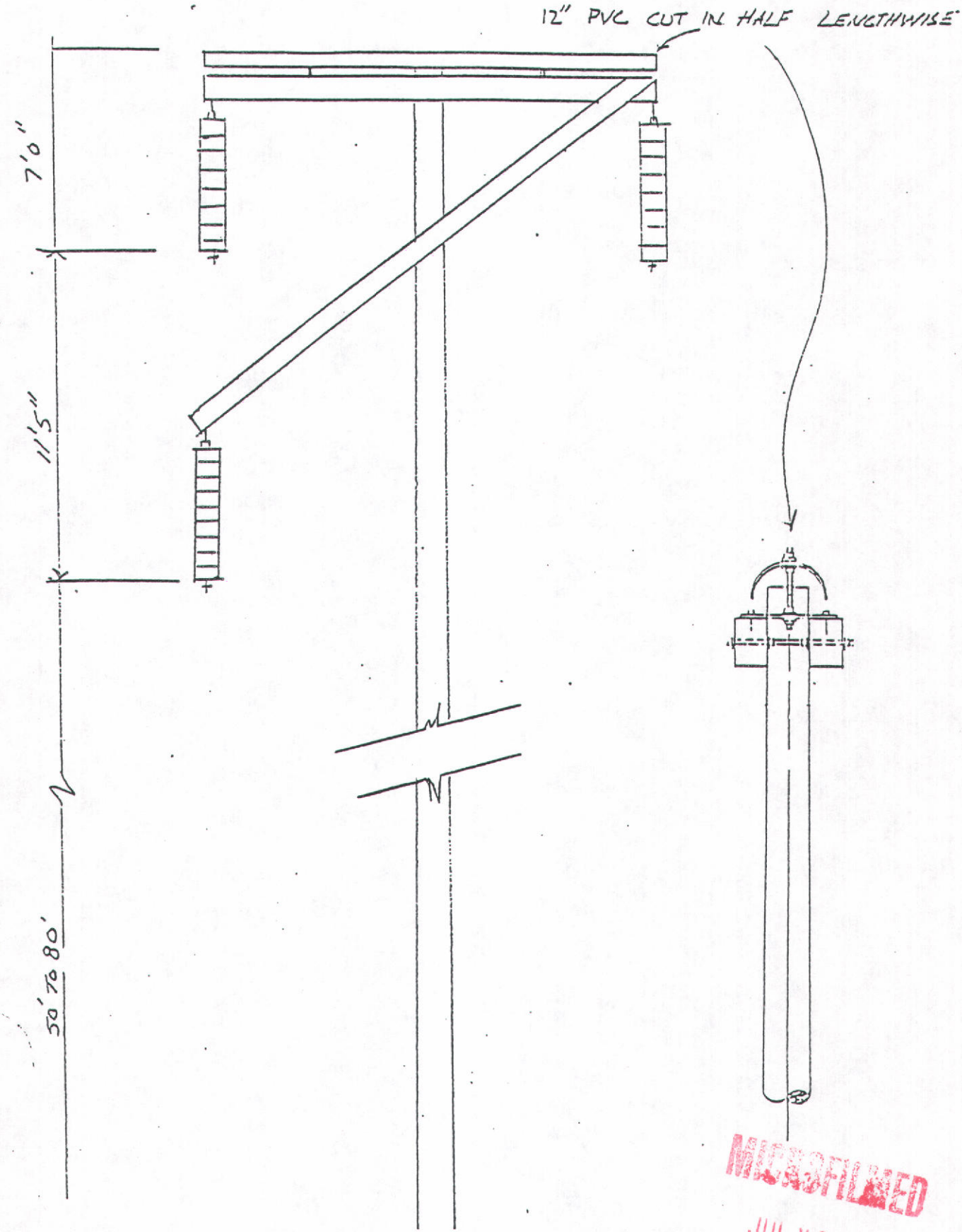
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JUL 29 1988

TYPICAL 115 KV WOOD SINGLE POLE



TYPICAL 115KV WOOD H-FRAME

MICROFILMED
JUL 2 9 1988



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JUL 29 1988

TYPICAL 115 KV WOOD SINGLE POLE

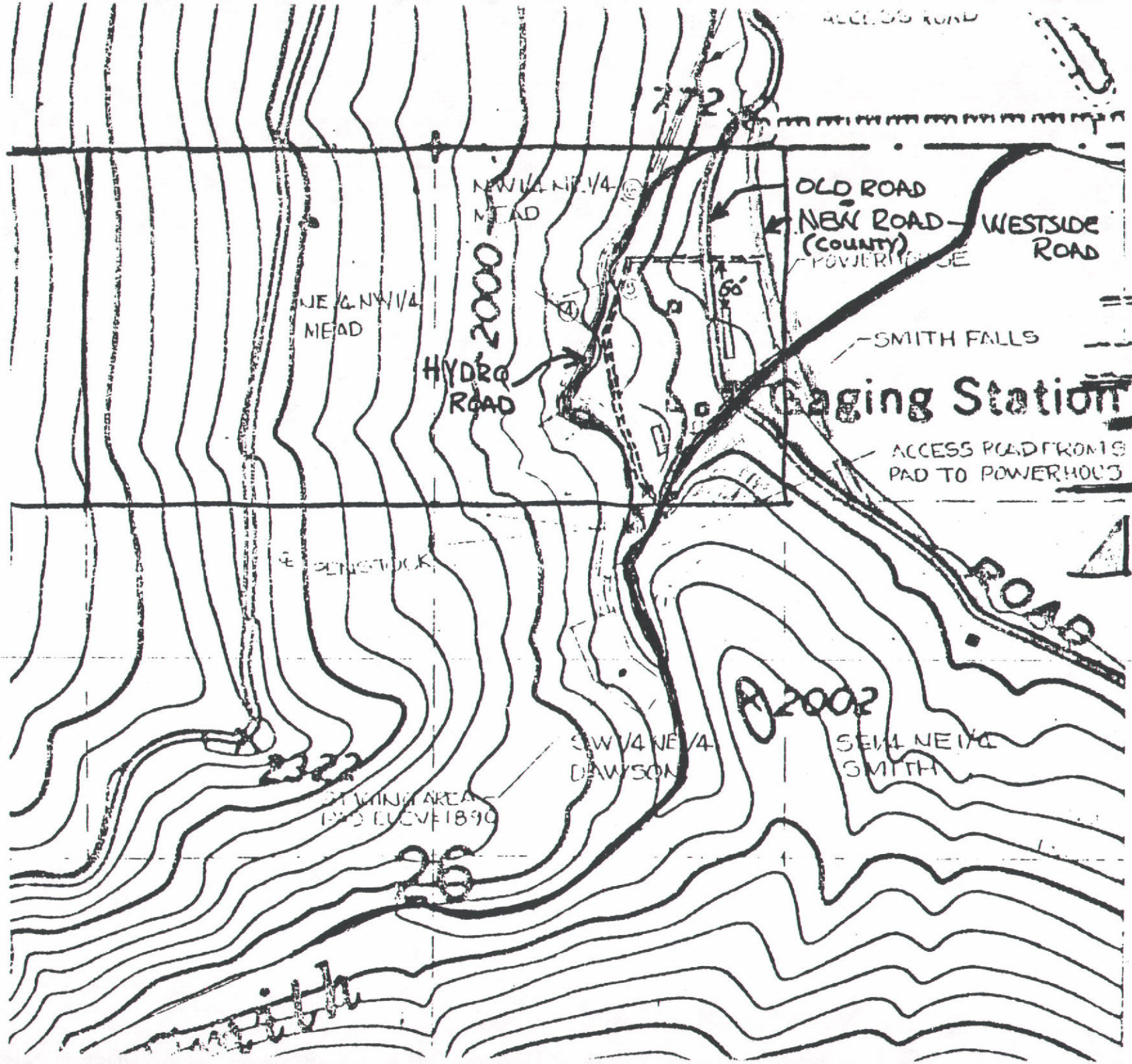


EXHIBIT "F-2"

MICROFILMED
DEC 03 2003

EXHIBIT "F-2"

MICROFILMED
DEC 0 3 2003

Form 42-248/42-1409(6) July, 2000

RECEIVED
NOV 02 2001
IDWR/North

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
98-7650					
98-7612					

RECEIVED
NOV 5 2001
DEPARTMENT OF WATER RESOURCES

2. The following **REQUIRED** information must be submitted with this form:

   A. The appropriate **FILING FEE**. See instructions for fee amounts.

   B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION.**

   C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
   PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

   OR

   If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s): Smith Falls Hydropower
   699 East South Temple, Suite 220
   Salt Lake City, Utah 84102

4. New Owner/Claimant(s): City of Eugene, Oregon, acting by and through the Eugene Water & Electric Board
   Name Connector (Check one): [ ] and, [ ] or, [ ] and/or

   New Mailing Address: 500 East Fourth Avenue

   City, State and ZIP Code: Eugene, Oregon 97440

   New Telephone Number: (541) 484-2411

5. Date you acquired the property: May 2, 2001

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DEC 03 2001

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other _____		
Total		

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other _____		
Total		

7. Signature of New Owner(s) or Claimant(s) _____
(include title if applicable) Randy Berggren, General Manager

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only
Received by DBell Date 11.2.2001 Fee $50.00
Receipted by DBell Date 11.2.2001 Receipt No. N014747
Processed by _____ AJ Date _____ WR _____ Date _____

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DEC 03 2002

202794

BA 2001014

(6)

STATE OF IDAHO }
County of Boundary } ss

Filed for record at the request of Boundary Abstract
on July 27, 01 at 2:45 pm and recorded in
Book 143 of Instruments on page 140
Diane M. Cartwright
County Recorder Rhonda Vogl
By Deputy
Fee $ 180.00 chg
Mail to BA

Recording requested by, and
when recorded mail to:

Moffatt, Thomas, Barrett,
Rock & Fields, Chartered
101 S. Capitol Blvd., 10th Floor
P. O. Box 829
Boise, Idaho 83701
Attention: Michael E. Thomas

(Space above this line for Recorder's use)

WARRANTY DEED

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Smith Falls Hydropower, an Idaho general partnership (the "Grantor") hereby warrants, bargains, sells, transfers, conveys and assigns to the City of Eugene, Oregon, acting by and through the Eugene Water & Electric Board (the "Grantee"), whose business address is 500 East Fourth Avenue, Eugene, Oregon 97440, all the Grantor's right, title and interest in and to that certain real property situated in Boundary County, Idaho, more particularly described in Exhibit A, attached hereto and incorporated by this reference, (the "Premises"),

Together with all rents, remainders and reversions, and all appurtenances and hereditaments, issues and profits, improvements and fixtures, easements, mineral rights, water rights and all other permits, licenses and rights thereunto appertaining,

To have and to hold unto the Grantee and the Grantee's successors and assigns in fee simple absolute forever, and

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DEC 03 2003

The Grantor will warrant and defend the Premises against all claims whatsoever.

In witness whereof, the Grantor has caused this Warranty Deed to be executed and delivered by its general partners and duly authorized representatives this 2nd day of May, 2001.

Grantor:

Smith Falls Hydropower,
an Idaho general partnership,
by its general partners,

American Pacific Power Corp. of Idaho, Inc.,
General Partner

By: _____
Name: David B. Van Otten
Title: President

Pacific West Power Corp. of Idaho, Inc., General Partner

By: _____
Name: Gary E. May
Title: President

America West Hydro, Inc. of Idaho, General Partner

By: _____
Name: R. Fred Moss
Title: President

MICROFILMED
DEC 03 2003

202794

STATE OF UTAH)
) ss.
COUNTY OF DAVIS)

On this 2nd day of May, 2001, before me, a notary public in and for said county and state, personally appeared David B. Van Otten, known to me to be the President of America Pacific Power Corp. of Idaho, Inc., the corporate general partner of Smith Falls Hydropower, an Idaho general partnership, the corporation and partnership named in the above-entitled instrument and acknowledged to me that he executed the same on behalf of said corporation in its capacity as general partner of Smith Falls Hydropower.

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
Residing at: Centerville Utah
Commission Expires: 4/22/03

STATE OF UTAH)
) ss.
COUNTY OF DAVIS)

On this 2nd day of May, 2001, before me, a notary public in and for said county and state, personally appeared Gary E. May, known to me to be the President of Pacific West Power Corp. of Idaho, Inc., the corporate general partner of Smith Falls Hydropower, an Idaho general partnership, the corporation and partnership named in the above-entitled instrument and acknowledged to me that he executed the same on behalf of said corporation in its capacity as general partner of Smith Falls Hydropower.

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
Residing at: Centerville, Utah
Commission Expires: 4/23/03

BOI_MT1:17590.2

MICROFILMED
SEP 03 2003

202794

STATE OF UTAH)
) ss.
COUNTY OF DAVIS)

On this 2nd day of May, 2001, before me, a notary public in and for said county and state, personally appeared R. Fred Moss, known to me to be the President of America West Hydro, Inc. of Idaho, the corporate general partner of Smith Falls Hydropower, an Idaho general partnership, the corporation and partnership named in the above-entitled instrument and acknowledged to me that he executed the same on behalf of said corporation in its capacity as general partner of Smith Falls Hydropower.

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
Residing at: Centerville, Utah
Commission Expires: 4/25/03

BOI_MT1:17590.2

MICROFILMED
DEC 03 2003

EXHIBIT A

Premises

See attached.

MIL[illegible]
DEC 3 3 2003

PROPERTY DESCRIPTION

Parcel I

Lot One (1) of Smith Falls Subdivision, as recorded in Book 2 of Plats at page 37, being a tract of land in the West Half of the Northeast Quarter (W ½ NE ¼) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho; more particularly described as follows:

Beginning at a point on the north line of the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼) of said Section Twenty-six (26), which is North 89°46'32" East, 571.22 feet from the Northwest corner of said Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼); thence North 00°13'23" West, 298.50 feet; thence North 89°46'32" East, 228.94 feet; thence South 09°04'05" East, 302.09 feet; thence South 12°40'05" East, 49.70 feet, to the center of Smith Creek; thence, up the center of Smith Creek, South 28°20'26" West, 127.92 feet; thence, leaving the creek centerline, South 89°46'32" West, 224.95 feet; thence North 00°13'23" West, 160.90 feet, to the TRUE POINT OF BEGINNING.

TOGETHER WITH an easement for an access road and an electrical transmission line through the Northwest Quarter of the Northeast Quarter (NW ¼ NE ¼) of said Section Twenty-six (26); more particularly described as follows:

Beginning at the intersection of the westerly right of way of the County Road known as the West Side Road and the north line of said quarter, which point is South 89°37'58" West, 212.76 feet from the northeast corner of said quarter; thence along said right of way on a curve to the left with a radius of 1005.06 feet and a central angle of 02°40'26" (chord South 09°58'32" East, 46.90 feet), for an arc distance of 46.90 feet; thence South 41°53'08" West, 427.16 feet; thence South 01°26'53" West, 650.56 feet; more or less, to the northeast corner of Lot One (1) of Smith Falls Subdivision (Book 2 of Plats at page 37); thence along the north line of said Lot One (1) South 89°46'32" West, 228.94 feet; thence continuing South 89°46'32" West, 211.70 feet; thence North 438.31 feet; thence North 46°31'32" East, 838.88 feet, more or less, to the north line of the Northwest Quarter of the Northeast Quarter (NW ¼ NE ¼); thence along said north line North 89°37'58" East, 125.39 feet to the westerly right of way of said county road and the TRUE POINT OF BEGINNING.

TOGETHER WITH an easement 100 feet in width for a pipeline through the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼) of said Section Twenty-six (26); said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the west line of the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼) of said Section Twenty-six (26), which is South 00°18'07" East, 249.21 feet from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼); thence North 69°29'36" East, 523.99 feet; thence on a curve to the right with a radius of 267.89 feet and a central

angle of 17°23'51", for an arc distance of 81.34 feet, more or less, to the west boundary of Lot One (1) of Smith Falls Subdivision (Book 2 of Plats, page 37), with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

Parcel II

Lot Two (2) of the Smith Falls Subdivision, according to the plat thereof on file with the Boundary County, Idaho Recorder.

SUBJECT TO an easement for an access road and an electrical transmission line through the Northwest Quarter of the Northeast Quarter (NW ¼ NE ¼) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West more particularly described as follows:

Beginning at the intersection of the westerly right of way of the County Road known as the West Side Road and the north line of said Quarter, which point is South 89°37'58" West 212.76 feet from the northeast corner of said Quarter; thence along said right of way on a curve to the left with a radius of 1005.06 feet and a central angle of 02°40'26" (chord South 09°58'32" East, 46.90 feet) for an arc distance of 46.90 feet; thence South 41°53'08" West 427.16 feet; thence South 01°26'53" West 650.56 feet, more or less, to the northeast corner of Lot One (1) of Smith Falls Subdivision; thence along the north line of said property South 89°46'32" West 228.94 feet; thence continuing South 89°46'32" West 211.70 feet; thence North 438.31 feet; thence North 46°31'32" East 838.88 feet, more or less, to the north line of the quarter; thence along said north line North 89°37'58' East 125.39 feet to the westerly right of way of said county road and the TRUE POINT OF BEGINNING.

SUBJECT TO an easement 100 feet in width for a pipeline through the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼) of said Section Twenty-six (26), Township Sixty-five North, Range Two (2) West, B.M., Boundary County, Idaho; said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the west line of the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼) of said Section Twenty-six (26), which is South 00°18'07" East 249.21 feet from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼); thence North 69°29'36" East 523.99 feet; thence on a curve to the right with a radius of 267.89 feet and a central angle of 17°23'51" for an arc distance of 81.34 feet, more or less, to the west boundary of Lot One (1) of Smith Falls Subdivision, with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

TOGETHER WITH an easement for ingress and egress situated in the Northwest Quarter of the Northeast Quarter (NW ¼ NE ¼) and the Northeast Quarter of the Northeast Quarter (NE ¼ NE ¼) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West of the Boise Meridian, Boundary County, Idaho, being Twenty (20) feet in width and lying Ten (10) feet on each side of the following described centerline:

Commencing at a point on the south line of the NE ¼ NE ¼ of said Section 26 which is North 89 degrees 46' 32" East, 246.38 feet from the southwest corner of said NE ¼ NE ¼; thence, leaving said south line in a perpendicular direction North 00 degrees 13' 28" West, 26.45 feet to the intersection with the southwesterly right of way of the County Road No. 18, also known as the West Side Road, being also the TRUE POINT OF BEGINNING; thence, leaving said right of way and along the centerline of road as it was found to exist June 7, 2001 the following Nine (9) courses: South 86 degrees 55' 50" West, 43.73 feet; thence, North 78 degrees 10' 46" West, 48.97 feet; thence, North 68 degrees 16' 04" West, 35.46 feet; thence North 51 degrees 13' 53" West, 45.55 feet; thence North 30 degrees 04' 51" West, 78.84 feet; thence, North 41 degrees 55' 20" West, 59.08 feet; thence North 52 degrees 19' 23" West, 148.04 feet; thence, North 56 degrees 36' 16" West, 87.83 feet to the southeasterly end of a bridge lying across Smith Creek; thence along the centerline of said bridge North 57 degrees 38' 35" West, 19.00 feet to the centerline or thread of Smith Creek and the terminus of this easement, with the sidelines extended or shortened to intersect adjacent boundary.

Parcel III

A tract of land in the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼) and the West Sixty (60) feet of the Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho, more particularly described as follows:

Beginning at the Southwest corner of the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼) of said Section Twenty-six (26); thence, North 00 degrees 18' 07" West, along the West line of the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼), 1001.83 feet; thence, North 84 degrees 33' 51" East, 665.57 feet, to the center of Smith Creek; thence, along the center of Smith Creek, North 56 degrees 52' 56" East, 158.32 feet; thence, North 28 degrees 20' 26" East, 127.92 feet; thence, North 33 degrees 29' 56" East, 58.38 feet to the North line of the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼); thence, along said North line, North 89 degrees 46' 32" East, 484.58 feet; thence, South 00 degrees 23' 42" East, 1312.58 feet; thence, along the South line of the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼) and the Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼), South 89 degrees 55' 04" West, 1376.46 feet to the TRUE POINT OF BEGINNING.

Parcel IV

A tract of land in the Southeast Quarter of the Southwest Quarter (SE ¼ SW ¼) of Section Thirty-five (35), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; more particularly described as follows:

Commencing at the point of intersection of the west line of the Southeast Quarter of the Southwest Quarter (SE ¼ SW ¼) of said Section Thirty-five (35) and the northerly right of way of County Road 21-C, which is North 00 degrees 02' 37" West, 25.00 feet from the southwest corner of said Quarter; thence North 00 degrees 02' 37" West, along said west line, 200.00 feet to the TRUE POINT OF

BEGINNING of this description; thence North 00 degrees 02' 37" West, along said west line, 215.05 feet; thence South 89 degrees 03' 59" East, 407.08 feet; thence South 00 degrees 56' 01" West, 215.02 feet to the BPA Brass Cap; thence North 89 degrees 03' 59" West, 403.42 feet to the TRUE POINT OF BEGINNING.

LESS THE FOLLOWING DESCRIBED PROPERTY:

Beginning at a point which is South 88 degrees 50' 24" East, 137.34 feet from the west line of the Southeast Quarter of the Southwest Quarter (SE ¼ SW ¼) of said Section Thirty-five (35), which is North 00 degrees 02' 07" West, 200 feet from the intersection of said west line and the northerly right of way of the County Road 21C, thence North 00 degrees 02' 07" West, 88.32 feet, thence South 89 degrees 30' 13" East, 265.04 feet, thence South 00 degrees 02' 07" East, 91.39 feet; thence North 88 degrees 50' 24" West, 265.06 feet to the point of beginning.

Parcel V

Together with an Easement described as

EASEMENT DESCRIPTIONS *attached hereto pages 1 through 51*

202794

EASEMENT DESCRIPTIONS:

44T62R1E

An easement created on the property described as:

All that portion of a strip of land 40 feet in width in falling the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4), the Southeast of the Southwest Quarter (SE1/4 SW1/4), the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4), and that portion of the South Half of the Northwest Quarter of the Southwest Quarter (S1/2 NW1/4 SW1/4) lying south and east of County Road 21A, all in Section Thirty-five (35), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 20 feet on each side of the following described center line:

Commencing at a point on the west line of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of said Section Thirty-five (35), which is North 00 degrees 01' 59" West, 440.05 feet from the southwest corner of said quarter; thence South 89 degrees 03' 59" East, 48.07 feet to the TRUE POINT OF BEGINNING of this centerline; thence North 02 degrees 27' 42" West, 783.18 feet; thence North 00 degrees 58' 20" West, 907.48 feet, more or less, to a point on the west line of the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4) of Section Thirty-five (35);thence North 02 degrees 57' 14" East, 453.52 feet; thence North 88 degrees 04' 42" West, 23.65 feet, more or less, to a point on the west line of the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4) of Section Thirty-five (35), which is South 00 degrees 01' 59" East, 45.88 feet from the northwest corner of said Quarter, and the terminus of this centerline, with the side lines of said strip being extended or shortened to intersect adjacent boundaries. Plus additional for guys and anchors.

BELLMORE:

An easement created across the following described property:

A strip of land in the South Half of the Northwest Quarter of the Southwest Quarter (S1/2 NW1/4 SW1/4) of Section Thirty-five (35), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; more particularly described as follows:

BEGINNING at a point on the east line of the Northwest quarter of the Southwest Quarter (NW1/4 SW1/4) of said Section Thirty-five (35), which is South 00 degrees 01' 59"East, 809.00 feet from the northeast corner of said Quarter; thence South 45 degrees 47' 12" West, 20.49 feet; thence North 00 degrees 58'20" West, 166.37 feet, more or less, to the north line of the South Half of the Northwest Quarter of the Southwest Quarter (S1/2 NW1/4 SW1/4) of Section Thirty-five (35); thence South 89 degrees 16' 08" East, along said north line, 17.42 feet to the east line of the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4); thence South 00 degrees 01' 59" East along said east line, 151.84 feet to the TRUE POINT OF BEGINNING.

MICR... SEP 0 3 2003

43T62R1E

An easement created on the property described as:

A strip of land 40 feet in width through the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Thirty-five (35), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho, said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the west line of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of said Section Thirty-five (35), which is South 00 degrees 03' 49" East, 46.15 feet from the northwest corner of said Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4); thence North 14 degrees 36' 43" East, 47.46 feet, more or less, to the north line of the said Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4), and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

42T62R1E

An easement created on the property described as:

A parcel of land in the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Thirty-four (34), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; more particularly described as follows:

Beginning at a point on the east line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) which is North 00 degrees 03' 49" West, 91.59 feet from the southeast corner of said Section Thirty-four (34); thence North 21 degrees 31' 59" West, 43.58 feet; thence South 89 degrees 33'38" East, 15.91 feet to the east line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4); thence along said east line South 00 degrees 03' 49" East, 40.41 feet to the TRUE POINT OF BEGINNING.

41T62R1E

An easement created on the property described as:

A strip of land 40 feet in width through the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Thirty-four (34), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the east line of the said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), which is North 00 degrees 03' 49" West, 146.23 feet from the southeast corner of Section Thirty-four (34); thence North 21 degrees 31' 59" West, 88.05 feet to a point; thence North 00 degrees 17' 58" West, 267.13 feet to the terminus of this centerline, with the sideline of said strip to be extended or shortened to intersect adjacent boundaries.

40T62R1E

An easement created on the property described as:

A strip of land 40 feet in width through the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Thirty-four (34), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at a point on the east line of the said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), which is North 00 degrees 03' 49" West, 495.00 feet from the southeast corner of Section Thirty-four (34); thence North 89 degrees 33' 38" West, 33.33 feet to the TRUE PONT OF BEGINNING of this description; thence along said centerline north 00 degrees 17' 58" West, 330.02 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

39T62R1E

An easement created on the property described as:

A strip of land 40 feet in width through the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Thirty-four (34), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at a point on the east line of the said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), which is North 00 degrees 03' 49" West, 825.00 feet from the southeast corner of Section Thirty-four (34); thence North 89 degrees 33' 38" West, 34.69 feet to the TRUE POINT OF BEGINNING of this description; thence North 00 degrees 17' 58" West, 314.89 feet to a point; thence North 14 degrees 36' 43" East, 15.60 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

38T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Thirty-four (34), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at a point on the east line of the said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), which is North 00 degrees 03' 49" West, 1155.00 feet from the southeast corner of said Section Thirty-four (34); thence North 89 degrees 33'38" West, 32.02 feet to the TRUE POINT OF BEGINNING of this description; thence North 14 degrees 36' 43" East, 126.42 feet, more or less, to a point on the east line of said Southeast Quarter of Southeast Quarter (SE1/4 SE/14), and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

36T62R1E

An easement created on the property described as:

A strip of land 40 feet in width in the South Half of the Northwest Quarter of the Southwest Quarter (S1/2 NW1/4 SW1/4) of Section Thirty-five (35), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho, being 20 feet each side of the following described centerline:

Commencing at the southwest corner of the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) of said section Thirty-five (35); thence South 89 degrees 25' 11" East, 12.05 feet to the TRUE POINT OF BEGINNING of this description; thence North 14 degrees 36' 43" East 84.73 feet to a point; thence North 00 degrees 39' 28" East, 579.59 feet, more or less, to the north line of the South Half of the Northwest Quarter of the Southwest Quarter (S1/2 NW1/4 SW1/4) of Section Thirty-five (35) and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

35T62NR1E

An easement created on the property described as:

All that portion of a strip of land 40 feet in width falling in the North Half of the Northwest Quarter of the Southwest Quarter (N1/2 NW1/2 SW1/4) of Section Thirty-five (35), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho, being 20 feet each side of the following described centerline:

Commencing at a point on the west line of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of said Section Thirty-five (35), which is North 00 degrees 01' 59" West, 440.05 feet from the southwest corner of said Quarter; thence South 89 degrees 03' 59" East, 48.07 feet to the TRUE POINT OF BEGINNING of this centerline; thence North 02 degrees 27' 42" West, 783.18 feet; thence North 00 degrees 58' 20" West, 907.48 feet, more or less, to a point on the west line of the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4) of Section Thirty-five (35); thence North 02 degrees 57' 14" East, 453.52 feet; thence North 88 degrees 04' 42" West, 23.65 feet, more or less, to a point on the east line of the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) of Section Thirty-five (35), which is South 00 degrees 01' 59" East, 45.88 feet from the northeast corner of said Quarter; thence North 88 degrees 04'42" West, 939.40 feet; thence South 84 degrees 12' 53" West, 337.30 feet; thence North 00 degrees 39' 45" East, 63.14 feet, more or less, to a point on the north line of said Quarter, which is South 89 degrees 20' 10" East, 49.13 feet from the northwest corner of said Quarter, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries. Plus additional for guys and anchors.

34T62R1E

An easement created on the property described as:

All that portion of a strip of land 40 feet in width through the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) of Section Thirty-five (35), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho, being 20 feet each side of the following described centerline:

Beginning at a point on the south line of the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) of Section Thirty-five (35), which is South 89 degrees 20' 10" East, 49.15 feet from the southwest corner of said Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4); thence North 00 degrees 39' 28" East, 244.90 feet to a point; thence North 01 degrees 41' 14" East, 80.07 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

33T62R1E

An easement created on the property described as:

All that portion of a strip of land 40 feet in width through the West Half of the Northwest Quarter (W1/2 NW1/4) of Section Thirty-five (35), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho, being 20 feet each side of the following described centerline:

Commencing at a point on the west line of the Northwest Quarter (NW1/4) of said Section Thirty-five (35), which is North 01 degrees 38' 25" East, 325.00 feet from the southwest corner of said Northwest Quarter (NW1/4); thence South 89 degrees 20' 10" East, 45.01 feet to the TRUE POINT OF BEGINNING of this description; thence North 01 degrees 41' 14" East, 1977.28 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

32T62R1E

An easement created on the property described as:

All that portion of a strip of land 40 feet in width through the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of Section Thirty-five (35), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho, being 20 feet each side of the following described centerline:

Commencing at a point on the west line of the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of said Section Thirty-five (35), which is South 01 degrees 38' 25" West, 350.00 feet from the northwest corner of said Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4); thence South 89 degrees 33' 36" East, 46.64 feet to the TRUE POINT OF BEGINNING of this description; thence North 01 degrees 41' 14" East, 144.33 feet to a point; thence North 00 degrees 05' 46" East, 205.63 feet, more or less, to the north line of said Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

31T62R1E

An easement created on the property described as:

A strip of land 40 feet in width through Government Lot Ten (10) of Section Twenty-six (26), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho, said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the south line of Government Lot Ten (10) of said Section Twenty-six (26), which is South 89 degrees 33' 36" East, 41.21 feet from the southwest corner of said Government Lot Ten (10); thence North 00 degrees 05' 46" East, 1312.67 feet, more or less, to the north line of said Government Lot Ten (10) and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

30T62R1E

An easement created on the property described as:

A strip of land 40 feet in width through Government Lot Nine (9) of Section Twenty-six (26), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho, said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the south line of Government Lot Nine (9) of said Section Twenty-six (26), which is South 89 degrees 03' 44" East, 37.81 feet from the Southwest corner of said Government Lot Nine (9); thence North 00 degrees 05' 46" East, 551.41 feet; thence North 75 degrees 17' 57" East, 10.49 feet to the southwesterly boundary of the Eaton Townsite; thence continuing through the Eaton Townsite with the rights of way of Locust Street and Gray Avenue as shown on the plat of the Eaton Townsite, North 75 degrees 17' 57" East, 223.86 feet; thence continuing within the right of way of said Gray Avenue North 55 degrees 54' 11", 442.08 feet; thence North 56 degrees 13' 30" East, 774.98 feet; thence North 55 degrees 39' 46" East, 106.60 feet, to the apparent high water mark of the Kootenai River, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries, and excepting therefrom any portion of said strip within the boundaries of the Eaton Townsite that falls outside of any street, avenue, or alleyway as shown on the plat of the Eaton Townsite. (See attached sketch)

28T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through Block Nine (9) of Eaton Townsite, in Section Twenty-six (26), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the line common to Block Nine (9) of Eaton Townsite and the right of way of the Burlington Northern Railroad, which is North 65 degrees 53' 50" West, 5.17 feet from the southernmost corner of said Block Nine (9); thence North 49 degrees 26' 41" East, 106.50 feet, more or less, to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries, and excepting therefrom any portion falling in a platted street or alley way.

BOUNDARY POST #55

An easement created on the property described as:

A strip of land 40 feet in width through Lot Twenty (20) in block Twenty-three (23) of the Eaton Townsite, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the line between said Lot Twenty (20) and Gray Avenue as shown on the Plat of the Eaton Townsite, which point is North 56 degrees 18' 06" East, 44.92 feet from the southernmost corner of Lot Twenty (20); thence South 75 degrees 17' 57" West, 55.43 feet to a point on the line between Lot Twenty (20) and Locust Street as shown on the plat of the Eaton Townsite, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

AND ALSO:

An easement to place a guy Anchor from a power pole located within the right of way of Gray Avenue, in the northernmost 15 feet of Lot Twenty (20), Block Twenty-four (24) of the Eaton Townsite, Boundary County Idaho.

25T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through Government Lot Four (4) of Section Twenty-six (26), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the north line of Government Lot Four (4) which is North 88 degrees 48' 55" West, 233.18 feet from the southwest corner of the Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4); thence South 54 degrees 30' 36" East, 113.21 feet; thence South 62 degrees 48' 22" East, 1219.18 feet; thence South 55 degrees 39' 46" West, 375.12 feet to the apparent high water line of the right bank of the Kootenai River, and the terminus of this centerline; with the sidelines of said strip being extended or shortened to intersect adjacent boundaries.

24T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through Government Lot 2 of Section Twenty-six (26) and Government Lot 1 of Section Twenty-seven (27), Township Sixty-two (62) North, Range One (1) East, of the B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the south line of Government Lot Two (2) which is North 88 degrees 48' 55" East, 233.18 feet from the southwest corner of Government Lot 2; thence North 54 degrees 30' 36" West, 595.49 feet; thence North 44 degrees 15' 20" West 423.14 feet; thence North 55 degrees 18' 16 West, 393.53 feet; thence North 01 degrees 38' 23" East, 447.30 feet to the north line of Section Twenty-seven (27) and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

MICR[illegible]

DEC 03 2003

23T62R1E

An easement created on the property described as:

A strip of land 24 feet in width through the Southeast Quarter (SE1/4) Section Twenty-two (22) and the West Half of the Southwest Quarter (W1/2 SW1/4) of Section Twenty-three (23), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 12 feet on each side of the following described centerline:

Beginning at a point on the south line of said Section Twenty-two (22) which is North 89 degrees 40' 09" West, 22.27 feet from the southeast corner of Section Twenty-two (22); thence North 01 degrees 38' 23" East, 859.35 feet; thence North 40 degrees 07' 41" East, 1129.74 feet; thence North 63 degrees 34' 06" East, 536.63 feet; thence North 44 degrees 24' 41" East, 227.86 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

22T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through a portion of the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4) of Section Twenty-three (23), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the west line of the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4) of said Section Twenty-three (23) which is South 01 degrees 25' 20" West, 452.79 feet from the northwest corner of said Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4); thence North 44 degrees 24' 41" East, 380.99 feet to the southerly right of way of the Union Pacific Railroad and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

20T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through a portion of the Southeast Quarter of the Northwest Quarter (SE1/4 NW1/4) of Section Twenty-three (23), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the west line of the Southeast Quarter of the Northwest Quarter (SE1/4 NW1/4) of said Section Twenty-three (23); which is South 01 degrees 07' 49" West, 643.75 feet from the northwest corner of said Southeast Quarter of the Northwest Quarter (SW1/4 NW1/4); thence South 17 degrees 08' 10" East, 675.39 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

DEC 03 2007

19T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through a portion of the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) of Section Twenty-three (23), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the east line of the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) of said Section Twenty-three (23), which is North 01 degrees 07' 49" East, 661.33 feet from the southeast corner of the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4); North 17 degrees 08' 10" West, 673.91 feet to the north line of the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

18T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through a portion of the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of Section Twenty-three (23), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at the northwest corner of the said Section Twenty-three (23); thence South 00 degrees 35' 36" West, 380.00 feet; thence North 89 degrees 53' 02" East, 290.44 feet to the TRUE POINT OF BEGINNING; thence South 17 degrees 36' 46" East, 126.56 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

17T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through a portion of the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of Section Twenty-three (23), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at the northwest corner of the said Section Twenty-three (23); thence North 89 degrees 53' 02" East, along the north line of section, 204.00 feet; thence South 00 degrees 35' 36" West, parallel to the west line of the section, 116.21 feet to the TRUE POINT OF BEGINNING; thence South 17 degrees 36' 46" East, 276.57 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

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16T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through a portion of the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of Section Twenty-three (23), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the south line of the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of said Section Twenty-three (23), which is North 89 degrees 53' 55" West, 211.26 feet from the southeast corner of the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4); thence North 14 degrees 43' 25" West, 311.59 feet; thence North 54 degrees 58' 11" West, 868.26 feet; thence North 17 degrees 36' 46" West, 2.05 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

ALSO beginning at a point on the north line of said Section Twenty-three (23), which is South 89 degrees 53' 02" West, 165.92 feet from the Northwest corner of the Section; thence South 17 degrees 36' 46" East. 121.83 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

15T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through a portion of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Fourteen (14), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the south line of Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of said Section Fourteen (14), which is North 89 degrees 53' 02 " East, 165.92 feet from the southwest corner of said Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4); thence North 17 degrees 36' 46" West, 177.04 feet to a point; thence North 22 degrees 58' 13" East, 819.69 feet, more or less, to the easterly right of way of U.S. Highway 95; thence continuing on and along said right of way North 22 degrees 58' 13" East, 434.31 feet, more or less, to the north boundary of the property described in Instrument No. 125407, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

13T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through a portion of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Fourteen (14), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at the point of intersection of the north line of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of said Section Fourteen (14), and the easterly right of way of U.S. Highway 95, which is South 89 degrees 59' 48" West, 744.51 feet from the northeast corner of said Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4); thence South 22 degrees 58' 13" West along said right of way, 304.66 feet, more or less, to the southerly boundary of the property described in Book 28 of Deeds at page 615, records of Boundary County, Idaho, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

12T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through a portion of the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) of Section Fourteen (14), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at the point of intersection of the south line of the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) of said Section Fourteen (14), and the Easterly right of way of U.S. Highway 95, which is South 89 degrees 59' 48" West, 744.51 feet from the Southeast corner of said Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4); thence North 22 degrees 58' 13" East along said right of way, 597.40 feet, more or less, to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

11T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through a portion of the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) of Section Fourteen (14), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at the point of intersection of the south line of the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) of said Section Fourteen (14), and the Easterly right of way of U.S. Highway 95, which is South 89 degrees 59' 48" West, 744.51 feet from the Southeast corner of said Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4); thence North 22 degrees 58' 13" East along said right of way, 597.40 feet to the TRUE POINT OF BEGINNING of this description; thence North 22 degrees 58' 13" East along said right of way, 618.91 feet, more or less, to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

10T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through a portion of the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) of Section Fourteen (14), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at the point of intersection of the north line of the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) of said Section Fourteen (14), and the Easterly right of way of U.S. Highway 95, which is North 89 degrees 57'43" West, 177.49 feet from the northeast corner of said Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4); thence South 22 degrees 58'13" West along said right of way, 220.42 feet, more or less, to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

8T62NR1E

An easement created on the property described as:

A strip of land through the Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4) of Section Fourteen (14), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being one (1) foot in width, on each side of the following described centerline and for two (2) feet along the length of the centerline and only at the location of the placement of utility poles:

Commencing at a point on the north line of the Northwest Quarter (NE1/4 NW1/4) of Section Fourteen (14), which is North 89 degrees 42' 52" West 372.60 feet from the northeast corner of said Quarter; thence South 22 degrees 58' 36" West on a course parallel to and offset 51 feet easterly from the centerline of U.S. Highway 95, 386.64 feet, more or less, to the southerly boundary of said subdivision, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

QUILLIN:

An easement created on the property described as:

A strip of land 40 feet in width through the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Eleven (11), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at a point on the south line of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of said Section Eleven (11), which is North 89 degrees 42' 52" West, 381.27 feet from the southeast corner of said Quarter; thence North 22 degrees 58' 36" East, 27.10 feet, more or less, to the southerly boundary of the property described in Instrument No. 154677, and the TRUE POINT OF BEGINNING of this centerline; thence North 22 degrees

58' 36" East parallel to and 3 feet offset easterly of the easterly right of way of U.S. Highway 95, 385.54 feet, more or less, to the southerly boundary of the property described in Book 35 of Deeds at page 495, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95; plus additional for guys and anchors.

NORTHERN LIGHTS

An easement created on the property described as:

A strip of land 40 feet in width through the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Eleven (11), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at a point on the south line of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of said Section Eleven (11), which is North 89 degrees 42' 52" West, 381.27 feet from the southeast corner of said Quarter; thence North 22 degrees 58' 36" East, 412.64 feet, more or less, to the southerly boundary of the property described in Book 35 of Deeds at page 495, and the TRUE POINT OF BEGINNING of this centerline; thence North 22 degrees 58' 36" East, parallel to and 3 feet offset easterly of the easterly right of way of U.S. Highway 95, 360.00 to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

AT62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Eleven (11), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at a point on the south line of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of said Section Eleven (11) and the westerly right of way of U.S. Highway 95, which is North 89 degrees 42' 52" West, 471.61 feet from the southeast corner of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); thence North 22 degrees 58' 13" East along said right of way, 37.31 feet to the TRUE POINT OF BEGINNING of this description; thence North 09 degrees 24' 35" West, 16.48 feet to a point; thence North 22 degrees 58' 13" East, 405.71 feet, more or less, to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

BT62NR1E

An easement created on the property described as:

A strip of land 40 feet in width through the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Eleven (11), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at a point on the south line of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of said Section Eleven (11) and the westerly right of way of U.S. Highway 95, which is North 89 degrees 42' 52" West, 471.61 feet from the southeast corner of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); thence North 22 degrees 58' 13" East along said right of way, 457.03 feet to the southerly boundary of the property described in Instrument No. 0156079; thence North 89 degrees 42' 52" West along said boundary, 9.57 feet to the TRUE POINT OF BEGINNING of this description; thence North 22 degrees 58' 13" East, 325.15 feet, more or less, to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

CT62NR1E

An easement created on the property described as:

A Strip of land 40 feet in width through the South Half (S1/2) of Section Eleven (11), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at the point of intersection of the west half of the south line of said Section Eleven (11) and the westerly right of way of U.S. Highway 95, which is North 89 degrees 42' 52" West, 471.61 feet from the South Quarter corner of Section Eleven (11); thence North 22 degrees 58' 13" East along said right of way, 785.79 feet to the north line of the parcel described in Instrument No. 0156079; thence North 89 degrees 42' 52" West along said north line 9.57 feet to the TRUE POINT OF BEGINNING of this description; thence North 22 degrees 58' 13" East, 679.54 feet to a point; thence North 23 degrees 00' 00" East, 1440.28 feet, more or less, to a point on the east/west centerline of Section Eleven (11) and the south line of the parcel described in Book 23 of Deeds, page 232; said point being North 89 degrees 43' 26" West, 2002.24 feet, more or less, from the East Quarter corner of Section Eleven (11), and being the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

1T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width; located in the southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) of Section Eleven (11), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across those parcels described in Book 23 of

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Deeds at page 232 and in Book 31 of Deeds at page 493, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Southerly boundary of said parcel described in Book 23 of Deed, Page 232, said point being East, 675.2 feet, more or less, from the center quarter corner of said Section Eleven (11); thence North 22 degrees 06' East, to the Northerly boundary of said parcel described in Book 31 of Deed at page 493 and the terminus of this centerline; with said terminus being west 0.7 feet, more or less, from the Northwesterly right of way limit of U.S. Highway 95; with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

2T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) of Section Eleven (11), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across that parcel described in Book 35 of Deed at page 134, Boundary County Idaho records; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly boundary of said parcel described in Book 35 of Deeds at page 134, said point being West 0.7 feet, more or less, from the northwesterly right of way limit of U.S. Highway 95; thence North 22 degrees 06' East to the northerly line of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) and the terminus of this centerline; with said terminus being East, 3.6 feet, more or less, from the northeasterly corner of said parcel; with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

3T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Eleven (11), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho; being over and across that parcel described in Book 9 of Instruments at page 415, Boundary County, Idaho Records; said strip being 20 feet each side of the following described centerline.

Beginning at a point on the southerly line of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) which bears West 115 feet, more or less, from the southeast corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); thence North 22 degrees 06' East to the easterly line of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); and the terminus of this centerline; with said terminus bearing north, 280 feet, more or less, from the southeast corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

4T62NR1E

--An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) of Section Eleven (11), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 63 of Instruments at page 231, Boundary County, Idaho records; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the westerly line of said Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4), said point being North, 280 feet, more or less, from the southwest corner of said Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4); thence North 22 degrees 06' East, 719 feet, more or less, thence North 21 degrees 32' East, 406 feet, more or less, to the northerly line of the said Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) and the terminus of this centerline; with said terminus bearing West, 894 feet more or less, from the northeast corner of said Section Eleven (11); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

5T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Two (2), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across that parcel described in Book 9 Instruments at page 415, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Southerly line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), said point being West, 894 feet, more or less, from the Southeast Corner of Section Two (2); thence North 21 degrees 32' East, 1083 feet, more or less; thence North 10 degrees 03 East, 296 feet, more or less; thence North 03 degrees 38' East, 26 feet, more or less, to the Northerly line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) and the terminus of this centerline, with said terminus being West 448 feet, more or less, from the Northeast corner of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

6T62NR1E

A strip of land 40 feet in width located in the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) of Section Two (2), Township Sixty-two (62) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across that parcel described in Book 54 of Instruments at page 322, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4), said point being west 448 feet, more or less, from the southeast of

said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4); thence North 03 degrees 38' East, 1324 feet, more or less, to the northerly line of the said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) and the terminus of this centerline; with said terminus being west, 368 feet, more or less, from the northwest corner of said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

7T62NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of Northeast Quarter (SE1/4 NE1/4) and Government Lot One (1) of Section Two (2), Township Sixty-two (62) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 4 of Deeds at page 421, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Southeast Quarter of Northeast Quarter (SE1/4 NE1/4), said point being West, 368 feet, more or less, from the southeast corner of said Southeast Quarter of Northeast Quarter (SE1/4 NE1/4);; thence North 03 degrees 38' East, 660 feet, more or less; thence North 01 degrees 35' West, 1994 feet, more or less, to the northerly line of said Government Lot One (1) and the terminus of this centerline; with said terminus being West 331 feet, more or less, from the northeast corner of said Section Two (2); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

1T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Thirty-five (35), Township Sixty-three (63) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across that parcel described in Book 34 of Instruments at page 543, Boundary County, Idaho records; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), said point being West 331 feet, more or less, from the Southeast corner of said Section Thirty-five (35); thence North 01 degrees 35' West, 32 feet, more or less; thence North 07 degrees 38' West, 356 feet, more or less, to the northerly line of said parcel described in Book 34 of Instruments at page 543 and terminus of this centerline; with said terminus being South 80 degrees West, 4.8 feet, more or less, from the northeasterly corner of said parcel; with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95;

3T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Thirty-five (35), Township Sixty-three (63) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across that parcel described in Book 45 of Instruments at page 527, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Southeasterly line of said parcel described in Book 45 of Instruments at page 527, said point being North 34 degrees 17' West, 847 feet, more or less, from the Southeast corner of said Section Thirty-five (35); thence North 18 degrees 36' West, 82 feet, more or less; thence North 24 degrees 47' West, 218 feet, more or less, to the Northeasterly projection of the southeasterly line of that parcel described in Book 21 of Instruments at page 24, records of Boundary County, Idaho and terminus of this centerline; with said terminus being North 31 degrees 22' West, 1142 feet, more or less, from the Southeast corner of said Section Thirty-five (35); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

5T63R1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Southeast Quarter of the Southeast Quarter (NW1/4 SE1/4) and the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) of Section Thirty-five (35) Township Sixty-three (63) North, Range One (1) East, B.M. Boundary County, Idaho, being over and across that parcel described in Book 30 of Deeds at page 23, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4), said point being West, 754 feet, more or less, from the southeast corner of said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4); thence North 24 degrees 47' West, 1065 feet, more or less; thence North 23 degrees 57' West, 370 feet, more or less; thence North 19 degrees 30' West, 7 feet , more or less, to the northerly line of said Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) and the terminus of this centerline; with said terminus being West, 22 feet, more or less, from the northeast corner of said Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

6T63NR1E

An easement created on the property described as:

A strip of land of 40 feet in width located in the Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) of Section Thirty-five (35), Township Sixty-three (63) North, Range One (1) East, B.M. Boundary County, Idaho, being over and across that parcel described in

Book 34 of Deeds at page 312, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4), said point being West, 22 feet, more or less, from the southeast corner of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4); thence North 19 degrees 30' West, 1391 feet, more or less, to the northerly line of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) and the terminus of this centerline; with said terminus being West, 487 feet, more or less, from the northeast corner of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

7T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Thirty-five (35), Township Sixty-three (63) North, Range One (1) East, B.M. Boundary County, Idaho, being over and across that parcel described in Book 27 of Deeds at pages 176 and 177, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4), said point being West 487 feet, more or less, from the southeast corner of the said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); thence North 19 degrees 30' West, 168 feet, more or less, thence North 31 degrees 18' West, 266 feet, more or less, to the northerly line of said parcel described in Book 27 of Instruments at page 176 and terminus of this centerline; with said terminus being South 35 degrees 04' East, 1131 feet, more or less, from the northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

8T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Thirty-five (35), Township Sixty-three (63) North, Range One (1) East, B.M. Boundary County, Idaho, being over and across that parcel described in Book 63 of Deeds at pages 469, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said parcel described in Book 63 of Instruments at page 469, said point being South 35 degrees 04' East, 1131 feet, more or less, from the northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); thence North 31 degrees 18' West, 139 feet, more or less; thence North 39 degrees 02' West, 400 feet, more or less; thence North 28 degrees 18' West, 133 feet, more or less, to the easterly projection of the northerly line of said parcel and terminus of this centerline; with said terminus being South 34 degrees 42' East, 462 feet, more or less, from the

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northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

9T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Thirty-five (35), Township Sixty-three (63) North, Range One (1) East, B.M. Boundary County, Idaho, being over and across that parcel described in Book 54 of Deeds at pages 321, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly projection of the southerly line of said parcel described in Book 54 of Instruments at page 321, said point being South 34 degrees 42' East, 462 feet, more or less, from the northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); thence North 28 degrees 18' West, 275 feet, more or less, to the easterly projection of the northerly line of said parcel and terminus of this centerline; with said terminus being South 43 degrees 55' East, 192 feet, more or less, more or less, from the northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

10T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Thirty-five (35), Township Sixty-three (63) North, Range One (1) East, B.M. Boundary County, Idaho, being over and across that parcel described in Book 48 of Deeds at pages 389, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly projection of the southerly line of said parcel described in Book 48 of Instruments at page 389, said point being South 43 degrees 55' East, 192 feet, more or less, from the northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); thence North 28 degrees 18' West, 157 feet, more or less, to the northerly line of said parcel and terminus of this centerline; with said terminus being east, 59 feet, more or less, from the northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

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11T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Twenty-six (26), Township Sixty-three (63) North, Range One (1) East, B.M. Boundary County, Idaho, being over and across that parcel described in Book 27 of Deeds at pages 473, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of said parcel described in Book 27 of Deeds at page 473, said point being North, 110 feet, more or less, from the southeast corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); thence North 28 degrees 18' West, 63 feet, more or less, to the northerly line of said parcel and terminus of this centerline; with said terminus being North 10 degrees 23' West, 168 feet, more or less, from the southeast corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

12T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Twenty-six (26), Township Sixty-three (63) North, Range One (1) East, B.M. Boundary County, Idaho, being over and across that parcel described in Book 52 of Deeds at pages 579, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said parcel described in Book 52 of Instruments at page 579, said point being North 10 degrees 23' West, 168 feet, more or less, from the southeast corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); thence North 28 degrees 18' West, 6 feet, more or less,; thence North 00 degrees 11' West, 1056 feet, more or less, to the northerly line of said parcel and terminus of this centerline; with said terminus being North 01 degrees 42' West, 1226 feet, more or less, from the southeast corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

13T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of the Northwest Quarter (SE1/4 NW1/4), the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4), and the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Twenty-six (26), Town Township Sixty-three (63) North, Range One (1) East, B.M. Boundary County, Idaho, being over and across that parcel described in Book 52 of instruments at pages 488

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and Book 14 of Instruments at page 516, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point of the southerly line of said parcel described in Book 52 of Instruments at page 488, said point being North 01 degrees 42' West, 1226 feet, more or less, from the southeast corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); thence North 00 degrees 11' West, 578 feet, more or less, to the northerly line of said parcel described in Book 14 of Instruments at page 516 and the terminus of this centerline; with said terminus being North 00 degrees 55' West, 3263 feet, more or less, from the southeast corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

15T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4), Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4), and the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Twenty-three (23), Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 18 of Instruments at page 113, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Section Twenty-three (23), said point being west 260 feet, more or less, from the southeast corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); thence North 23 degrees 12' West, 26 feet; thence North 32 degrees 59' West, 247 feet; thence North 41 degrees 44' West, 395 feet; thence North 51 degrees 55' West, 396 feet; thence North 52 degrees 53' West, 2076 feet, more or less, to the westerly line of said Section Twenty-three (23) and terminus of this centerline; with said terminus being north, 2047 feet, more or less, from the southwest corner of said Section Twenty-three (23); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip falling within the right of way of said U.S. Highway 95.

16T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast quarter of the Southeast Quarter (NE1/4 SE1/4) of Section Twenty-two (22) , Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 49 of Instruments at page 113, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of said Section Twenty-two (22), said point being South, 591 feet, more or less, from the northeast corner of said Northeast quarter of the Southeast Quarter (NE1/4 SE1/4); thence North 52 degrees 53' West, 448 feet, more or less, to the northern most corner of said parcel described in Book 49 of Instruments at page 113

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and the terminus of this centerline; with said terminus being South 48 degrees 09' West, 479 feet, more or less, from the northeast corner of said Northeast quarter of the Southeast Quarter (NE1/4 SE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip falling within the right of way of said U.S. Highway 95.

17T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast quarter of the Southeast Quarter (NE1/4 SE1/4) of Section Twenty-two (22) , Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 49 of Instruments at page 302, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point being the easternmost corner of said parcel described in Book 49 of Instruments at page 302, said point bears South 48 degrees 09' West, 479 feet, more or less, from the southeast corner of Northeast quarter of the Southeast Quarter (NE1/4 SE1/4); thence North 52 degrees 53' West, 530 feet, more or less, to the northerly line of said Northeast quarter of the Southeast Quarter (NE1/4 SE1/4) and the terminus of this centerline; with said terminus being East, 553 feet, more or less, from the northwest corner of said Northeast quarter of the Southeast Quarter (NE1/4 SE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip falling within the right of way of said U.S. Highway 95.

18T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4) of Section Twenty-two (22) , Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 22 of Instruments at page 488, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4), said point being North, 418 feet, more or less, from the southwest corner of said Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4), thence North 52 degrees 53' West, 693 feet, more or less, to the westerly line of said Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4) and the terminus of this centerline; with said terminus being North, 418 feet, more or less, from the southwest corner of said Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

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19T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) of Section Twenty-two (22) , Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 25 of Instruments at page 270, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4), said point being North 418 feet, more or less, from the southeast corner of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4); thence North 52 degrees 53' West, 1491 feet, more or less, to the northerly line of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) and the terminus of this centerline; with said terminus being East, 144 feet, more or less, from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4)); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

20T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Twenty-two (22) , Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 60 of Instruments at page 199, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4), said point being East, 144 feet, more or less, from the southwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); thence North 52 degrees 53' West, 180 feet, more or less, to the westerly line of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) and the terminus of this centerline; with said terminus being North, 109 feet, more or less, from the southwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

21T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4) of Section Twenty-two (22) , Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 34 of Instruments at page 353, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Easterly line of said Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4), said point being North, 109 feet, more of less, from the southeast corner of said Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4); thence North 52 degrees 53" West, 1671 feet, more or less, to the Westerly line of said Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4) and the terminus of this centerline, with said terminus being South, 201 feet, more or less, from the Northwest corner of said Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

22T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of Section Twenty-two (22) , Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 28 of Instruments at page 193, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of said Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4), said point being south, 201 feet, more or less, from the Northeast corner of said Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4); thence North 52 degrees 53' West, 333 feet, more or less, to the Northerly line of said Section Twenty-two (22) and the terminus of this centerline; with said terminus being East, 1067 feet, more or less, from the Northwest corner of said Section Twenty-two (22); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

23T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Fifteen (15), Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 3 of Instruments at page 418, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Section Fifteen (15), said point being East, 1067 feet, more or less, from the southwest corner of said Section Fifteen (15); thence North 52 degrees 53' West, 396 feet; thence North 51 degrees 26' West, 852' thence North 15 degrees 50' West, 366 feet, more or less, to the westerly line of said Section Fifteen (15) and the terminus of this centerline; with said terminus being North, 1123 feet, more or less, from the southwest corner of said Section Fifteen (15); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

24T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) and the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Sixteen (16), Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 35 of Instruments at page 206, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of said Section Sixteen (16), said point being North, 1123 feet, more or less, from the southeast corner of said Section Sixteen (16); thence North 15 degrees 50' West, 181 feet; thence North 00 degrees 37' West, 1342 feet, more or less, to the northerly line of said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) and the terminus of this centerline; with said terminus being West, 43 feet, more or less, from the northeast corner of said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

26T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) of Section Sixteen (16), Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 27 of Deeds at page 385, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4), said point being West, 44 feet, more or less, from the southeast corner of said Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4); thence North 00 degrees 37' West, 1333 feet, more or less, to the northerly line of said Section Sixteen (16) and terminus of this centerline; with said terminus being West, 44 feet, more or less, from the northeast corner of said Section Sixteen (16); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

27T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Nine (9), Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 27 of Deeds at page 516, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Southerly line of said Section Nine (9), said point being West, 44 feet, more or less, from the Southeast corner of said Section Nine (9); thence North 00 degrees 37' West , 15 feet; thence North 00 degrees 55' East, 1986 feet; thence North 02 degrees 05' West, 397 feet; thence North 14 degrees 36' West, 465; thence North 20 degrees 10' West, 1177 feet; thence North 46 degrees 38' West, 467 feet; thence North 43 degrees 58' West, 450 feet; thence North 36 degrees 33' West, 939 feet, more or less; to the Northerly line of said Section Nine (9) and terminus of this centerline; with said terminus being East, 962 feet, more or less, from the Northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); with said terminus being West, 44 feet, more or less, from the northeast corner of said Section Sixteen (16); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

28T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) and the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section four (4), Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 5 of Instruments at page 496, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning to a point on the southerly line of said Section Four (4), said point being East, 962, more or less, from the southwest corner of Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4); thence North 36 degrees 33' West, 1070 feet; thence North 01 degrees 02 East, 350 feet; thence North 09 degrees 02' East, 350 feet; thence North 09 degrees 02' East, 385 feet; thence North 12 degrees 09' East, 466 feet, more or less, to the easterly line of said parcel described in book 5 of Instruments at page 496 and terminus of this centerline; with said terminus being North 13 degrees 29' East, 2103 feet, more or less, from the southwest corner of said Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

29T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) of Section Four (4), Township Sixty-three (63) North, Range One (1), B.M., Boundary County, Idaho; being over and across that parcel described in Book 25 of Instruments at page 599, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Westerly line of said parcel described in Book 25 of Instruments at page 599, said point being North 13 degrees 29' East, 2103 feet, more or less, from the Southwest corner of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of said Section Four (4); thence North 12 degrees 09' East, 499 feet; thence North 15 degrees 53' East, 126 feet, more or less, to the Northerly line of said parcel and terminus of this

centerline; with said terminus being North 13 degrees 21' East, 2727 feet, more or less, from the southwest corner of said Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

31T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) of Section Four (4), Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho; being over and across that parcel described in Book 28 of Instruments at page 89, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Southerly line of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4), said point being North 13 degrees 21' East, 2727 feet, more or less, from the Southwest corner of the said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) of Section Four (4); thence North 15 degrees 53' East, 325 feet; thence North 55 degrees 07' East, 17 feet, more or less, to the Westerly limit of the U.S. Highway 95 right of way and terminus of this centerline; with said terminus being North 13 degrees 50' East, 3065 feet, more or less, from the Southwest corner of said Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries; and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

32T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) and the Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4) of Section Four (4), Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho; being over and across that parcel described in Book 2 of Instruments at page 432, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the westerly projection of the Northerly line of that parcel described in Book 32 of Instruments at page 308, said point being South 37 degrees 40' West, 2509 feet, more or less, from the Northeast corner of said Section Four (4); thence North 34 degrees 19' East, 22 feet; thence North 21 degrees 04' East, 515 feet; thence North 17 degrees 34' East, 168 feet, more or less to the Northerly line of said parcel described in Book 2 of Instruments at page 432, and terminus of this centerline; with said terminus being South 44 degrees 05' West, 1847 feet, more or less, from the Northeast corner of said Section Four (4); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

Rock Creek 1:

Right of way granted to Northern Lights by Edith (Robinson) Ciskowski, as recorded August 24, 1992, in Book 85 of Instruments, page 302, Instrument No. 167731, and recorded April 24, 1993, in book 89 of Instruments, page 187, Instrument No. 170072, records of Boundary County, Idaho.

Rock Creek 2:

Right of way granted to Northern Lights, Inc., by Carl L. Linnemeyer and Shirley Linnemeyer, husband and wife, as recorded December 21, 1992, in Book 87 of Instruments, page 111, Instrument No. 168749, records of Boundary County, Idaho.

Rock Creek 3:

Right of way easement granted to Northern Lights, Inc. by Edwin C. Darty and Patricia Darty, husband and wife, as recorded May 24, 1993, in Book 89 of Instruments, page 188, Instrument No. 170073, records of Boundary County, Idaho.

33T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in Government Lot One (1) of Section Four (4) Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho; being over and across that parcel described in Book 34 of Instruments at page 255, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Southerly line of said Government Lot One (1), said point being South 44 degrees 05' West, 1847 feet, more or less, from the Northeast corner of said Section Four (4); thence North 17 degrees 34' East, 1141 feet, more or less, to the Southerly line of that parcel described in Book 18 of Instruments at page 76 and the terminus of this centerline; with said terminus being South 75 degrees 43' West, 971 feet, more or less, from the Northeast corner of said Section Four (4); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

34T63NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in Government Lot One (1) of Section Four (4) Township Sixty-three (63) North, Range One (1) East, B.M., Boundary County, Idaho; being over and across that parcel described in Book 18 of Instruments at page 76, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Southerly line of said parcel described in Book 18 of Instruments at page 76, said point being South 75 degrees 43' West, 971 feet, more or less, from the Northeast corner of said Section Four (4); thence North 17 degrees 34' East, 251

Feet, more or less, to the Northerly line of said Section Four (4) and the terminus of this centerline; with said terminus being West, 865 feet, more or less, from the Northeast corner of said Section Four (4); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

2T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) and the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Twenty-eight (28), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho, being over and across that parcel described in Book 30 of Deeds at page 647, said strip being 20 feet each side of the following centerline:

Beginning at a point on the southerly line of said Section Twenty-eight (28), said point being West, 1248 feet, more or less, from the southeast corner of said Section Twenty-eight (28); thence North 09 degrees 31' West, 5 feet; thence North 09 degrees 17" West, 664 feet, more or less, to the northerly line of said parcel described in Book 30 of Deeds at page 647 and terminus of this centerline; with said terminus being North 64 degrees 12' West, 1506 feet, more or less; from the southeast corner of said Section Twenty-eight (28); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

4T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) of Section Twenty-eight (28), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho, being over and across that parcel described in Book 38 of Instruments at page 517, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said parcel described in Book 38 of Instruments at page 517, said point being North 46 degrees 13' West, 2038 feet, more or less, from the southeast corner of said Section Twenty-eight (28); thence North 08 degrees 14' West, 566 feet; thence North 05 degrees 58' West, 1 foot, more or less, to the northerly line of said parcel and terminus of this centerline; with said terminus being North 38 degrees 13' West, 2510 feet, more or less, from the southeast corner of Section Twenty-eight (28); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

5T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4), the Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) and the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Twenty-eight (28),

Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across that parcel described in Book 19 of Instruments at page 224, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Southerly line of said parcel described in Book 19 of Instruments at page 224, said point being North 38 degrees 13' West, 2510 feet, more or less, from the Southeast corner of said Section Twenty-eight (28); thence North 05 degrees 58' West, 1957 feet; thence North 16 degrees 38' West, 84 feet, more or less, to a point in the center of Brush Creek and terminus of this centerline; with said terminus being South 35 degrees 09' East 1567 feet, more or less, from the Northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

6T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Twenty-eight (28), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across that parcel described in Book 17 of Instruments at page 180, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point in the center of Brush Creek, being Westerly of the Southwesterly corner of that parcel described in Book 17 of Instruments at page 180, said point being South 35 degrees 09' East 1567 feet, more or less, from the Northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); thence North 16 degrees 38' West, 298 feet, more or less, to the Northerly line of said parcel and terminus of this centerline; with said terminus being South 39 degrees 22' East, 1288 feet, more or less, from the Northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

8T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) and the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) of Section Twenty-one (21), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across that parcel described in Book 3 of Instruments at page 352, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of the West Half of the Southwest Quarter of the Northwest Quarter (W1/2 SW1/4 NW1/4) of said Section Twenty-one (21), said point being South 27 degrees 09' East, 1447 feet, more or less, from the northeast corner of Section Twenty (20), Township Sixty-four (64) North, Range One (1) East, thence North 30 degrees 13' West, 211 feet; thence North 41 degrees 15 West, 341 feet; thence North 49 degrees 24' West, 291 feet; thence North 49 degrees 46' West, 141 feet, more or less, to the westerly line of said Section Twenty-one (21) and terminus of this centerline; with said terminus being South, 568 feet, more or less, from the northeast corner of said Section Twenty (20); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

9T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Northeast (NE1/4 NE1/4) of Section Twenty (20), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across that parcel described in Book 46 of Instruments at page 377, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at point on the easterly line of said Section Twenty (20), said point being south, 568 feet, more or less, from the northeast corner of said Section Twenty (20); thence North 49 degrees 46' West, 247 feet, more or less, to the northwesterly line of said parcel described in Book 46 of Instruments of page 377 and the terminus of this centerline; with said terminus being South 24 degrees 45' West, 450 feet, more or less, from the northeast corner of said Section Twenty (20); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

10T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Northeast (NE1/4 NE1/4) of Section Twenty (20), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across that parcel described in Book 30 of Instruments at page 274, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Northwesterly line of that parcel described in Book 46 of Instruments at page 377, said point being South 24 degrees 45' West, 450 feet, more or less, from the Northeast corner of said Section Twenty (20); thence North 49 degrees 46' West, 71 feet, more or less, to the Southeasterly line of the East most parcel described in Book 8 of Instruments at page 355 and terminus of this centerline; with said terminus being South 33 degrees 44' West, 436 feet, more or less, from the Northeast corner of said Section Twenty (20); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

11T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Northeast (NE1/4 NE1/4) of Section Twenty (20), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho; being over and across that parcel described in Book 8 of Instruments at page 355, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Southeasterly line of the Eastern most parcel described in Book 8 of Instruments at page 355, said point being South 33 degrees 44' West, 436 feet, more or less, from the Northeast corner of said Section Twenty (20); thence North 49 degrees 46' West, 562 feet; thence South 85 degrees 44' West, 166 feet; thence North 50 degrees 01' West, 19 feet, more or less, to the Northerly line of said Section Twenty (20) and terminus of this centerline; with said terminus being West, 851 feet, more or less, from the Northeast corner of said Section Twenty (20); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being with U.S. Highway 95 right of way.

12T64NR1E

A strip of land located in the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Seventeen (17), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho, over and across that parcel described in Book 23 of Instruments at page 426, records of Boundary County, Idaho, more particularly described as follows:

Beginning at a point on the South line of said Section Seventeen (17), said point being West, 640 feet, more or less, from the southeast corner of Section Seventeen (17); thence West, 32 feet to the northerly right of way line of U.S. Highway 95; thence North 49 degrees 46' West 31 feet along said right of way line; thence East, 32 feet, thence South 49 degrees 46' East, 31 feet, to the point of beginning.

AND ALSO a strip of land 40 feet in width, located in the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Seventeen (17), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho, over and across that parcel described in Book 23 of Instruments at page 426, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the northerly line of that parcel described in book 13 of Instruments at page 574, said point being North 79 degrees 01' West, 1128 feet, more or less, from the southeast corner of said Section Seventeen (17); thence North 50 degrees 01' West, 261 feet, more or less, to the westerly line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) and terminus of this centerline; with said terminus being North 73 degrees 41' West, 1363 feet, more or less, from the southeast corner of said Section Seventeen (17); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

13T64NR1E

An easement created on the property described as:

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A strip of land 40 feet in width located in the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Seventeen (17), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho, over and across that parcel described in Book 13 of Instruments at page 574, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Southerly line of said Section Seventeen (17), said point being West, 851 feet, more or less, from the Southeast corner of said Section Seventeen (17); thence North 50 degrees 01 West, 335 feet, more or less, to the Northerly line of said parcel described in Book 13 of Instruments at page 574 and the terminus of this centerline; with said terminus being North 79 degrees 01' West, 1128 feet, more or less, from the Southeast corner of said Section Seventeen (17); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

14T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Seventeen (17), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of said Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4), said point being North 73 degrees 41' West, 1363 feet, more or less, from the southeast corner of said Section Seventeen (17); thence North 50 degrees 01' West, 185 feet, thence North 47 degrees 11' West, 384 feet; thence North 40 degrees 29' West, 486 feet, more or less, to the southerly line of that parcel described in Book 53 of Instruments at page 241, and terminus of this centerline; with said terminus being North 61 degrees 03' West, 2339 feet, more or less, from the southeast corner of said Section Seventeen (17) with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

16T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) of Section Seventeen (17), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho, over and across that parcel described in Book 64 of Instruments at page 61, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Southerly line of said parcel described in Book 64 of Instruments at page 61, said point being North 59 degrees 26' West, 2530 feet, more or less,

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from the Southeast corner of said Section Seventeen (17); thence North 40 degrees 29' West, 769 feet, more or less, to the Westerly line of said parcel and terminus of this centerline, with said terminus being North 55 degrees 03' West, 3266 feet, more or less, from the Southeast corner of said Section Seventeen (17), with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

17T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4) and the South Half of the Southeast Quarter of the Northwest Quarter (S1/2 SE1/4 NW1/4) of Section Seventeen (17), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho, over and across that parcel described in Book 21 of Instruments at page 82, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of said Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4); said point being North 55 degrees 03' West, 3266 feet, more or less, from the Southeast corner of said Section Seventeen (17); thence North 40 degrees 29' West, 881 feet; thence North 33 degrees 08' West, 582 feet; thence North 42 degrees 38' West, 313 feet, more or less, to the Northerly line of said South Half of the Southeast Quarter of the Northwest Quarter (S1/2 SE1/4 NW1/4) and the terminus of this centerline; with said terminus being South 37 degrees 46' East, 2473 feet, more or less, from the Northwest corner of said Section Seventeen (17); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U. S. Highway 95 right of way.

18T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4) of Section Seventeen (17), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho, over and across that parcel described in Book 59 of Instruments at page 420, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southeasterly line of said parcel described in Book 59 of Instruments at page 420, said point being North 45 degrees 04' West, 3496 feet, more or less, from the southeast corner of said Section Seventeen (17), thence North 40 degrees 29' West, 209 feet, more or less, to the northeasterly projection of the northwesterly line of said parcel and terminus of this centerline; with said terminus being North 53 degrees 19' West, 3699 feet, more or less, from the southeast corner of said Section Seventeen (17); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U. S. Highway 95 right of way.

19T64NR1E

An easement created on the property described as:

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A strip of land 40 feet in width located in the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) and the North Half of the Southeast Quarter of the Northwest Quarter (N1/2 SE1/4 NW1/4) of Section Seventeen (17), Township Sixty-four (64) North, Range One (1) East, B.M. Boundary County, Idaho, over and across that parcel described in Book 33 of Instruments at page 421, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said North Half of the Southeast Quarter of the Northwest Quarter (N1/2 SE1/4 NW1/4); said point being South 37 degrees 46' East, 2473, more or less, from the northwest corner of said Section Seventeen (17); thence North 42 degrees 38' West, 368 feet; thence North 32 degrees 55'West, 329 feet; thence North 00 degrees 57' West, 1 foot, more or less, to the westerly right of way limit of State Highway No. 1 and terminus of this centerline; with said terminus being South 37 degrees 39' East, 1778 feet, more or less, from the northwest corner of said Section Seventeen (17) with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within that parcel described in Book 52 of Instruments at page 31 or within State Highway 1 right of way.

20T64NR1E:

An easement created on the property described as :

A strip of land 40 feet in width located in the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) and the North Half of the Southeast Quarter of the Northwest Quarter (N1/2 SE1/4 NW1/4) of Section Seventeen (17), Township Sixty-four (64) North Range one (1) East, B. M., Boundary County, Idaho, being over and across that parcel described in Book 52 of Instruments at page 31, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said North Half of the Southeast Quarter of the Northwest Quarter (N1/2 SE1/4 NW1/4), said point being South 37 degrees 46' East, 2473 feet, more or less, from the northwest corner of said Section Seventeen (17); thence North 42 degrees 38' West, 368 feet; thence North 32 degrees 55' West, 329 feet; thence 00 degrees 57'West, I foot, more or less, to the westerly right of way limit of State Highway No. 1 and terminus of this centerline; with said terminus being South 37 degrees 39' East, 1778 feet, more or less, from the northwest corner of said Section Seventeen (17); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within that parcel described in Book 33 of Instruments at page 421 or within State Highway No. 1 Right of Way.

21 T64NR1E:

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of Section Seventeen (17), Township sixty-four (64) North, Range one (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 67 of Instruments at Page 265, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the northeasterly right of way limit of State Highway No. 1 said point being South 43 degrees 44' East, 1565 feet, more or less, from the northwest corner of said Section Seventeen (17); thence North 00 degrees 57' West 26 feet; thence North 23 degrees 47' West, 328 feet; thence North 20degrees 26' West, 859 feet, more or less, to the northerly line of said Section Seventeen (17) and terminus of this centerline; with said terminus being East, 649 feet, more or less, from the northwest corner of said Section Seventeen (17); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within U.S. Highway 95 right of way.

22T64NR1E:

An easement created on the property described as:

A strip of land 40 feet in width located in the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Eight (8), Township Sixty-four (64) North, Range one (1) East, B.M., Boundary County, Idaho; being over and across that parcel described in Book 60 of Instruments at page 239, records of Boundary County, Idaho; said strip being 20 feet each side of the following centerline:

Beginning at a point on the southerly line of said Section Eight (8), said point being East, 649 feet, more of less, from the Southwest corner of said Section Eight (8); thence North 20 degrees 26' West, 1107 feet; thence North 20 degrees 44' West, 331 feet, more or less, to the Northerly line of said Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) and terminus of this centerline; with said terminus being North 06 degrees 10'East, 1355 feet, more or less, from the Southwest corner of said Section Eight (8); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

23T64NR1E

An easement created on the property described as::

A strip of land 40 feet in width located in the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Eight (8), Township Sixty-four (64) North, Range one (1) East, B.M., Boundary County, Idaho; being over and across those parcels described in Book 51 of Instruments at page 66, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4); said point being North 06 degrees 10' East, 1355 feet, more or less, from the Southwest corner of said Section Eight (8); thence North 20 degrees 44' West, 464 feet, more or less, to the Westerly line of said Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) and terminus of this centerline ; with said terminus being North 1781 feet, more or less, from the Southwest corner of said Section Eight (8); with sidelines of said stri0p to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way .

24T64R1E

An easement created on the property described as :

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A strip of land 40 feet in width located in the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) of Section Seven (7), Township Sixty-four (64) North, Range One (1), East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 64 of Instruments at page 372, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of said Section Seven (7) , said point being north, 1781 feet, more or less, from the southeast corner of said Section Seven (7); thence North 20 degrees 44' West , 724 feet, thence North 20 degrees 09' West, 202 feet, more or less, to the northerly line of said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) and terminus of this centerline; with said terminus being west, 317 feet, more or less, from the corner of said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4), with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

26T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) of Section Seven (7), Township Sixty-four (64) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 67 of Instruments at page 321, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4), said point being South 29 degrees 52'West, 1520 feet, more or less, from the northeast corner of said Section Seven (7); thence North 20 degrees 09' West 1404 feet, more or less, to the northerly line of said Section Seven (7) and terminus of this centerline; with said terminus being west, 1241 feet, more or less, from the northeast corner of said Section Seven (7); with sidelines of .said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

27T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the South Half of the Southeast Quarter (S1/2 SE1/4) of Section Six (6), Township Sixty-four North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 25 of instruments at page 13, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline;

Beginning at a point on the southerly line of Section Six (6), said point being west, 1241 feet, more or less, from the southeast corner of said Section Six (6) ; thence North 20 degrees 09' West; 266 feet, more or less, to the northerly line of said parcel described in Book 25 of

Instruments at page 13 and terminus of this centerline; with said terminus being North 79 degrees 23' West, 1356 feet, more or less, from the southeast corner of said Section Six (6); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip of land being within State Highway No. 1 right of way.

29T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Six (6), Township Sixty-four (64) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 34 of Deeds at Page 380, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the northerly line of the westernmost parcel described in Book 33 of Instruments at page 70, said point being North 64 degrees 57' West, 1633 feet, more or less, from the southeast corner of said Section Six (6); thence North 17 degrees 24' West, 655 feet, more or less, to the northerly line of said Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) and terminus of this centerline; with said terminus being North 51 degrees 51' West, 2131 feet, more or less, from the southeast corner of said Section Six (6); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

30T64NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) of Section Six (6), Township Sixty-four (64), Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 42 of Instruments at page 245, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4), said point being North 51 degrees 51' West, 2131 feet, more or less, from the southeast corner of said Section Six (6); thence North 17 degrees 24' West, 500 feet; thence North 19 degrees 37' West, 891 feet , more or less, to the northerly line of said Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) and terminus of this centerline; with said terminus being South 12 degrees 41' East 2698 feet, more or less, from the northwest corner of the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of said Section Six (6); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

31T64NR1E

An easement to be created on the property described as:

A strip of land 40 feet in width located in the Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) of Section Six (6), Township Sixty-four (64) North, Range One (1) East,

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B.M., Boundary County, Idaho; being over and across that parcel described in Book 54 of Instruments at page 208, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline::

Beginning at a point on the Southerly line of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4), said point being South 12 degrees 41' East, 2698 feet, more or less, from the Northwest corner of the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of said Section Six (6); thence North 19 degrees 37' West, 1397 feet, more or less, to the Northerly line of said Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

32T64NR1EW

An easement created on the property described as:

A strip of land 40 feet in width; located in Government Lots Two (2) and Three (3) of Section Six (6), Township Sixty-four (64) North, Range one (1) East, and the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Thirty-one (31), Township Sixty-five (65) North, Range One (1) East, B..M., Boundary County, Idaho, being over and across those parcels described in Book 2 of Estates at page 543 and Book 26 of Instruments at page160; Boundary County, Idaho, records; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Government Lot Two (2), said point being South 05 degrees 21' East, 1322 feet, more or less, from the quarter corner common to said Sections Six (6) and Thirty-one (31); thence North 19 degrees 37' West, 515 feet; thence North 20 degrees 50' West, 433 feet; thence North 19 degrees 41' West, 1515 feet; thence North 16 degrees 24' West, 82 feet more or less, to the southerly line of those parcels described in Book 36 of Instruments at page 296 and terminus of this centerline; with said terminus being North 34 degrees 21' West, 1306 feet, more or less, from said quarter corner; with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 Right of Way.

1T65NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4) and the Southeast Quarter of the Southwest Quarter (SE1/4 SW14/) of Section Thirty-one (31), Township Sixty-five (65) North, Range One (1) East, B..M., Boundary County, Idaho, being over and across those parcels described in Book 36 of Instruments at page 296; records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of the southern most parcel described in Book 36 of Instruments at page 296, said point being North 33 degrees 55' West, 1297 feet, more or less, from the southeast corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); thence North 19 degrees 28' West, 228 feet; thence North 31 degrees 52' West, 47 feet, more or less, to the northerly line of the northernmost parcel described in Book 36 of

Instruments at page 296 and the terminus of this centerline; with said terminus being North 31 degrees 47' West, 1565 feet, more or less, from the southeast corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW14/); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 Right of Way.

2T65NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4) of Section Thirty-one (31), Township Sixty-five (65) North, Range One (1) East B..M., Boundary County, Idaho, being over and across those parcels described in Book 28 of Instruments at page 184; records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the northerly line of the Northern most parcel described in Book 36 of Instruments at page 296, records of Boundary County, Idaho; said point being North 31 degrees 47' West, 1565 feet, more or less, from the South Quarter corner of said Section Thirty-one (31); thence North 31 degrees 52' West, 342 feet; thence North 40 degrees 44' West, 472 feet, more or less, to the Westerly line of said Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4) and terminus of this centerline; with said terminus being South 62 degrees 49' East, 1475 feet, more or less, from the West Quarter corner of said Section Thirty-one (31) with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 Right of Way.

3T65NR1E

An easement created on the property described as:

A strip of land 40 feet in width located in Government Lot Three (3) of Section Thirty-one (31), Township Sixty-five (65) North, Range One (1) East, B.M., Boundary County, Idaho; being over and across those parcels described in Book 63 of Instruments at page 241, records of Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the Easterly line of said Government Lot Three (3), said point being South 62°49' East, 1475 feet, more or less, from the Northwest corner of said Government Lot Three (3); thence North 40°44' West, 889 feet, more or less, to the Northerly line of said Government Lot Three (3) and terminus of this centerline; with said terminus being East 732 feet, more or less, from the Northwest corner of said Government Lot Three (3), with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way or within County Road right of way.

4T65NR1E

An easement to be created on the property described as:

A strip of land 40 feet in width located in Government Lot Two (2) of Section Thirty-one (31), Township Sixty-five (65) North, Range One (1) East, B.M., Boundary County, Idaho, being over and across that parcel described in Book 43 of Instruments at page 343, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Government Lot Two (2), said point being East, 732 feet, more or less, from the southwest corner of said Government Lot Two (2); thence North 40°44' West, 461 feet, more or less, to the southerly projection of the westerly line of said parcel described in Book 43 of Instruments at page 343 and terminus of this centerline; with said terminus being North 51°03' East, 555 feet, more or less, from the southwest corner of said Government Lot Two (2); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

5T65N1E

An easement created on the property described as:

A strip of land 40 feet in width located in Government Lot Two (2) of Section Thirty-one (31), Township Sixty-five (65) North, Range One (1) East, and in the Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4) of Section Thirty-six (36) Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, being over and across that parcel described in Book 66 of Instruments at page 157, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly projection of the easterly line of the eastmost parcel described in Book 66 of Instruments at page 157, said point being North 51°03' East, 555 feet, more or less, from the southwest corner of said Government Lot Two (2); thence North 40°44' West, 884 feet, more or less, to the northwesterly line of the westmost parcel described in book 66 of Instruments at page 157 and terminus of this centerline; with said terminus being North 08°07' West, 1029 feet, more or less, from the southwest corner of said Government Lot Two (2); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

1T65NR1W

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4) of Section Thirty-six (36), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, being over and across that parcel described in Book 65 of Instruments at page 171, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said parcel described in Book 65 of Instruments at page 171, said point being North 08 degrees 07' West, 1029, more or less, from the southeast corner of said Southeast quarter of the Northeast Quarter (SE1/4 NE1/4) of Section Thirty-six (36); thence North 40 degrees 44' West, 393 feet, more or less, to the northerly line of said Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4) and terminus of this centerline; with said terminus being North 16 degrees 58' West, 1377 feet, more or less, from the southeast corner of said Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

2T65NR1W

An easement created on the property described as:

A strip of land 40 feet in width located in the Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) of Section Thirty-six (36), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, being over and across that parcel described in Book 59 of Instruments at page 482, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4), said point being North 16 degrees 58' West, 1377 feet, more or less, from the east quarter corner of said Section Thirty-six (36); thence North 40°44' West, 490 feet; thence North 47 degrees 23' West, 303 feet; thence North 59 degrees 40' West, 407 feet; thence North 65 degrees 27' West, 26 feet, more or less, to the westerly line of said Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) and terminus of this centerline; with said terminus being South 68 degrees 19' East, 1420 feet, more or less, from the north quarter corner of said Section Thirty-six (36); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

3T65NR1W

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Thirty-six (36), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, being over and across that parcel described in Book 59 of Instruments at page 483, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4), said point being South 68 degrees 19' East, 1420 feet, more or less, from the northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); thence North 65 degrees 27' West, 408 feet, more or less, to the southwesterly projection of the southeasterly line of that parcel described in Book 65 of Instruments at page 477 and terminus of this centerline; with said terminus being South 69 degrees 29' East, 1013 feet, more or less, from the northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); with sidelines of said strip to be extended or shortened

to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

4T65NR1W

An easement created on the property described as:

A strip of land 40 feet in width located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Thirty-six (36), Township Sixty-five, Range One (1) West, B.M., Boundary County, Idaho, being over and across that parcel described in Book 65 of instruments at page 477, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southwesterly projection of the southeasterly line of said parcel described in Book 65 of Instruments at page 477, said point being South 69 degrees 29' East, 1013 feet, more or less, from the northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); thence North 65 degrees 27' West, 854 feet, more or less, to the northerly line of said Section Thirty-six (36) and terminus of this centerline; with said terminus being East, 172 feet, more or less, from the northwest corner of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

5T65NR1W

An easement created on the property described as:

A strip of land 40 feet in width located in the Southwest quarter of the Southwest Quarter of the Southeast Quarter (SW1/4 SW1/4 SE1/4) of Section Twenty-five (25), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, being over and across Parcel I described in Book 60 of Instruments at page 442, records of Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Section-Twenty -five (25), said point being East, 172 feet, more or less, from the south quarter corner of said Section Twenty-five (25); thence North 65 degrees 27'West, 189 feet, more or less, to the westerly line of said Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW1/4 SW1/4 SE1/4) and terminus of this centerline; with said terminus being North 78 feet, more or less, from the south quarter corner of said Section Twenty-five (25); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

AND ALSO a strip of land 40 feet in width located in the Southeast Quarter of the Southwest Quarter SE1/4 SW1/4) of Section Twenty-five (25), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, being over and across Parcel II as described in Book 60 of Instruments at page 442, records Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4), said point being North 78 feet, more or less, from the south quarter corner of said Section Twenty-five (25); thence North 65 degrees 27' West, 174 feet; thence

North 62 degrees 57' West, 382 feet, more or less, to the westerly line of that parcel described in Book 21 of Instruments at page 207 and terminus of this centerline; with said terminus being North 56 degrees 56' West, 595 feet, more or less, from the south quarter corner of said Section Twenty-five (25); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way or within that parcel described in Book 21 of Instruments at page 207.

6T65NR1W

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Twenty-five (25), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, being over and across that parcel described in Book 21 of Instruments at page 442, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the Easterly line of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4), said point being North 78 feet, more or less, from the south quarter corner of said Section Twenty-five (25); thence North 65 degrees 27' West 174 feet; thence North 62 degrees 57' West 382 feet, more or less, to the westerly line of said parcel described in Book 21 of Instruments at page 207, and terminus of this centerline; with said terminus being North 56 degrees 56' West 595 feet, more or less, from the south quarter of said Section Twenty-five (25); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way or within that parcel II described in Book 60 of Instruments at page 442.

7T65NR1W

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Twenty-five (25), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, being over and across that parcel described in Book 32 of Instruments at page 215, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the easterly line of said parcel described in Book 32 of Instruments at page 215, said point being North 56 degrees 56' West 595 feet, more or less, from the southeast corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); thence North 62 degrees 57' West 458 feet; thence North 50 degrees 00' West, 231 feet, more or less, to the northerly line of said parcel and terminus of this centerline; with said terminus being North 57 degrees 50' West 1280 feet, more or less, from the southeast corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); with sidelines of said strip to be extended or shortened to intersect adjacent boundaries; excepting from said strip any land being within State Highway No. 1 right of way.

12T65NR1W

An easement created on the property described as:

A strip of land 40 feet in width located in the Southeast Quarter of the Southeast Quarter SE1/4 SE1/4) of Section Twenty-three (23), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, being over and across that parcel described in Book 35 of Instruments at page 546, records of Boundary County, Idaho; said strip being 20 feet each side of the following described centerline:

Beginning at a point on the southerly line of said Section Twenty-three (23); said point being West, 383 feet, more or less, from the southeast corner of said Section Twenty-three (23); thence North 18 degrees 27' West 52 feet to the terminus of this centerline; with said terminus being North 82 degrees 45' West 390 feet, more or less, from the southeast corner of said Section Twenty-three (23); with sidelines of said strip to be extended or shortened to intersect the southerly line of said Section Twenty-three (23); excepting from said strip any land being within State Highway No. 1 right of way or within County Road right of way.

13T65NR1W:

An easement created on the property described as:

A strip of land 40 feet in width in the Southeast Quarter (SE1/4) and the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Twenty-three (23), Township Sixty-five North, Range One (1) West, B.M., Boundary County, Idaho, , more particularly described as follows:

The south 40 feet of said Section Twenty-three (23) from the westerly right of way of Idaho State Highway No. 1 to the west line of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of said Section Twenty-three (23).

4 (14T65NR1W):

An easement created on the property described as:

A strip of land 40 feet in width in the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Twenty-three (23), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho; more particularly described as follows:

The south 40 feet of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of said Section Twenty-three (23).

AND ALSO all that portion of a strip of land 24 feet in width falling in the Southeast Quarter of Section Twenty-two (22), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho; said strip being 12 feet on each side of the following described centerline:

Beginning at a point on the east line of the Southeast Quarter (SE1/4) of said Section Twenty-two (22), which is 12 feet North of the southeast corner of said Southeast Quarter

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(SE1/4); thence North 89 degrees 37'20" West on a course parallel to and 12 feet offset from the south line of said Southeast Quarter (SE1/4) 12.16 feet; thence South 61 degrees 21'39" West 376.31 feet; thence North 64 degrees 18'04" West, 398.74 feet, more or less, to the south line of said Southeast Quarter (SE1/4); thence North 89 degrees 37'20" West, along and on the south line of said Southeast Quarter (SE1/4) 1957.62 feet, more or less, to the southwest corner of said Quarter, with the sidelines of said strip being extended or shortened to intersect adjacent boundaries, plus additional for anchors and guys.

15T65NR1W:

A strip of land 40 feet in width through the East Half of the Southwest Quarter (E1/2 SW1/4) of Section Twenty-two (22), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho; more particularly described as the South 40 feet of the East Half of the Southwest Quarter (E1/2 SW1/4) of said Section Twenty-two (22).

16T65NR1W:

An easement created on the property described as:

A strip of land 40 feet in width through the West Half of the Southwest Quarter (W1/2 SW1/4) of Section Twenty-two (22), and the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Twenty-one (21) lying east of the abandoned Kootenai Valley Railroad centerline, all in Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, said strip being 20 feet each side of the following described centerline:

Beginning at a point on the east line of the West Half of the Southwest Quarter (W1/4 SW1/4) of said Section Twenty-two (22), which is 20 feet north of the southeast corner of the West Half of the Southwest Quarter (W1/2 SW1/4); thence North 89 degrees 37'20" West, parallel to the south line of the West Half of the Southwest Quarter (W1/2 SW1/4) 1330 feet, more or less, to the east line of said Section (20 feet north of the southeast corner of the Section); thence North 89 degrees 13''32" West, parallel to the south line of the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of said Section Twenty-one (21) 467.98 feet to the centerline of the abandoned Kootenai valley Railroad and the terminus of this centerline; with sidelines to be extended or shortened to intersect adjacent boundaries.

NOTE: That portion in the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Twenty-one (21), Township Sixty-five (65) North, Range One (1) West, B.M., is covered in Report No. 9.

HOUCK:

An easement created on the property described as:

All that portion of a strip of land 24 feet in width falling in the Northeast Quarter (NE1/4) of Section Twenty-seven (27), Township Sixty-five (65) North, Range One (1) West, B.M.,

Boundary County, Idaho, said strip being 12 feet on each side of the following described centerline:

Beginning at a point on the east line of the Northeast Quarter (NE1/4) of said Section Twenty-seven (27) which is 12 feet north of the northeast corner of said Quarter; thence North 8 degrees °37'20" West on a course parallel to and 12 feet offset from the north line of said Quarter, 12.16 feet; thence South 61 degrees 21'39" West 376.31 feet; thence North 64 degrees 18'04" West, 398.74 feet, more or less, to the north line of said Quarter; thence North 89 degrees 37'20" West along and on the north line of said Quarter, 1957.62 feet, more or less, to the northwest corner of said Quarter, with the sidelines of said strip being extended or shortened to intersect adjacent boundaries. Plus additional for anchors and guys.

17T65NR1W

An easement created on the property described as:

A strip of land 40 feet in width located in the South Half of the Southeast Quarter (S1/2 SE1/4) and the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Twenty-one (21), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, said strip being 20 feet each side of the abandoned Kootenai Valley Railroad and more particularly described as follows:

Beginning at a point on the south line of said Section Twenty-one (21) which is North 89 degrees 13'32" West, 445.05 feet from the southeast corner of said Section; North 48 degrees 26'27" West along the abandoned railroad centerline, 668.28 feet; thence on a curve to the left having a central angle of 24 degrees 41'12", with a radius of 2909.78 feet, for a distance of 882.86 feet; thence North 73 degrees 07'39" West, 1724.92 feet; thence, leaving the railroad centerline, South 35 degrees 12'21" West, 536.84 feet to the center of the crossdike between Drainage Districts #6 and #8, and the terminus of this centerline; with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

18T65NR1W

An easement created on the property described as:

A strip of land 40 feet in width in the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Twenty-one (21), Township Sixty-five (65) North, Range (1) West, B.M., Boundary County, Idaho, said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the west line of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) which is North 0 degrees 47'58" East 431.54 feet from the southwest corner of said Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4); thence North 38 degrees 12''58" East 491.37 feet; thence North 35 degrees 12'21" East, 47.92 feet to the center of the crossdike between Drainage Districts #6 and #8, and the terminus of this centerline; with the sidelines to be extended or shortened to intersect the boundaries of the adjacent properties.

19T65NR1W:

An easement created on the property described as:

A strip of land 40 feet in width located in the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Twenty-one (21), Government Lot One (1) of Section Twenty-eight (28) and Government Lot One (1) of Section Twenty-nine (29), all in Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the east line of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of said Section Twenty-one (21) which is North 0 degrees 47'58" East, 431.54 feet from the southeast corner of said Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4); thence South 38 degrees 12'58" West 56.39 feet; thence South 73 degrees 23'47" West, 380.71 feet; thence South 54 degrees 36'59" West, 137.38 feet; thence South 50 degrees 40'25" West, 163.63 feet; thence South 41 degrees 53'08" West, 1067.99 feet; thence South 41 degrees 22'16" West, 47.05 feet to the right bank of the Kootenai River and the terminus of this centerline; with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

20T65NR1W:

An easement created on the property described as:

A strip of land 40 feet in width located in Government Lots Two (2), Three (3), and Five (5) of Section Twenty-nine (29), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the west line of said Section Twenty-nine (29) which is South 0 degrees 08'57" East, 1547.00 feet from the northwest corner of the said Section; thence North 58 degrees 13'26" East, 596.47 feet to a point; thence North 62 degrees 28'30" East, 765.90 feet to a point; thence North 64 degrees 59'27" East, 351.96 feet to a point; thence North 70 degrees 17'58" East, 356.34 feet to a point; thence North 75 degrees 42'38" East, 703.25 feet to a point; thence North 84 degrees 27'30" East, 963.40 feet to a point; thence South 59 degrees 45'32" East, 1627.06 feet to a point; thence North 41 degrees 23'14" East, 87.80 feet to a point on the left bank of the Kootenai River and the terminus of this centerline; said point being South 18 degrees 27'57" West, 1167.08 feet from the northeast corner of Section Twenty-nine (29); with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

21T65NR1W:

An easement created on the property described as:

A strip of land 40 feet in width through Government Lots Five (5), Six (6), Seven (7) and Eight (8) of Section Thirty (30), Township sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the east line of said Section thirty (30) which is South 0 degrees 08'57" East, 1547.00 feet from the northeast corner of Section thirty (30); thence South 58 degrees 13'26" West, 761.86 feet to a point; thence South 73 degrees 06'12" West, 948.82 feet to a point; thence South 78 degrees 35'32" West, 232.56 feet, to a point; thence South 88 degrees 43'19" West, 354.05 feet to a point; thence North 86 degrees 22'10" West, 379.60 feet to a point; thence North 70 degrees 51'39" West, 555.55 feet to a point; thence North 59 degrees 43'45" West, 752.43 feet to a point; thence North 61 degrees 29'07' West, 1158.14 feet to a point; thence North 60 degrees 16'34" West, 307.60 feet to a point; thence North 62 degrees 57'24" West, 145.75 feet to the west line of said Section Thirty (30) and the terminus of the centerline; with the sidelines to be extended or shortened to intersect adjacent boundaries and said terminus being South 0 degrees 01'47" West 923.40 feet from the northwest corner of Section Thirty (30).

22T65NR1W:

An easement created on the property described as:

A strip of land 40 feet in width through Government Lot Two (2) and the Northwest Quarter of the Northeast quarter (NW1/4 NE1/4) of Section Twenty-five (25), Township Sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the east line of said Section twenty-five (25) which is South 00 degrees 01' 47" West, 923.40 feet from the northeast corner of said Section; thence North 62 degrees 57'24" West, 132.39 feet to a point; thence North 47 degrees 11'34" West, 758.65 feet to a point; thence North 40 degrees 53'12" West, 436.14 feet to a point; thence North 89 degrees 52'40" West, parallel to the north line of said Section, 1675.60 feet, more or less, to the west line of the Northeast Quarter (NE1/4) of Section Twenty-five (25) and the terminus of this centerline, with said centerline being South 20 feet, more or less, from the north quarter corner of said Section Twenty-five (25), with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

VICKARYOUS:

An easement created on the property described as:

A strip of land 40 feet in width through Government Lot Nine (9) of Section Twenty-four (24), Township sixty-five (65) North, Range One (1) West, B.M., Boundary County, Idaho, said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the south line of said Section Twenty-four (24) which is North 89 degrees 52'40" West, 980.44 feet from the southeast corner of said Section; thence North 46 degrees 19'14" West, 258.59 feet; thence South 89 degrees 17'46" West, 1468.70 feet, more or less, to a point on the west line of Government Lot Nine (9) and the terminus of this centerline; said point being North 157.00 feet, more or less, from the south quarter corner of said Section Twenty-four (24), with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

23T65NR2W:

An easement created on the property described as:

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A strip of land 40 feet in width through the Northwest Quarter (NW1/4) of Section Twenty-five (25), the Southwest Quarter (SW1/4) of Section Twenty-four (24), and the Southeast quarter (SE1/4) Section Twenty-three (23), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho, said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the east line of the Northwest Quarter (NW1/4) of said Section Twenty-five (25) which is South 20 feet, more or less, from the north quarter corner of said Section; thence North 89 degrees 52'40" West parallel to the north line of said Section, 20.00 feet to a point; thence North 00 degrees 01'47" East 20.00 feet to a point on the north line of said Section; thence continuing North 00 degrees 01'47" East, 156.73 feet to a point; thence South 89 degrees 17'46" West, 1223.59 feet to a point; thence South 85 degrees 38'30" West, 1397.00 feet, more or less, to a point on the west line of Section Twenty-four (24) which is North 30.00 feet, more or less, from the southwest corner of said Section Twenty-four (24); thence South 89 degrees 22'16" West, 1571.24 feet to a point; thence South 86 degrees 26'51" West, 413.70 feet to a point on the south line of Section Twenty-three (23), which is North 89 degrees 37'58" East, 643.12 feet from the south quarter corner of said Section Twenty-three (23) and the terminus of this centerline; with the sidelines of said strip being extended or shortened to intersect adjacent boundaries.

24T65NR2W:

An easement created on the property described as:

An easement 100 feet in width for an electrical transmission line through the North Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho, said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the north line of said Section Twenty-six (26) which is North 89 degrees 37'58" East, 643.23 feet from the northwest corner of the Northwest quarter of the Northeast Quarter (NW1/4 NE1/4); thence South 00 degrees 26'19" West, 1135.84 feet to the north boundary of the Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) of said Section Twenty-six (26), with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

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RESOLUTION

WHEREAS, Eugene Water & Electric Board ("EWEB") has entered various Agreements with Smith Falls Hydropower, an Idaho general partnership ("Smith Falls"), the developer of the Smith Creek Hydroelectric Project ("Project") that entitles EWEB to purchase the output of the Project;

WHEREAS, Westinghouse Credit Corporation and Westinghouse Electric Corporation ("Westinghouse") owned interests in the assets of the Project ("Westinghouse Interests"); and

WHEREAS, EWEB designated Smith Falls as its designee for transfer of the Westinghouse Interests and Westinghouse transferred the Westinghouse Interests to Smith Falls; and

WHEREAS, EWEB, Hydro-Flow, Inc. and Smith Falls entered into further agreements whereby EWEB could change the transferee of the Westinghouse Interests and upon such designation by EWEB, Smith Falls agreed to transfer Westinghouse Interests to the new transferee; and

WHEREAS, EWEB, Smith Falls and Hydro-Flow, Inc. entered into further agreements, whereby Smith Falls and Hydro Flow agreed upon notice, together with a payment of $120,000, to convey all of Smith Falls interest and all of Hydro-Flow's interest in the Project to EWEB; and

WHEREAS, EWEB now wishes to exercise its right to designate itself as the transferee for the Westinghouse Interests and to require Smith Falls and Hydro-Flow to transfer their respective interests in the Project to EWEB.

NOW, THEREFORE, BE IT HEREBY RESOLVED:

1. The General Manager is hereby authorized to advise Smith Falls that EWEB designates itself as the transferee of the Westinghouse Interests;

2. The General Manager is hereby authorized to advise Smith Falls and Hydro-Flow, Inc. that EWEB is exercising EWEB's option to acquire their respective interests in the Project;

3. The General Manager is further authorized and directed to take all appropriate and necessary actions to transfer all interests in the Project to EWEB;

4. Before the General Manager acts hereunder, the General Manager shall receive a legal opinion from Special Counsel which is adequate to authorize the transactions entered into;

5. The authorizations and directions stated herein shall be in addition to those previous authorizations of the Board concerning the Smith Falls Hydroelectric Project.

DATED this 21st day of March, 2000.



THE CITY OF EUGENE, OREGON
Acting by and through the
Eugene Water & Electric Board

Vice President

I, KRISTA K. HINCE, the duly appointed, qualified and acting Assistant Secretary to the Eugene Water & Electric Board, do hereby certify that the above is a true and exact copy of the Resolution adopted by the Board at its March 21, 2000 Regular Board Meeting.

Assistant Secretary

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

August 28, 2002

CITY OF EUGENE
EUGENE WATER & ELECTRIC BRD
500 E 4TH AVE
EUGENE OR 97440

RE: Change of Ownership for Water Rights 98-7612 and 98-7650

Dear Water Right Holder(s):

The department acknowledges receipt of correspondence changing ownership of the above referenced water rights to you. The department has modified its records to reflect the changes in ownership and has enclosed computer-generated reports for your records.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

Please feel free to contact this office if you have any questions regarding this matter.

Sincerely,

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

MICROFILMED
DEC 3 2002

RECEIVED
NOV - 5 2001
Department of Water Resources

CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP

ATTORNEYS AT LAW
SUITE 2000
1001 SW FIFTH AVENUE
PORTLAND, OREGON 97204-1136

TELEPHONE (503) 224-3092
FACSIMILE (503) 224-3176

RECEIVED
NOV 02 2001
IDWR/North

JAMES E. BENEDICT
email address: jbenedic@chbh.com

October 30, 2001

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Receipt No. 7000 0520 0022 7137 0781

Idaho Department of Water Resources
Northern Region
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814-2615

Re: Notice of Change in Water Right Ownership
Eugene Water & Electric Board/Smith Falls Project
Our File No. 22200.048

Dear Sir/Madam:

Enclosed for filing on behalf of the Eugene Water & Electric Board ("EWEB") is the Notice of Change in Water Right Ownership form for the State of Idaho Department of Water Resources, together with the following documentation requested with this filing:

1. Our firm's check in the amount of $50 (filing fee);

2. Warranty Deed between Smith Falls Hydropower (Grantor) and EWEB (Grantee) dated May 2, 2001;

3. Resolution (Consent to Purchase by EWEB); and

4. Survey Map.

Very truly yours,

James E. Benedict

JEB/rls
Enclosures

cc: Ray Chacko (IDWR form only)
Jay L'Estrange, EWEB (IDWR form only)

SCANNED
NOV 05 2001

C:\My Documents\JEB\22200\048\LTR.IDWR.0001.doc

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 98-07612

Priority: April 12, 1985

Maximum Diversion Rate: 300.00 CFS
Maximum Diversion Volume: 216810.0 AF

This is to certify, that SMITH FALLS HYDROPOWER
HCR 60 BOX 251
PORTHILL ID 83853 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 12, 1985; and has submitted Proof of Beneficial Use on June 18, 1991. An examination indicates that the works have a diversion capacity of 370.000 cfs of water from:

SMITH CREEK tributary to **KOOTENAI RIVER**

source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
POWER	01/01 to 12/31	300.00 CFS	216810.0 AF

LOCATION OF POINT(S) OF DIVERSION: SENE , Sec. 1, Township 64N, Range 03W
BOUNDARY County

PLACE OF USE: POWER

TWN	RGE	SEC	
65N	02W	26	NWNE

CONDITIONS OF APPROVAL AND REMARKS

1. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
2. Use of water under this right shall be non-consumptive.
3. Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.
4. 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.
5. The Director retains jurisdiction of this right to require continuous measurement & recording of the bypass flow rate and periodic reporting of the measurements to the department.
6. Water used under this right shall be discharged into the natural channel upstream from Smith Creek Falls.

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State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 98-07612

CONDITIONS OF APPROVAL AND REMARKS

7. A minimum flow of 27 cfs, measured immediately below the point of diversion, shall be left in the natural channel of Smith Creek at all times that the hydropower project is operating. All water shall be left in the natural channel of Smith Creek at any time the hydropower project is not operating.
8. The Director retains jurisdiction to revise the bypass flow for maintenance of fish, wildlife, riparian and aquatic habitat.
9. The diversion and use of water for hydropower purposes under this license is subject to review by the Director after the date of expiration of license 8436-001 issued by the Federal Energy Regulatory Commission. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.

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 administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Signed and sealed this 30th day of NOVEMBER, 1978.

Acting for KARL J. DREHER, Director

MICROFILMED
MAY 1 1 2005

WATER RIGHT SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT CFS
Original Application	98-7612	Idaho Natural Energy, Inc.	300
Full Assignment	98-7612	Smith Falls Hydropower	300

RECEIVED
AUG 09 1991

Form 217
07/90

RECEIVED
JUN 18 1991
Department of Water Resources

For Office Use Only
Amt. of Fee $ 60.00
Date 6/18/91
Receipt No. 020879
Received by [illegible]

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 98-07612 Telephone No. (208) 267-2744 (801) 363-6111

2. Name(s) of Permit Holder(s): Smith Falls Hydropower

3. Post Office Address: HCR 60, Box 251, Porthill, Idaho 83853
699 E. South Temple, #220, Salt Lake City, Utah 84102

4. Source of Water: Smith Creek

a. If ground water, well driller's name: N/A Date drilled: _____

b. Pump horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use:

Domestic _____ (No. of households) Irrigation _____ (No. of acres)

Stockwater _____ (No. and type of stock) Other Hydroelectric Power Production

6. Total rate and/or volume for which proof is submitted 300 cfs _____ acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? X Yes ___ No Installed? ___ Yes ___ No

OR

Flow Measurement Port: Required? X Yes ___ No Installed? ___ Yes ___ No

8. Fee Enclosed: $ _____ (See License Examination Fee Schedule)

9. Person to contact to accompany the Department representative during the field examination:

Patrick M. Murphy, Plant Operator (208) 267-2744
Name Telephone No.

HCR 60, Box 251 Porthill, Idaho 83853
Address

10. The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

June 14, 1991 [signature] President AUG 09 1991
Date Signature (and title if on behalf of a company or organization)

State of Idaho
Department of Water Resources

ASSIGNMENT OF PERMIT

I, Idaho Natural Energy, Inc. hereby assign to Smith Falls Hydropower

of 550 Linden Drive, Idaho Falls, Idaho 83401
(address)

(Select A or B)

A. X All my right, title and interest in and to Permit # 98-7612 to appropriate the public waters of the State of Idaho. See Attached. 300 cfs

B. ___ The following described portion of my right, title, and interest in and to

Permit# _____ to appropriate the public waters of the State of Idaho.

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

Made this 12th day of May, 1989.

Idaho Natural Energy, INc. , David B. Van Otten, Pres
Permit Holder

Spouse of Permit Holder

State of ~~Idaho~~ Utah)
) ss.
County of Salt Lake)

On this 12th day of May, 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.

Notary Public residing at Salt Lake City, Utah

seal

My commission expires:
4-2-91

AUG 09 1991

Form 202
3/78

Ident. No. 98-7612

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 Idaho Natural Energy, Inc. Phone (208) 734-0559

   Post office address 834 Falls Avenue Twin Falls Idaho 83301

2. Source of water supply Smith Creek which is a tributary of Kootenai River

3. Location of point of diversion is ____ ¼ of ____ ¼ of Section SEE BELOW unsurveyed Township 65N 64N

   Range 3 W B.M. Boundary unsurveyed County, additional points of diversion if any: None T64N, R3W, SE¼NE¼ Sec.1 Per telephone conversation with Jeff Burt, Pres. Ida. Nat. Energy, Inc.

4. Water will be used for the following purposes:

   Amount 300 CFS (cfs ~~or acre-feet per annum~~) for Hydroelectric Power Generation purposes from January 1 to December 31 (both dates inclusive)

   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)

   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)

   Amount ____ (cfs or acre-feet per annum) for ____ purposes from ____ to ____ (both dates inclusive)

5. Total quantity to be appropriated:

   a. ____ 300 cubic feet per second and/or b. ____ acre-feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. A concrete diversion structure approximately 8 feet high and 75 feet wide will be placed in Smith Creek at an approximate elevation of 3450 mean sea level. (See page A-4 of Lecense Application

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

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

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

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 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: NW ¼ of NE ¼ of Section 26 Township 65 N

      Range 2 W B.M.

      (2) Amount of power to be generated: 40,926 horsepower under 1,440 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 ____.

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

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JUL 29 1988

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes as described above. _____

NONE

9. a. Who owns the property at the point of diversion U.S. Forest Service

b. Who owns the land to be irrigated or place of use F. C. Mead

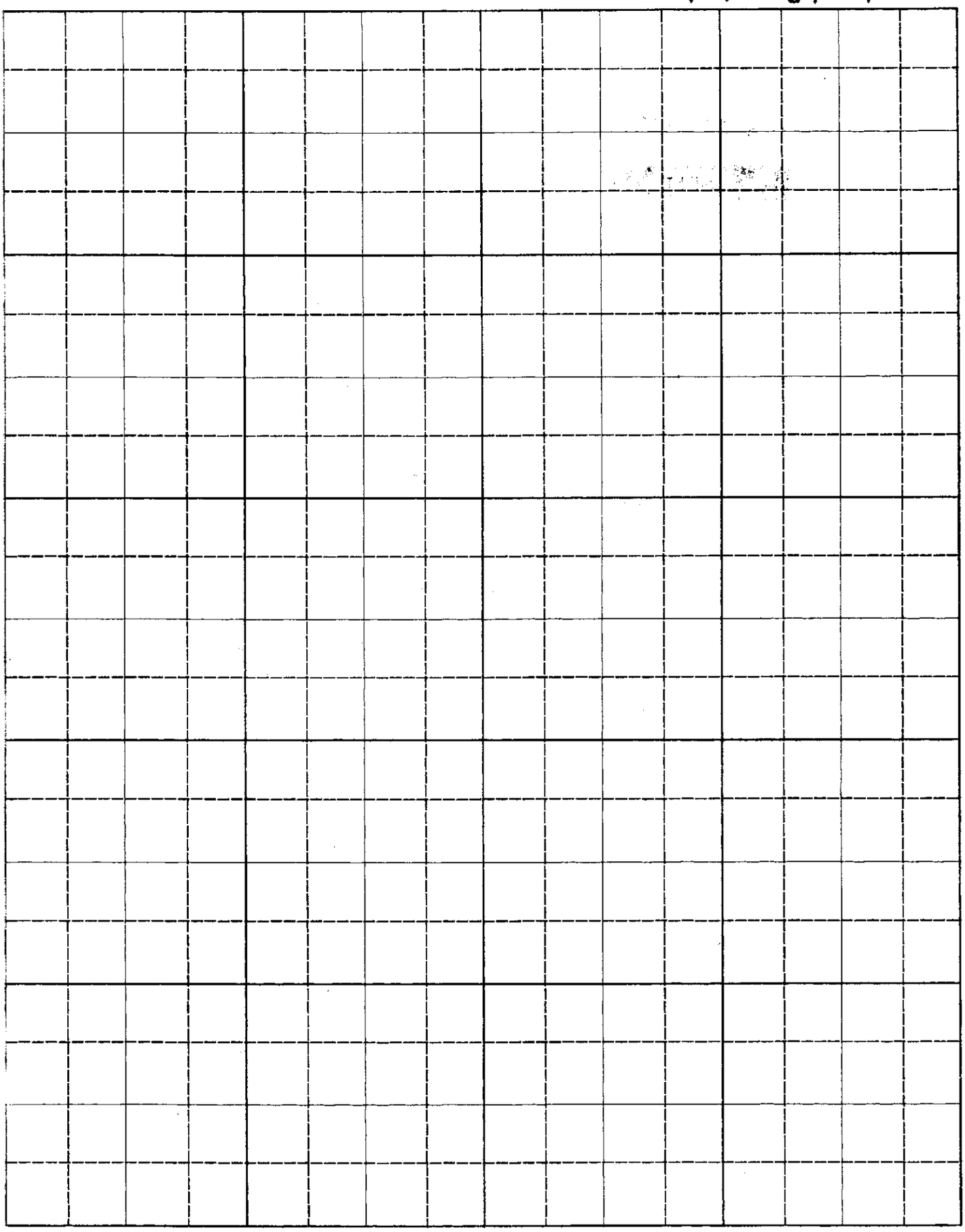
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Application for a special use permit has been made by the applicant to secure the necessary rights of way from the Forest Service for this project. An agreement has been made with F.C. Mead for the needed right-of-way on his property.

10. Remarks As part of the F.E.R.C. Licensing Process, the applicant is in the process of completing an in stream flow study to determine a minimum bypass flow to be left in the stream at all times. This study is being conducted in conjuction with the Idaho Fish & Game and the U.S. Forest Service to insure that the wildlife, environment, and integrity of the stream are protected. Although the applicant has requested the use of 300 CFS for the entire year, the estimated average annual mean of water to be used is 102 CFS. This estimate is calculated using estimated monthly flows shown on page B-12 of the Licence Application, less an estimated 10 CFS for a minimum bypass flow.

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JUL 29 1988

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

See Licence Application (Description A10-A12 MAP 6-1)



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.

RECEIVED
JUL 29 1988

By:

Idaho Natural Energy, Inc.

(Applicant)

Dee J. Burrie

Proposed Publication 4/12/85

Received by RWA Date 4/12/85 Time 1:30 PM

Preliminary check by RWA Fee $ 2225.00

Receipted by RWA Date 4/12/85 # 31751

Publication prepared by KK Date 4/18/85

Published in Boise Statesman / Idaho Statesman / Post Register / Lewiston Tribune / Times News / Herald / Twin Falls Times-News / Idaho Falls Post Register / Idaho Falls Register / Pocatello Idaho State Journal / Blackfoot Morning News / Gem State Progress / Idaho Press Tribune / Nampa Idaho Press-Tribune / Caldwell Canyon County Times / Weiser American / Payette Independent / Emmett Messenger-Index / Gooding Leader / Jerome Journal / Twin Falls Herald / Burley South Idaho Press / Rupert Minidoka County News / Rexburg Standard Journal / Preston Citizen / Soda Springs Chief / Montpelier Examiner / Bonners Ferry Herald / St. Maries Gazette-Record / Kellogg Shoshone News-Press / Coeur d'Alene Press / Lewiston Morning Tribune / Moscow-Pullman Daily News

Publication dates 4/25 & 5/2/85 // 10/4-11/8/87 ~~11/15-20/87~~

Publication approved mr Date 1/26/88

Protests filed by: John Doe - 5/6/85 withdrawn 7/15/87

U.S. Forest Service - 5/13/85 withdrawn 7/6/87

Copies of protests forwarded by mm 5/14/85

Hearing held by BDF Date 7/15/87

Recommended for (approval) denial by RWA tw

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. 98-7612, 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 93.

   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: SEE ATTACHED SHEET FOR CONDITIONS d thru o.

Witness my hand this 15TH day of March, 1988.

R. Keith Higginson
Director

MICROFILMED
JUL 29 1988

ATTACHMENT TO CONDITIONS OF APPROVAL
For Permit No. 98-7612

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

e. Prior to diverting water for the project, the permit holder shall install measuring devices acceptable to the Director on the diversion to the hydropower plant and on the bypass reach. The Director retains jurisdiction of the permit to revise this condition to require continuous measurement and recording of the bypass flow rate and periodic reporting of the measurements to the department.

f. 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.

g. Water used under this permit shall be discharged into the natural channel upstream from Smith Creek Falls and shall meet Idaho Water Quality Standards.

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

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

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

k. Use of water under this permit shall be non-consumptive.

l. A separate stream alteration permit from the IDWR is required for any activity in the stream channel other than construction and/or maintenance of the diversion structure. If your proposed construction or operation involves construction of an outfall or any other work in the stream channel other than a water diversion, you must contact the Department and obtain a Stream Channel Alteration permit prior to the start of construction.

m. The adequacy of the project design to protect public and employee safety during all phases of construction and operation of the project shall be reviewed and certified by a professional engineer licensed to practice in the state of Idaho.

n. A minimum flow of 27 cfs measured immediately below the point of diversion shall be left in the natural channel of Smith Creek at all times that the hydropower project is operating. All water shall be left in the natural channel of Smith Creek at any time the hydropower project is not operating.

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JUL 29 1988

o. Prior to operation of the hydropower facility, the permit holder shall provide an operation plan to the department for review and approval. The operation plan shall provide for the protection of public safety and insure an uninterrupted flow of water over Smith Creek Falls during changes of operation of the hydropower facility.

Witness my hand this 16TH day of MARCH, 1988.

Director

MICROFILMED
JUL 29 1988

Form 205/206
7/81

Ident. No. 98-7612

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

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

1. Individual Applicant or Individual Members of a Partnership:

I, _____ (name) of _____ (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, Dee J. Burrie (name) of Twin Falls (city),

County of Twin Falls, State of Idaho, being duly sworn, depose and say: That I am the designated registered agent of the Idaho Natural Energy, 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 Twin Falls (city) Idaho, wherein are kept the corporate records required by Section 30-1-52, Idaho Code: and that Idaho Natural Energy, Inc. (name of corporation) is a corporation qualified to do business in the State of Idaho under the laws of the State of Idaho.

B. 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)

[X] 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.

Idaho Natural Energy, Inc.

By: _____
Applicant Dee J. Burrie

State of Idaho)
County of Twin Falls) ss.

On this 2nd day of October, 1984, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

_____
Notary Public residing at
Twin Falls Idaho

Seal

My commission expires:
Nov. 4 - 1984

MICROFILMED
JUL 29 1988

The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707

LEGAL ADVERTISING INVOICE

Amount Due
144.62

Account Name	Account Number
ID Water Resources, Northern Region	#100631

Address	City/State	Zip
4055 Government Way	Coeur d'Alene, ID	83814

Ordered By	P.O. Number	Rate	Run Dates
Patricia Stypa		nt	1986 Dec. 4, 11

Identification	Estimated Inches	Real Inches
Application No. 82-7097 et al		

Legal Number
#3904

1 Number of Affidavits Requested

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

82-7097
Battle Ridge Land & Timber Co.
622 W. Main St.
Grangeville, ID 83530
Source: Clearwater River South Fork tributary to Clearwater River
Date Filed: 06/01/1982
Amount: 400.00 CFS
Diversion Pt: SWSW Sec. 36 T 30N R 03E SWSW Sec. 30 T 30N R 04E, Idaho Co.
Use: Power (400.00 CFS) from 01/01/ to 12/31
Place of Use: SWNE Sec. 30 T 30N R 04E NWNW Sec. 36 T 30N R 03E
Diversion Means: Wing Dam, Pipeline and Generating Facilities

82-7143
Baldwin, Daniel A.
P.O. Box 211
Elk City, ID 83525
Source: Twentymile Creek trib. to Clearwater River, South Fork
Date Filed: 10/29/1984
Diversion Pt.: SENW Sec. 07 T 28N R06 E
Use: Power (20.00 CFS) In: SWNE Sec. 06 T 28N R 06E

83-7065
Hy-Tech Co.
P.O. Box 1305
Lewiston, ID 83501
Source: Bull Run Creek tributary to Elk Creek
Date Filed: 12/02/1982
Amount: 56.00 CFS
Diversion Pt.: NESW Sec. 10 T 39N R 02E, Clearwater Co.
Use: Power (56.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec. 22 T 39N R 02E
Diversion Means: Concrete Diversion Structure

83-7080
Beaver Creek Hydro Inc.
P.O. Box 1016
Lewiston, ID 83501
Source: Beaver Creek trib. to Clearwater River, North Fork
Date Filed: 12/02/1983
Diversion Pt.: NWNW Sec. 24 T 40N R 06E
Use: Power (130.00 CFS)
IN: SENE Sec. 06 T 40N R 07E

83-7081
Golden Hydro Partnership
Greer, Michael C.
1212 Tamarack
Moscow, ID 83843
Source: Clearwater River, North Fork trib. to Clearwater River
Date Filed: 03/14/1985
Diversion Pt.: SWNE Sec. 15 T 39N R 07E
Use: Power (750.00 CFS)
Use: Power (1500.00 CFS)
IN: SENE Sec. 06 T 40N R 07E

91-7096
Marble Creek Hydro, Inc.
P.O. Box 1016
Lewiston, ID 83501
Source: Marble Creek trib. to Saint Joe River
Date Filed: 12/02/1983
Diversion Pt.: SWNW Sec. 25 T 45N R 03E
Use: Power (305.00 CFS)
IN: SWSE Sec. 24 T 45N R 03E

92-7172
St. Maries River Hydro Inc.
P.O. Box 1016
Lewiston, ID 83501
Source: Saint Maries River trib. to Saint Joe River
Date Filed: 12/02/1983
Diversion Pt.: NWSE Sec. 34 T 44N R 02W
Use: Power (490.00 CFS)
In: NWNW Sec. 34 T 44N R 02W

96-9388
Van Stone, Dale
Denton Rd.
P.O. Box 305
Hope, ID 83836
Source: Riser Creek trib. to Pend Oreille Lake
Date Filed: 01/27/1984
Diversion Pt.: NESW Sec. 31 T 57N R 02E
Use: Power (15.00 CFS)
In: NESE Sec. 01 T 56N R 01E

96-8412
Lapham, Joseph G.
2910 W. Oden Bay Rd.
Sandpoint, ID 83864
Source: Trapper Creek trib. to Rapid Lightning Creek
Date Filed: 08/27/1984
Diversion Pt.: NENE Sec. 08 T 58N R 02E
Use: Power (20.00 CFS)
In: NENE Sec. 08 T 58N R 02E

98-7612
Idaho Natural Energy, Inc.
834 Falls Ave.
Twin Falls, ID 83301
Source: Smith Creek trib. to Kootenai River
Date Filed: 04/12/1985
Diversion Pt.: SENE Sec. 01 T 64N R 03W
Use: Power (300.00 CFS)
In: NWNE Sec. 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 4055 Government Way, Suite 9, Coeur d'Alene, ID 83814 on, or before, December 22, 1986.

KEN DUNN
Director

Pub. Dec. 4, 11, 1986 3904

RECEIVED
DEC 1986
Department of Water Resources
Northern District Office

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Laura Gay Barnes, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for Two (2) ☒ consecutive weekly ☐ consecutive daily ☐ single ☐ odd skip insertion(s) beginning with the issue of December 4, 19 86 and ending with the issue of December 11, 19 86

Laura Gay Barnes

Subscribed and sworn to before me this 11th day of December, 19 86

MICROFILMED
JUL 29 1988

Notary Public for Idaho, Residing at Boise, Idaho

LEGAL NOTICE LEGAL NOTICE

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

82-7097
BATTLE RIDGE LAND & TIMBER CO.
622 W. MAIN ST., GRANGEVILLE, ID 83530
Source: CLEARWATER RIVER, SOUTH FORK tributary to CLEARWATER RIVER
Date Filed: 06/01/1982
Amount: 400.00 CFS
Diversion Point:SWSW Sec 36 T 30N R 03E SWSW Sec 30 T30N R 04E, IDAHO CO.
Use: POWER (400.00CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 30 T 30N R 04E NWNW Sec 36 T 30N R 03E Diversion Means: WING DAM, PIPELINE AND GENERATING FACILITIES.

82-7143
BALDWIN, DANIEL A.
P.O. Box 211, ELK CITY, ID 83525
Source: TWENTYMILE CREEK tributary to CLEARWATER RIVER, SOUTH FORK
Date filed: 10/29/1984
Diversion Point: SESW Sec 07 T28N R 06E
Use: POWER (20.00 CFS)
In: SWNE Sec 06 T 28N R 06E

83-7065
HY-TECH CO.
P.O. Box 1305, LEWISTON, ID 83501
Source: BULL RUN CREEK tributary to ELK CREEK
Date Filed: 12/02/1982
Amount: 56.00 CFS
Diversion Point: NESW Sec 10 T 39 N R 02E, CLEARWATER CO.
Use: POWER (56.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 22 T 39N R 02E
Diversion Means: CONCRETE DIVERSION STRUCTURE.

83-7080
BEAVER CREEK HYDRO INC.
P.O. Box 1016, LEWISTON, ID 83501
Source: BEAVER CREEK tributary to CLEARWATER RIVER, NORTH FORK
Date Filed: 12/02/1983
Diversion Point: NWNW Sec 24 T 40N R 06E
Use: POWER (130.00 CFS)
In: SENE Sec 06 T 40N R 07E

83-7081
GOLDEN HYDRO PARTNERSHIP
GREER, MICHAEL C.
1212 TAMARACK, MOSCOW, ID 83843
Source: CLEARWATER RIVER, NORTH FORK tributary to CLEARWATER RIVER
Date Filed: 03/14/1985
Diversion Point:SWNE Sec 15 T 39N 07E
Use: POWER (750.00 CFS)
POWER (1500.00 CFS)
In: SENE Sec 06 T 40N R 07E

91-7096
MARBLE CREEK HYDRO INC.
P.O. Box 1016, LEWISTON, ID 83501
Source: MARBLE CREEK tributary to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Point: SWNW Sec 25 T 45N R 03E
Use: POWER (305.00 CFS)
In: SWSE Sec 24 T 45N R 03E

92-7172
ST. MARIES RIVER HYDRO INC.
P.O. Box 1016 LEWISTON, ID 83501
Source: SAINT MARIES RIVER tributary to SAINT JOE RIVER
Date Filed: 12/02/983
Diversion Point: NWSE Sec 34 T 44N R 02W
Use: POWER (490.00 CFS)
In: NWNW Sec 34 T 44N R 02W

Affidavit of Publication

No 16939

STATE OF IDAHO, }
COUNTY OF TWIN FALLS }

I, Sandra Epps Tyson being first duly sworn upon oath, depose and say that I am Legal Clerk of the TIMES-NEWS published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for Two consecutive Weeks, commencing with the issue dated December 4, 1986, and ending with the issue dated December 11, 1986.

And I do further certify that said newspaper is a consolidation, effective February 16 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

Sandra Epps Tyson

Subscribed and sworn to before me on this 11 day of December 1986.

Notary Public in and for the County of Twin Falls, State of Idaho, residing at Twin Falls, Idaho

96-8388
VAN STONE, DALE
DENTON RD., P.O. Box 305, HOPE, ID 83836
Source: RISER CREEK tributary to PEND OREILLE LAKE
Date Filed: 01/27/1984
Diversion Point: NESW Sec 31 T 57N R 02E
Use: POWER (15.00 CFS)
In: NESE Sec 01 T 58N R 01E

96-8412
LAPHAM, JOSEPH G.
2910 W. ODEN BAY RD., SANDPOINT, ID 83864
Source: TRAPPER CREEK tributary to RAPID LIGHTNING CREEK
Date Filed: 08/27/1984
Diversion Point: NENE Sec 08 T 58N R 02E
Use: POWER (20.00 CFS)
In: NENE Sec 08 T 58N R 02E

98-7612
IDAHO NATURAL ENERGY, INC.
834 FALLS AVE., TWIN FALLS, ID 83301
Source: SMITH CREEK tributary to KOOTENAI RIVER
Date Filed:04/12/1985
Diversion Point: SENE Sec 01 T 64N R 03W
Use: POWER (300.00 CFS)
In: NWNE Sec 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 4055 Government Way, Suite 9, Coeur d'Alene, Idaho 83814 on or before DECEMBER 22, 1986.

KENN DUNN, Director

PUBLISH: Thursday, December 4 and 11, 1986.

MICROFILMED
JUL 2 9 1988

TRIBUNE PUBLISHING COMPANY, INC.
The Lewiston Morning Tribune
505 C St., P.O. Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 121186 INVOICE No. L0094CC6

Account No. 96475

Description 94CC6NOTIC

LEGAL ADVERTISING
INVOICE

Times 2 Lines 141

Tab Lines

SOLD TO: STATE OF IDAHO
DEPT. OF WATER RESOURCES
STATEHOUSE
COEURDALENE
ID 83814

$ 125.38

NOTICE:This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.

94006

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

82-7097
BATTLE RIDGE LAND & TIMBER CO
622 W. MAIN ST., GRANGEVILLE, ID 83530
Source: CLEARWATER RIVER, SOUTH FORK tributary to CLEARWATER RIVER
Date Filed: 06/01/1982
Amount: 400.00 CFS
Diversion Point: SWSW Sec 36 T 30N R 03E SWSW Sec 30 T 30N R 04E, IDAHO Co.
Use: POWER (400.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 30 T 30N R 04E NWNW Sec 36 T 30N R 03E
Diversion Means: WING DAM, PIPELINE AND GENERATING FACILITIES.

82-7143
BALDWIN, DANIEL A.
P.O. BOX 211, ELK CITY, ID 83525
Source: TWENTYMILE CREEK trib. to CLEARWATER RIVER, SOUTH FORK
Date Filed: 10/29/1984
Diversion Pt: SENW Sec 07 T 28N R 06E
Use: POWER (20.00 CFS)
In: SWNE Sec 06 T 28N R 06E

83-7065
TECH CO.
BOX 1305, LEWISTON, ID
: BULL RUN CREEK trib- to ELK CREEK
Filed: 12/02/1982
ant: 56.00 CFS
ersion Point: NESW Sec 10 T 39N E, CLEARWATER Co.
se: POWER (56.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 22 T 39N R 02E
Diversion Means: CONCRETE DIVERSION STRUCTURE.

83-7080
BEAVER CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: BEAVER CREEK trib. to CLEARWATER RIVER, NORTH FORK
Date Filed: 12/02/1983
Diversion Pt: NWNW Sec 24 T 40N R 06E
Use: POWER (130.00 CFS)
In: SENE Sec 06 T 40N R 07E

83-7081
GOLDEN HYDRO PARTNERSHIP
GREER, MICHAEL C.
1212 TAMARACK, MOSCOW, ID 83843
Source: CLEARWATER RIVER, NORTH FORK trib. to CLEARWATER RIVER
Date Filed: 03/14/1985
Diversion Pt: SWNE Sec 15 T 39N R 07E
Use: POWER (750.00 CFS)
POWER (1500.00 CFS)
In: SENE Sec 06 T 40N R 07E

91-7096
MARBLE CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: MARBLE CREEK trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt: SWNW Sec 25 T 45N R 03E
Use: POWER (305.00 CFS)
In: SWSE Sec 24 T 45N R 03E

92-7172
ST. MARIES RIVER HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: SAINT MARIES RIVER trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt: NWSE Sec 34 T 44N R 02W
Use: POWER (490.00 CFS)
In: NWNW Sec 34 T 44N R 02W

96-8388
VAN STONE, DALE
DENTON RD., P.O. BOX 305, HOPE, ID 83836
Source: RISER CREEK trib. to PEND OREILLE LAKE
Date Filed: 01/27/1984
Diversion Pt: NESW Sec 31 T 57N R 02E
Use: POWER (15.00 CFS)
In: NESE Sec 01 T 56N R 01E

96-8412
LAPHAM, JOSEPH G.
2910 W. ODEN BAY RD., SANDPOINT, ID 83864
Source: TRAPPER CREEK trib. to RAPID LIGHTNING CREEK
Date Filed: 08/27/1984
Diversion Pt: NENE Sec 08 T 58N R 02E
Use: POWER (20.00 CFS)
In: NENE Sec 08 T 58N R 02E

98-7612
IDAHO NATURAL ENERGY, INC.
834 FALLS AVE., TWIN FALLS, ID 83301
Source: SMITH CREEK trib. to KOOTENAI RIVER
Date Filed: 04/12/1985
Diversion Pt: SENE Sec 01 T 64N R 03W
Use: POWER (300.00 CFS)
In: NWNE Sec 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 4055 Government Way, Suite 9, Coeur d'Alene, Idaho 83814 on or before DECEMBER 22, 1986.

KEN DUNN, Dir.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

J. L. Blackwell, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established paper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the

NOTICE OF APPLICATION FOR

attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 120486, or once a WEEK for 2 consecutive WEEKS, the first publication thereof being on the 120486, and the last publication thereof being on the 121186, and said NOTICE OF APPLICATION FOR

was so published in the regular and entire issue of said newspaper and not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

J. L. Blackwell

SUBSCRIBED AND SWORN BEFORE ME THIS THE 17 day of December 1986

Notary Public in and for the State of Idaho, residing at Lewiston, therein.

Proof of Publication

The Post-Register

State of Idaho,
County of Bonneville } ss

I, ..Ted .Delezene....., first being duly sworn, depose and say: That I am the .....Foreman..... of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for ..two..... consecutive weeks, first publication having been made on the .....4th..... day of ....December....., 1986.., last publication having been made on the ...11th..... day of ....December....., 19.86.., and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

.....Jodi Brady.....

Subscribed and sworn to before me, this ..16th.. day of ..December....., 19.86..

.....Deon L. Posey.....
Notary Public

My commission expires ..September 30,....., 19.88..

B10

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

82-7097
BARTLE RIDGE LAND & TIMBER CO.
628 W. MAIN ST., GRANGEVILLE, ID 83530
Source: CLEARWATER RIVER, SOUTH FORK tributary to CLEARWATER RIVER
Date Filed: 06/01/1982
Amount: 400.00 CFS
Diversion Point: SWSW Sec 36 T 30N R 03E
SWSW Sec 30 T 30N R 04E, IDAHO Cty.
Use: POWER (400.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 30 T 30N R 04E
NWNW Sec 36 T 30N R 03E
Diversion Means: WING DAM, PIPELINE AND GENERATING FACILITIES.

82-7143
BALDWIN, DANIEL A.
P.O. BOX 211, ELK CITY, ID 83525
Source: TWENTYMILE CREEK trib. to CLEARWATER RIVER, SOUTH FORK
Date Filed: 10/29/1984
Diversion Pt.: SENW Sec 07 T 28N R 06E
Use: POWER (20.00 CFS)
In: SWNE Sec 06 T 28N R 06E

83-7065
HY-TECH CO.
P.O. BOX 1305 LEWISTON, ID 83501
Source: BULL RUN CREEK tributary to ELK CREEK
Date Filed: 12/02/1982
Amount: 56.00 CFS
Diversion Point: NESW Sec 10 T 39N R 02E, CLEARWATER Cty.
Use: POWER (56.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 22 T 39N R 02E
Diversion Means: CONCRETE DIVERSION STRUCTURE.

83-7080
BEAVER CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, IDAHO 83501
Source: BEAVER CREEK trib. to CLEARWATER RIVER, NORTH FORK
Date Filed: 12/02/1983
Diversion Pt.: NWNW Sec 24 T 40N R 06E
Use: POWER (130.00 CFS)
In: SENE Sec 06 T 40N R 07E

83-7081
GOLDEN HYDRO PARTNERSHIP
GREER, MICHAEL C.
1212 TAMARACK, MOSCOW, ID 83843
Source: CLEARWATER RIVER, NORTH FORK trib. to CLEARWATER RIVER
Date Filed: 03/14/1985
Diversion Pt.: SWNE Sec 15 T 39N R 07E
Use: POWER (750.00 CFS); POWER (1500.00 CFS)
In: SENE Sec 06 T 40N R 07E

91-7096
MARBLE CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: MARBLE CREEK trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt.: SWNW Sec 25 T 45N R 03E
Use: POWER (305.00 CFS)
In: SWSE Sec 24 T 45N R 03E

92-7172
ST. MARIES RIVER HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: SAINT MARIES RIVER trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt.: NWSE Sec 34 T 44N R 02W
Use: POWER (490.00 CFS)
In: NWNW Sec 34 T 44N R 02W

96-9388
VAN STONE, DALE
DENTON RD., P.O. BOX 305, HOPE, ID 83836
Source: RISER CREEK trib. to PEND OREILLE LAKE
Date Filed: 01/27/1984
Diversion Pt.: NESW Sec 31 T 57N R 02E
Use: POWER (15.00 CFS)
In: NESE Sec 01 T 56N R 01E

96-8412
LAPHAM, JOSEPH G.
2910 W. ODEN BAY RD., SANDPOINT, ID 83864
Source: TRAPPER CREEK trib. to RAPID LIGHTING CREEK
Date Filed: 08/27/1984
Diversion Pt.: NENE Sec 08 T 58N R 02E
Use: POWER (20.00 CFS)
In: NENE Sec 08 T 58N R 02E

98-7612
IDAHO NATURAL ENERGY, INC.
834 FALLS AVE., TWIN FALLS, ID. 83301
Source: SMITH CREEK trib. to KOOTENAI RIVER
Date Filed: 04/12/1985
Diversion Pt.: SENE Sec 01 T 64N R 03W
Use: POWER (300.00 CFS)
In: NWNE Sec 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Department of Water Resources, 4055 Government Way, Suite 9, Coeur d'Alene, Idaho 83814 on or before DECEMBER 22, 1986.

KEN DUNN, Director

Published: December 4, 11, 1986

12/23/86

RECEIVED
DEC 29
Department of Water Resources
Northern District Office

The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707

LEGAL ADVERTISING INVOICE

Amount Due
82.52

Account Name	Account Number
ID Dept. of Water Resources, Northern Region	#100631

Address	City/State	Zip
4055 Government Way	Coeur d'Alene, ID	83814

Ordered By	P.O. Number	Rate	Run Dates
Pat Stypa		nt	1986 Nov. 13 ~~20~~ run once

Identification	Estimated Inches	Real Inches
Application No. 82-7097 et al		

Legal Number #3707

CANCELLED

1 Number of Affidavits Requested

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

83-7081
Golden Hydro Partnership
Greer, Michael C.
1212 Tamarack
Moscow, ID 83843
Source: Clearwater River, North Fork trib. to Clearwater River
Date Filed: 03/14/1985
Diversion Point: SWNE Sec. 15 T 39N R 07E
Use: Power (750.00 CFS)
Use: Power (1500.00 CFS)
In: SENE Sec. 06 T 40N R 07E

91-7095
Marble Creek Hydro Inc.
P.O. Box 1016
Lewiston, ID 83501
Source: Marble Creek trib. to Saint Joe River
Date Filed: 12/02/1983
Diversion Point: SWNW Sec. 25 T 45N R 03E
Use: Power (305.00 CFS)
In: SWSE Sec. 24 T 45N R 03E

92-7172
St. Maries River Hydro Inc.
P.O. Box 1016
Lewiston, ID 83501
Source: Saint Maries River trib. to Saint Joe River
Date Filed: 12/02/1983
Diversion Point: NWSE Sec. 34 T 44N R 02W
Use: Power (490.00 CFS)
In: NWNW Sec. 34 T 44N R 02W

96-8388
Van Stone, Dale
Denton Rd.
P.O. Box 305
Hope, ID 83836
Source: Riser Creek trib. to Pend Oreille Lake
Date Filed: 01/27/1984
Diversion Point: NESW Sec. 31 T 57N R 02E
Use: Power (15.00 CFS)
In: NESE Sec. 01 T 56N R 01E

96-8412
Lapham, Joseph G.
2910 W. Oden Bay Rd.
Sandpoint, ID 83864
Source: Trapper Creek trib. to Rapid Lightning Creek
Date Filed: 08/27/1984
Diversion Point: NENE Sec. 08 T 58N R 02E
Use: Power (20.00 CFS)
In: NENE Sec. 08 T 58N R 02E

98-7612
Idaho Natural Energy, Inc.
834 Falls Ave.
Twin Falls, ID 83301
Source: Smith Creek trib. to Kootenai River
Date Filed: 04/12/1985
Diversion Point: SENE Sec. 01 T 64N R 03W
Use: Power (330.00 CFS)
In: NWNE Sec. 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 4055 Government Way, Suite 9, Coeur d'ALene, Idaho 83814, on or before December 1, 1986.

KEN DUNN
Director

Pub. Nov. 13, 20, 1986 3707

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Laura Gay Barnes, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for One (1) consecutive weekly ☐ consecutive daily ☒ single ☐ odd skip insertion(s) beginning with the issue of November 13, 1986 and ending with the issue of November 13, 1986

Laura Gay Barnes

Subscribed and sworn to before me this 14th day of November, 1986

Connie Blackburn

Notary Public for Idaho, Residing at Boise, Idaho

RECEIVED
JUL 2 9 1988

only advertised once

TRIBUNE PUBLISHING COMPANY, INC.
The Lewiston Morning Tribune
505 C St., P.O. Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 111386 INVOICE No. L00092368

Account No. 96475

Description 9226&NOTIC

LEGAL ADVERTISING
INVOICE

Times 1 Lines 150

Tab Lines

SOLD TO: STATE OF IDAHO
DEPT. OF WATER RESOURCES
STATEHOUSE
BOISE
ID 83720

RECEIVED
NOV 24 1986
Department of Water Resources

$ 75.00

12/1/86

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.

9226

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Use: POWER (400.00 CFS) from 01/01 to 12/31
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82-7143
BALDWIN, DANIEL A.
P.O. BOX 211, ELK CITY, ID 83525
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Date Filed: 10/29/1984
Diversion Pt: SENW Sec 07 T 28N R 06E
Use: POWER (20.00 CFS)
In: SWNE Sec 06 T 28N R 06E

83-7065
HY-TECH CO.
P.O. BOX 1305, LEWISTON, ID 83501
Source: BULL RUN CREEK tributary to ELK CREEK
Date Filed: 12/02/1982
Amount: 56.00 CFS
Diversion Point: NESW Sec 10 T 39N R 02E, CLEARWATER Co.
Use: POWER (56.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 22 T 39N R 02E
Diversion Means: CONCRETE DIVERSION STRUCTURE

83-7080
[illegible]

98-7612
IDAHO NATURAL ENERGY, INC.
854 FALLS AVE., TWIN FALLS, ID 83301
Source: SMITH CREEK trib. to KOOTENAI RIVER
Date Filed: 04/12/1985
Diversion Pt: SENE Sec 01 T 64N R 03W
Use: POWER (300.00 CFS)
In: NWNE Sec 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 4055 Government Way, Suite 9, Coeur d'Alene, Idaho 83814 on or before DECEMBER 1, 1986.

KEN DUNN, Dir.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

RECEIVED
NOV 28 1986
Department of Water Resources
Northern Region Office

J. L. Blackwell being duly sworn,
deposes and says, I am the Legal Clerk
of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established paper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the

NOTICE OF APPLICATION

attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 1 time(s). Publication being on 111386, or once a WEEK for 1 consecutive WEEKS, the first publication thereof being on the 111386, and the last publication thereof being on the 111386, and said NOTICE OF APPLICATION was so published in the regular and entire issue of said newspaper and not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

J. L. Blackwell

SUBSCRIBED AND SWORN BEFORE ME THIS THE 18 day of November 1986

Sharell M. Finley

Notary Public in and for the State of Idaho, residing at Lewiston, therein.

only published one time had to be readvertised

RECEIVED

NOV 2

Department of Water Resources
Northern Region

Affidavit of Publication

№ 16853

STATE OF IDAHO, }
COUNTY OF TWIN FALLS } ss.

I, Linda Capps McClure, being first duly sworn upon oath, depose and say that I am Prod Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for One ~~consecutive~~ Time Only, ~~commencing with the issue dated~~ , 19 , ~~and ending~~ with the issue dated November 13, 1986.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

Linda Capps McClure

Subscribed and sworn to before me on this 14 day of November 19 86.

Notary Public in and for the County of Twin Falls, State of Idaho, residing at Twin Falls, Idaho

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

82-7097: **BATTLE RIDGE LAND & TIMBER CO.**
622 W. Main St., Grangeville, ID 83530
Source: Clearwater River, South Fork tributary to Clearwater River
Date filed: 6/01/1982
Amount: 400.00 CFS
Diversion Point: SWSW Sec 30 T 30N R 03E SWSW Sec 30 T 30 N R 04E, IDAHO Co.
Use: Power (400.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 30 T 30N R04E NWNW Sec 36 T 30N R 03E
Diversion Means: Wing Dam, Pipeling and Generating Facilities.

82-7143: **BALDWIN, DANIEL A.**
P.O. Box 211 Elk City, ID 83525
Source: Twentymile Creek tributary to Clearwater River, South Fork
Date Filed: 10/29/1984
Diversion Point: SENW Sec 07 T 28N R 06E
Use: Power (20.00 CFS) In: SWNE Sec 06 T 28N R 06E

83-7065: **HY-TECH CO.**
P.O. Box 1305, Lewiston, ID 83501
Source: Bull Run Creek tributary to Elk Creek
Date Filed: 12/02/1982
Amount: 56.00 CFS
Diversion Point: NESW Sec 10 T 39N R 02E, CLEARWATER Co.
Use: Power (56.00 CFS) from 01/to 12/31
Place of Use: SWNE Sec 22 T 39N R 02E
Diversion Means: Concrete Diversion Structure

83-7080: **BEAVER CREEK HYDRO INC.**
P.O. Box 1016, Lewiston, ID 83501
Source: Beaver Creek tributary to Clearwater River, North Fork
Date Filed: 12/02/1983
Diversion Point: NWNW Sec 24 T 40N R 06E
Use: Power (130.00 CFS)
In: SENE Sec 06 T 40N R 07E

83-7081: **GOLDEN HYDRO PARTNERSHIP**
GREER, MICHAEL C.
1212 Tamarack, Moscow, ID 83843
Source: Clearwater River, North Fork tributary to Clearwater River
Date Filed: 03/14/1985
Diversion Point SWNE Sec 15 T 39N R 07E
Use: Power (750.00 CFS); Power (00.00 CFS)
In: SENE Sec 06 T 40N R 07E

91-7096: **MARBLE CREEK HYDRO INC.**
P.O. Box 1016, Lewiston, ID 83501
Source: Marble Creek tributary to Saint Joe River
Date Filed: 12/02/1983
Diversion Point: SWNW Sec 25 T45N R 03E
Use: Power (305.00 CFS)
In: SWSE Sec 24 T 45N R 03E

92-7172: **ST. MARIES RIVER HYDRO INC.**
P.O. Box 1016, Lewiston, ID 83501
Source: Saint Maries River tributary to Saint Joe River
Date Filed: 12/02/1983
Diversion Point: NWSE Sec 34 T 44N R 02W
Use: Power (490.00 CFS)
In: NWNW Sec 34 T 44N R 02W

96-8388: **VAN STONE, DALE**
Denton RD., P.O. Box 305, Hope, ID 83836
Source: Riser Creek tributary to Pend Oreille Lake
Date Filed: 01/27/1984
Diversion Point: NESW Sec 31 T 57N R02E
Use: Power (15.00 CFS)
In: NESE Sec 01 T 56N R 01E

96-8412: **LAPHAM, JOSEPH G.**
2910 W. Oden Bay Rd., Sandpoint, ID 83864
Source: Trapper Creek tributary to Rapid Lightning Creek
Date Filed: 08/27/1984
Diversion Point: NENE Sec 08 T 58N R 02E
Use: Power (20.00 CFS)
In: NENE Sec 08 T 58N R 02E

98-7612: **IDAHO NATURAL ENERGY, INC.**
834 Falls Ave., Twin Falls, ID 83301
Source: Smith Creek tributary to Kootenai River
Date Filed: 4/12/1985
Diversion Point: SENE Sec 01 T 64N R 03W
Use: Power (300.00 CFS)
In: NWNE Sec 26 T 65N R 02 W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. Water Resources, 4055 Government Way, Suite 9, Coeur d'Alene, Idaho 83814 on or before DECEMBER 1, 1986.
Ken Dunn, Director
PUBLISH: Thursday, November 13 and 20, 1986.

only advertised once

Proof of Publication

The Post-Register

State of Idaho,
County of Bonneville } ss

I, J. Robb Brady, first being duly sworn, depose and say: That I am the Principal Clerk of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for one issue ~~consecutive weeks~~ first publication having been made on the 13th day of November, 19 86, last publication having been made on the ..... day of ....., 19.., and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

J. Robb Brady

Subscribed and sworn to before me, this 28th day of November, 19 86.

Notary Public

My commission expires September 30, 19 88

B10

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

82-7097
BATTLE RIDGE LAND & TIMBER CO.
622 W. MAIN ST., GRANGEVILLE, ID 83530
Source: CLEARWATER RIVER, SOUTH FORK tributary to CLEARWATER RIVER
Date Filed: 06/01/1982
Amount: 400.00 CFS
Diversion Point: SWSW Sec 36 T 30N R 03E
SWSW Sec 30 T 30N R 04E, IDAHO CTY.
Use: POWER (400.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 30 T 30N R 04E
NWNW Sec 36 T 30N R 03E
Diversion Means: WING DAM, PIPELINE AND GENERATING FACILITIES.

82-7143
BALDWIN, DANIEL A.
P.O. BOX 211, ELK CITY, ID 83525
Source: TWENTYMILE CREEK trib. to CLEARWATER RIVER, SOUTH FORK
Date Filed: 10/29/1984
Diversion Pt: SENW Sec 07 T 28N R 06E
Use: POWER (20.00 CFS)
In: SWNE Sec 06 T 28N R 06E

83-7065
HY--TECH CO.
P.O. BOX 1305, LEWISTON ID 83501
Source: BULL RUN CREEK tributary to ELK CREEK
Date Filed: 12/02/1982
Amount: 56.00 CFS
Diversion Point: NESW Sec 10 T 39N R 02E CLEARWATER CTY.
Use: POWER (56.00 CFS) from 01/01 to 12/31
Place of Use: SWNE Sec 22 T 39N R 02E
Diversion Means: CONCRETE DIVERSION STRUCTURE.

83-7080
BEAVER CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: BEAVER CREEK trib. to CLEARWATER RIVER, NORTH FORK
Date Filed: 12/02/1983
Diversion Pt: NWNW Sec 24 T 40N R 06E
Use: POWER (130.00 CFS)
In: SENE Sec 06 T 40N R 07E

83-7081
GOLDEN HYDRO PARTNERSHIP
GREER, MICHAEL C.
1212 TAMARACK, MOSCOW, ID 83843
Source: CLEARWATER RIVER, NORTH FORK trib. to CLEARWATER RIVER
Date Filed: 03/14/1985
Diversion Pt: SWNE Sec 15 T 39N R 07E
Use: POWER (750.00 CFS); POWER (1500.00 CFS)
In SENE Sec 06 T 40N R 07E

91-7096
MARBLE CREEK HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: MARBLE CREEK trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt: SWNW Sec 25 T 45N R 03E
Use: POWER (305.00 CFS)
In: SWSE Sec 24 T 45N R 03E

92-7172
ST. MARIES RIVER HYDRO INC.
P.O. BOX 1016, LEWISTON, ID 83501
Source: SAINT MARIES RIVER trib. to SAINT JOE RIVER
Date Filed: 12/02/1983
Diversion Pt: NWSE Sec 34 T 44N R 02W
Use: POWER (490.00 CFS)
In: NWNW Sec 36 T 44N R 02W

96-8368
VAN STONE, DALE
DENTON RD., P.O. BOX 305, HOPE, ID 83836
Source: RISER CREEK trib. to PEND OREILLE LAKE
Date Filed: 01/27/1984
Diversion Pt: NESW Sec 31 T 57N R 02E
Use: POWER (15.00 CFS)
In NESE Sec 01 T 56N R 01E

96-8412
LAPHAM, JOSEPH G.
2910 W. ODEN BAY RD., SANDPOINT, ID 83864
Source: TRAPPER CREEK trib. to RAPID LIGHTING CREEK.
Date Filed: 08/27/1984
Diversion Pt: NENE Sec 08 T 58N R 02E
Use: POWER (20.00 CFS)
In: NENE Sec 08 T 58N R 02E

98-7612
IDAHO NATURAL ENERGY, INC.
834 FALLS AVE., TWIN FALLS, ID 83301
Source: SMITH CREEK trib. to KOOTENAI RIVER
Date Filed: 04/12/1985
Diversion Pt: SENE Sec 01 T 64N R 03W
Use: POWER (300.00 CFS)
In: NWNE Sec 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 4055 Government Way, Suite 9, Coeur d' Alene, Idaho 83814 on or before DECEMBER 1, 1986.

KEN DUNN, Dir.

Published: November 13, 20, 1986

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

98-7612

IDAHO NATURAL ENERGY, INC.
834 Falls Ave., Twin Falls, Id. 83301
Source: SMITH CREEK, trib. to KOOTENAI RIVER
Date Filed: April 12, 1985
Diversion Pt: SENE Sec. 01 T 64N R 03W
Use: POWER (300.00 CFS)

In: NWNE Sec 26 T 65N R 02W

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 4055 Gov't. Way, Coeur d'Alene, Id. 83814 on or before May 13, 1985.

Ken Dunn, Dir.

Publ. April 25, May 2, 1985-#1

MICROFILMED
JUL 29 1988

6/11/85

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO } ss.
County of Boundary }

RECEIVED
MAY 13 1985
Department of Water Resources
Northern District Office

Alice Winn, bkpr for Pete Thompson being first duly sworn upon his oath, deposes and says that he is the publisher (or foreman) Publisher of The Bonners Ferry Herald, a newspaper of general circulation, published weekly at Bonners Ferry, Boundary County, State of Idaho; that the said Bonners Ferry Herald has been continuously and uninterruptedly published in said Boundary County during a period of 18 months or 78 weeks prior to the first publication of the hereto attached notice; that

the advertisement of Notice of Application for Water reig right 98-7612

a _____

Notice for Publication, a printed copy of which is attached hereto was published in said newspaper and not in a supplement thereof for 2 consecutive issues, commencing with the issue dated April 25, 1985, and ending with the issue dated May 2, 1985.

Alice Winn

Subscribed and sworn to before me this 24 day of MAY, 1985.

Dela Vinson

Notary Public in and for the County of Boundary, State of Idaho, residing at Bonners Ferry, Idaho.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }
County of Boundary } ss.

Alice Winn, bkpr for Pete Thompson being first duly sworn upon his oath, deposes and says that he is the publisher (or foreman)

Publisher

of The Bonners Ferry Herald, a newspaper of general circulation, published weekly at Bonners Ferry, Boundary County, State of Idaho; that the said Bonners Ferry Herald has been continuously and uninterruptedly published in said Boundary County during a period of 18 months or 78 weeks prior to the first publication of the hereto attached notice; that

the advertisement of Notice of Application for Water reig right 98-7612

a

Notice for Publication, a printed copy of which is attached hereto was published in said newspaper and not in a supplement thereof for 2 consecutive issues, commencing with the issue dated April 25, 19 85, and ending with the issue dated May 2, 19 85.

Alice Winn

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

Notary Public in and for the County of Boundary, State of Idaho, residing at Bonners Ferry, Idaho.

93 FERC ¶ 62,104

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Smith Falls Hydropower
Eugene Water and Electric Board

Project No. 8436-118

ORDER APPROVING TRANSFER OF LICENSE

(Issued November 13, 2000)

On June 8, 2000, Smith Falls Hydropower (Smith Falls or transferor), licensee of the Smith Creek Project No. 8436, and Eugene Water and Electric Board (Eugene or transferee) jointly filed an application for approval of transfer of license. The 37,792 kilowatt project is located on Smith Creek in Boundary County, Idaho. The project occupies lands of the United States within the Panhandle National Forest.

The license for the project was issued to Idaho Natural Energy, Inc., on April 10, 1987.[1] Transfer of the license to Smith Falls was approved by order issued on July 24, 1989.[2] The application states that the purpose of the proposed transfer is to enable Eugene to assume ownership and operation of the project in conjunction with its other operating facilities within the State of Oregon.

The transferor has generally complied with the terms and conditions of the license. Smith Falls has paid and agrees to continue to pay charges which accrue until the transfer is effective.

Eugene is the licensee for Project Nos. 2242, 2496, 3109, and 5264. The transferee is qualified to hold the license and to operate the properties under the license, and will be required to accept all of the terms and conditions of the license and to be bound by the license as if it were the original licensee.

[1] 39 FERC ¶ 62,038.

[2] 48 FERC ¶ 62,046.

The Director orders:

(A) Transfer of the license for Project No. 8436 from Smith Falls Hydropower to Eugene Water and Electric Board is approved.

(B) Smith Falls Hydropower shall pay all annual charges that accrue up to the effective date of the transfer.

(C) Approval of the transfer is contingent upon: (1) delivery of all license instruments to Eugene Water and Electric Board, which shall be subject to the terms and conditions of the license as though it were the original licensee; and (2) Eugene Water and Electric Board acknowledging acceptance of this order and its terms and conditions by signing and returning the attached acceptance sheet. Within 60 days from the date of this order, Eugene Water and Electric Board shall submit certified copies of all instruments of conveyance and the signed acceptance sheet.

(D) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Daniel M. Adamson
Director
Office of Energy Projects

File copy in
98-07612
98-07650

MICROFILMED
DEC 04 2000

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

City of Idaho Falls, Idaho	Projects Nos. 2842-035, 2952-065
City of Tacoma, Washington	Project Nos. 2016-047, 1862-075
Cities of Aberdeen and Tacoma, Washington	Project No. 6842-122
Public Utility District No. 1 of Chelan County, Washington	Project Nos. 2145-037, 943-072, and 637-019
Public Utility District No. 1 of [illegible]nd Oreille County	Project No. 2042-017
Public Utility District No. 1 of Douglas County	Project No. 2149-088
Sacramento Municipal Utility District	Project No. 2101-071
City of Oswego, New York	Project No. 10551-083
The Central Nebraska Public Power and Irrigation District	Project No. 1417-086
City of Seattle, Washington	Project Nos. 553-114, 2144-025, 2705-023, and 2959-098
South Sutter Water District	Project No. 2997-024
New York Power Authority	Project Nos. 2090-029, 2216-045 and 2685-011
[illegible]laveras County Water District	Project No. 2409-113
City of Watertown, New York	Project No. 2442-053
Oklahoma Municipal Power Authority	Project No. 3083-095

City of Santa Clara, California	Project Nos. 3190-012, 3193-012 and 619-085

ORDER SCHEDULING PREHEARING CONFERENCE

(Issued November 15, 2000)

A prehearing conference will be held on November 29, 2000, at 10:00 a.m., in a hearing room at the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C.

The purpose of the prehearing shall be to clarify the positions of the parties, to explore what further steps are necessary in order to enable the parties to reach an amicable settlement, and to set a procedural schedule to govern adjudication.

At the prehearing conference, the parties and Staff shall be prepared to propose and agree to a preliminary joint stipulation of issues which will govern this matter during the procedural stages and which should reflect the position of each party with respect to each issue. In addition, the parties shall be prepared to agree to a procedural schedule which encompasses the submission of direct testimony and answering and/or rebuttal testimony, discovery, witness lists which shall include estimates of the time necessary for the presentation of each witness, and a final joint stipulation of issues which will govern the adjudication of this matter.

Edward M. Silverstein

EDWARD M. SILVERSTEIN
Presiding Administrative Law Judge

MICROFILMED

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

December 1, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

SMITH FALLS HYDROPOWER
HCR 60 BOX 251
PORTHILL ID 83853

RE: WATER RIGHT NO. 98-07612

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. 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 of the Department unless a party petitions for reconsideration or files an exception and/or brief 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 twenty-one (21) 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. Otherwise, this preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

MICROFILMED
JAN 1 1 1999

ORAL ARGUMENT

If the Department grants a petition to review the preliminary order, the Department 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 Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department 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 Department in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department 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 Department 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.

MOTOR MILL
JAN 1 1 1996

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.

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

Sincerely,

Shelley Watter Keen

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

MICROFILMED
JAN 11 19

CERTIFICATE OF MAILING

I hereby certify that on the **1st** day of **December, 1998**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved License)** to the person(s) listed below:

Water Right No. 98-07612

SMITH FALLS HYDROPOWER
HCR 60 BOX 251
PORTHILL ID 83853

Kari Lynn Townsend
Secretary

SMITH FALLS HYDROPOWER

RECEIVED
NOV 24 1998
Department of Water Resources

November 19, 1998

Ms. Sharla Curtis
Water Resource Agent
State of Idaho
Department of Water Resources
1301 North Orchard Street,
Boise, Idaho 83720

RE: Water Rights Permits #98-07612 and #98-07650, Your Letter Dated Nov. 6, 1998

Dear Ms. Curtis:

In complying with your request to respond within 15 days this letter is our formal response to your letter dated Nov. 6, 1998. Smith Falls Hydropower does **not** agree with your method of determining the diversion volume of 95,238 af; diversion under the two water rights that have been issued to Smith Falls Hydropower. To be honest with you, I do not understand what you are attempting to accomplish with this new idea of limiting our water rights on our project. Let me explain our position and understanding on this issue.

Smith Falls has the right to divert up to 370 cfs of water from Smith Creek, located in Boundary County, Idaho under permits #98-07612 and #98-07650. These are non-consumption rights and allows our hydroelectric project to operate with agreed upon flow bypass amounts that were agreed to and included in our Federal Energy Regulatory Commission License # 8436. The project has the ability and right to produce up to 38 mega watts of electricity continually for the entire year based on the available water given to the project by the natural precipitation for any given year. It appears to us that your letter and method is attempting to limit the output of the plant and cause the project to loose production, thus adversely impacting the plants income. The only number that we could accept would be if you took the 370 cfs and calculated that flow for the entire year. That number would be 270,840 af.

If you have any questions please contact us within 15 days or we will assume that you agree with our information presented an will expect that the 270,840 af will be used to issues the licenses.

Sincerely,

R. Fred Moss

R. Fred Moss
President, AWHII

Copy: Everett Jordan, EWEB

MICROFILMED
JAN 11 99

699 East South Temple, Suite 220 • Salt Lake City, Utah 84102 • (801) 363-7007

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 6, 1998

R. Fred Moss
Smith Falls Hydropower
699 E. S. Temple, Suite 220
Salt Lake City, UT 84102

RE: Permit Nos. 98-07612 and 98-07650

Dear Mr. Moss:

Thank you for the information you sent to help us in our review of Permits 98-07612 and 98-07650 for the purpose of issuing water right licenses. I used the 1997 power production information to determine an annual diversion volume for the rights; that appeared to be the best method available.

I have enclosed a draft copy of both licenses as we propose to issue them. Please note the remark on each of the rights limiting the combined annual diversion volume to 95,238 af; diversion under the two rights would be held to that limitation. If you have better information to serve as the basis for determining an annual volume, please send it to me within 15 days. If I don't hear from you within that time frame, I will assume you agree with the information presented and will move forward with license review. Permit 98-07650 will require an amendment to change the place of use description and you will receive that information under separate cover.

Sincerely,

Sharla Curtis

Sharla Curtis
Water Resource Agent

SMITH FALLS HYDROPOWER

Nov. 3, 1998

Ms. Sharla Curtis
State of Idaho
Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83720

RE: Water Right License for Smith Falls Hydropower #98-07612 & #98-07650

Dear Ms. Curtis:

As we talked today, I am Faxing you the information you requested, the pages in the power sales agreement, a copy of the page from the Idaho State report on kwh amounts for 1997 and a page from our agreement with EWEB assigning the power sales agreement to Smith Falls Hydropower.

The small turbine that we have is used in cooperation with the other two larger turbines. The computer program decided which turbine to run depending on the available water in Smith Creek. The order of their use is the small turbine is used until enough water is available to run the larger turbine. Then once the first larger turbine is up to its peak performance the other large turbine is started. Once both large turbines are at their peak the small turbine is again use.

The Hydro project is a run of the river project and thus has the flows in Smith Creek vary a lot. Usually in the late fall the normal water flow in the creek is too low to generate so this is when we schedule our maintenance.

The water flow, in cfs, in the creek is approx. 10 cfs / 1 megawatt of electricity. So if you take our production for the year and convert it, it should give you approx. the amount of water that flows through the turbines.

If you have any other questions please contact me at (801) 363-6111.

Sincerely,

R. Fred Moss

R. Fred Moss
Project Manager

699 East South Temple, Suite 220 • Salt Lake City, Utah 84102 • (801) 363-7007

MICROFILMED
JAN 11 1999

Section VII - KWH PRODUCTION[1]

	19 97	19____	19____	19____	19____
January	3,332,510 KWH	KWH	KWH	KWH	KWH
February	1,052,613				
March	5,696, 714				
April	10,611,350				
May	24,831,947				
June	24,758,303				
July	14,196,875				
August	1,408,164				
September	5,888,567				
October	13,100,608				
November	7,745,173				
December	2,428,936				
TOTALS	115,045,760				

Describe unusual down-times experienced for the above years: Examples - collapsed penstock, equipment failure, etc.

Note: This section shows Kilowatt hours actually scheduled to Eugene Water and Electric Board by Bonneville Power Administration (BPA) after losses and wheeling. BPA rounds to the nearest 1,000 KWH.

1 If a current five-year history is already on file with the Tax Commission, only the most recent year is required.

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JAN 11 1999

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement) is executed as of this 12th day of September, 1990, by and among the CITY OF EUGENE, OREGON, acting through the EUGENE WATER AND ELECTRIC BOARD ("EWEB"), SMITH FALLS HYDROPOWER, an Idaho general partnership ("Smith Falls"), and R. FRED MOSS, GARY E. MAY, and MARSHA A. VAN OTTEN, all individuals (collectively, the "Shareholders").

RECITALS:

A. Except as set forth herein, each of the capitalized terms contained in this Agreement shall have the respective meanings set forth in the Power Sales Agreement, as defined below.

B. EWEB and Smith Falls' predecessors in interest, Hydro-Flow, Inc., a Utah corporation ("HFI"), and Idaho Natural Energy, Inc., an Idaho corporation ("INE"), executed that certain Power Sales and Right to Purchase Agreement, dated as of October 28, 1988, as amended by that certain Agreement of Understanding, dated as of May 25, 1989, by and among Smith Falls, EWEB, and Westinghouse Credit Corporation, a Delaware corporation ("WCC"), as amended by that certain First Amendment to Agreement of Understanding, effective as of May 25, 1989, by and among Smith Falls, EWEB, and WCC (as amended, the "Power Sales Agreement").

C. Pursuant to the terms of that certain Assignment Agreement, dated as of May 25, 1989, Smith Falls succeeded to the rights and obligations of HFI and INE under the Power Sales Agreement. The Shareholders own shares of the capital stock of Smith Falls' three (3) corporate general partners.

D. The terms of the Power Sales Agreement contemplate Smith Falls' construction of a hydroelectric facility, located on Smith Creek near Porthill in Boundary County, Idaho (the "Project"), Smith Falls' delivery of hydroelectrically generated power to the Points of Delivery, and EWEB's purchase, at certain agreed upon rates, of all Project Output.

E. In order to construct the Project, Smith Falls obtained financing from WCC pursuant to the terms of that certain Financing Agreement, dated as of May 25, 1989, by and among WCC, INE, HFI, Smith Falls, and Smith Falls' general partners (the "Financing Agreement"). Smith Falls' permanent financing arrangement with WCC takes the form of a sale/leaseback and is governed by the terms of that certain

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JAN 11 1999

POWER SALES AND RIGHT TO PURCHASE AGREEMENT

Between

EUGENE WATER & ELECTRIC BOARD

And

HYDRO-FLOW, INC.

IDAHO NATURAL ENERGY, INC.

This is an Agreement between the City of Eugene, Oregon, acting by and through the Eugene Water & Electric Board (hereinafter referred to as "EWEB"), and Hydro-FLOW, Inc., a Utah corporation and Idaho National Energy, Inc., an Idaho corporation (hereinafter collectively referred to as "HFI").

WITNESSETH:

WHEREAS, the City of Eugene, acting by and through EWEB, is authorized to purchase electrical energy and to plan, finance, construct, acquire, operate, own and maintain works and facilities necessary or incidental to the generation of electric power and energy; and

WHEREAS, HFI has or will through its wholly owned subsidiary Idaho Natural Energy, Inc., acquire the necessary federal, state and local licenses and permits required to construct the Project, as hereinafter defined; and

WHEREAS, HFI has represented to EWEB that the Project can produce approximately eighty-one thousand five hundred (81,500) megawatt hours of average annual energy; and

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JAN 11 1999

WHEREAS, EWEB desires to purchase the Project Output following the Date of Commercial Operation and may chose to purchase the Project under the terms and conditions set forth herein; and

WHEREAS, HFI desires to construct the Project in a workmanlike and timely fashion and in accordance with all applicable laws and regulations; to sell the Project Output to EWEB; and, is willing to grant EWEB the right to acquire the Project under the terms and conditions and for the considerations provided for herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Parties do agree as follows:

ARTICLE 1: DEFINITIONS.

1.1 "Billing Statement" shall mean a written statement prepared by HFI and forwarded to EWEB on a monthly basis during each Contract Year that shows the amount to be paid during said month by EWEB to HFI under this Agreement for Project Output delivered by HFI to EWEB.

1.2 "Contract Year" shall mean:

1.2.1 The period commencing on the Date of Commercial Operation and ending on the following June 30, and, thereafter,

1.2.2 The twelve-month period commencing on July 1 each year during the term hereof and ending on the following June 30.

(20) year period from the date of the exercise of the option but in no case less than 4.5% nor more than 5.5%.

"Discount Rate" shall mean the escalation factor plus six percent (6%).

"Debt Service" shall mean all sums required at the time of exercising the option required to pay the amount remaining due to HFI's lender on its term loan debt for financing construction of the Project as described in Exhibit D or as otherwise agreed to by EWEB. Debt Service shall not include any cost to unwind the fixed rate portion of the loan, if any.

ARTICLE 3: SALE AND PURCHASE OF PROJECT OUTPUT.

3.1 HFI hereby agrees to deliver to the Points of Delivery, and EWEB agrees to purchase from HFI at the Points of Delivery, all Project Output during the term and under the conditions set forth in this Agreement. EWEB's obligation to purchase shall be payable solely from revenues in the "Distribution Division General Fund" established in the "Trojan Nuclear Project Revenue Bonds, Series of 1971, Bond Resolution." EWEB hereby agrees to maintain sufficient monies in this fund to meet the reasonably estimated monthly obligations incurred in this Agreement as they come due.

ARTICLE 4: TERM OF CONTRACT.

4.1 This Contract shall be effective upon its execution by EWEB and HFI and shall continue thereafter for forty (40) Contract Years.

APPROVED
JAN 11 1999

remedies in the event that either party to this Agreement refuses to comply with an order of the arbitrators. In lieu of any of the remedies set forth in paragraphs 10.3.1 through 10.3.3 either party shall be entitled in the event of a refusal by the other party to comply with an order of the arbitrators to seek a judicial degree requiring specific performance on the part of the non-complying party or an award of damages against the non-complying party.

ARTICLE 11: TERMINATION OF CONTRACT.

This contract may be terminated only with the written consent of both parties hereto or as otherwise specifically provided in this Agreement. No termination notice shall be effective before sixty (60) days following the receipt of notice of termination under the procedures described in Article 6 of this Agreement.

ARTICLE 12: ASSIGNMENT OF CONTRACT.

12.1 Except as provided in Article 12.2, the rights and obligations of the parties to this Agreement may not be assigned by either party except upon the express written consent of the other party, which consent shall not be unreasonably withheld or delayed. As a condition of such consent, any third party to whom an assignment is made will be required to demonstrate to the reasonable satisfaction of the non-assigning party to this Agreement that the third party is capable of fulfilling the assigning party's obligations under this Agreement.

with regard to either party. Each party shall be individually and severally liable for its own obligations under this Agreement.

IN WITNESS WHEREOF, each of the parties hereto have caused this Contract to be executed as of this 28th day of October, 1988.

ATTESTED:

By: Krista K. Hince

EUGENE WATER & ELECTRIC BOARD

By: _____ General Manager
500 East 4th Avenue
Eugene, Oregon 97440

By: Krista K. Hince
ATTESTED:

By: _____ President
HYDRO-FLOW, INC.

By: Krista K. Hince

By: _____ President
699 East South Temple, Suite 220
Salt Lake City, Utah 84102

ATTESTED:

By: Krista K. Hince

IDAHO NATURAL ENERGY, INC.

By: _____ President
699 East South Temple, Suite 220
Salt Lake City, Utah 84102

MICRO FILM
JAN 11 1989

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

October 27, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Smith Falls Hydropower
HCR 60, Box 251
Porthill, ID 83853

Idaho Natural Energy, Inc.
699 E.S. Temple
Suite 220
Salt Lake, UT 84102

RE: Permit Nos. 98-07612 and 98-07650

Gentlemen:

We are in the process of reviewing the above referenced permits for licensing. I need a couple of pieces of information before that process can be completed. The permits are currently in the name of Smith Falls Hydropower, however, we have information in the files that indicate Idaho Natural Energy, Inc. may be the present owner of the power facility. For this reason I am sending this letter to both entities. The information I need is as follows:

- A copy of the current power purchase contract (our file indicates the purchaser is Eugene Water and Electric Board)
- Written statement explaining how the smaller turbine is used – i.e. is it always running when the other two are operating for a total diversion of 370 cfs or is it only used in low flow periods at which time it operates alone
- Written statement explaining the operating schedule – i.e. are there annual down-times for maintenance, the system is operated how many hours per day, how many days per year
- If Idaho Natural Energy, Inc. is indeed the present owner of the facility and wishes to have the licenses issued in their name, an assignment of permit needs to be completed and returned with the $25 filing fee

I am enclosing an assignment form with this letter to both companies. Only one needs to be submitted. It also makes no difference to me which one of the companies responds

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JAN 1 1 1999

with the above requested information. I do ask, however, that the information be returned to me by November 10, 1998 so that the licensing process can be finalized. If I don't receive an assignment form by that date also, the licenses will be prepared in the name of Smith Falls Hydropower.

If you have any questions, please feel free to give me a call.

Sincerely,

Sharla Curtis

SHARLA CURTIS
Water Resource Agent

Enclosure

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JAN 1 1 1999

LICENSE REVIEW CHECKLIST

PERMIT NO. 98-07612 DATE 10/21/98 REVIEWER: SHARLA

Change/OK

NAME Smith Falls Hydro
Address ok - no assgn. rec'd - had plenty of time & opportunity to do so

SOURCE ok Does change clarifiy orig. intended source? If no, Void permit

POINT OF DIV ok _ Change (P39 /P47) _ Add (P45/P42) Feds - P40

W32 (multiple in ¼¼)
W36 (overlap)
W59 (subd. desc)

Overlaps: Right(s): _____
File reviewed ___ Profile reports printed ___

PLACE OF USE ok _ Change (P41/P47) _ Add (P41/P42) Feds - P43

W60 (subd. desc)
W27 (ppu acre limit)

Overlaps: Right(s): _____
File reviewed ___ Profile reports printed ___

PD & PU amend (P37) Feds - P48

RATE OF DIV

Permitted Rate 300.0cfs
Fee limit 20.1+cfs $600.00 C020879 (1200.00 total) 2 rts.
Measured 370.0cfs
Theoretical _____ cfs

Recommended Total Div Rate 300.0cfs

WATER USES ~~Towers~~ OK Change (P46)

~~Towers~~	300.0 cfs	_____ af	Irrig -	overlap (R58-R61, R62-R65, R66-R69)
_____	_____ cfs	_____ af		supp. gw (WB7/065/079)
_____	_____ cfs	_____ af		overlap spec. combined rts (W35)
_____	_____ cfs	_____ af		<1acre (W31)
_____	_____ cfs	_____ af	Domestic	(W01/WB5/070/071/075)
TOTALS	_____ cfs	_____ af	Power	(W42 or W43/025/027/R22 or R23) W13 spec.
			Fish (042)	Fire (077) Wtr Quality (081/R07)

Flow rate 300.0cfs X 365 days X 1.98 = 216,810 af term = 50 yrs.

REMARKS _____

ADD'L CONDITIONS ____ Watermaster Control WD# ____
____ GW Measurement/Measuring Device
____ Others Trust (052/R55 - remove 051) Non-trust (048/049)

Advance Priority ___ yes ✓ no SRBA Claim N/A

Adjust Memo _____
Amend letters _____

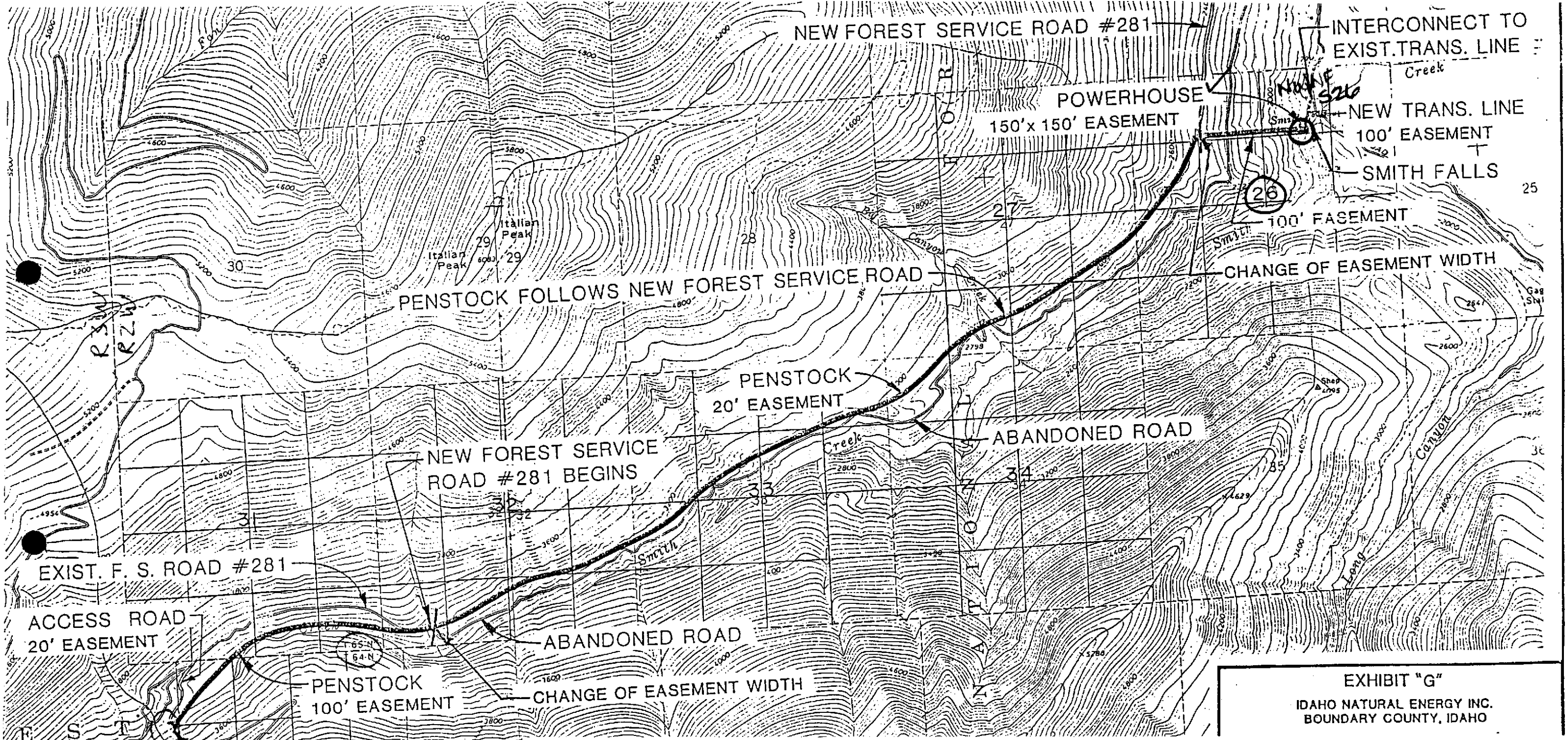


EXHIBIT "G"

IDAHO NATURAL ENERGY INC.
BOUNDARY COUNTY, IDAHO

MEMORANDUM

TO: FILES 98-07612 and 98-07650

FROM: CINDY BIRD

RE: Assignment of Permit

DATE: June 9, 1998

Idaho Natural Energy, Inc. phone to get a clarification on the letter dated May 29, 1998 from Sharla Curtis regarding the request for an assignment of permit. He wanted to know if they did nothing and let the 30 days pass then the license would be issued in the name of Smith Falls Hydropower; I told him that was correct. I also asked him if they wanted the license issued in there name and he didn't know and needed to find out.

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JAN 1 1 1999

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 29, 1998

Idaho Natural Energy, Inc.
699 E. South Temple
Suite 220
Salt Lake City, UT 84102

REF: Water Right Permits 98-07612 and 98-07650.

Dear Water Right Holder(s):

We are in the process of reviewing the above referenced permits for the purpose of issuing licenses. In order to complete this process and issue the licenses in your name, we need to have an Assignment of Permit, one for each right and the appropriate filing fees of $25.00 for each assignment.

For your convenience I have enclosed Assignment of Permit forms for your use in this matter. If we have not received the assignments within thirty (30) days, we will proceed with the license processing and the licenses will be issued in the name of Smith Falls Hydropower.

If you have any further questions, please feel free to contact our office.

Sincerely;

Sharla Curtis

Sharla Curtis
Water Resource Agent

SC:cb

Enclosure (2)

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JAN 11 1999

Form 219
6/92

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

RECEIVED
JUL 22 1996
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 98-07612

1. Owner: Idaho Natural Energy Inc. Phone No. (801) 363-6111
Current Address: 699 E. South Temple, Suite 220 Salt Lake City UT 84102
2. Accompanied by: Fred Moss EXAM DATE: 6/8/95
Address: HCR 60, Box 251 Bonners Ferry Id. 83853 Phone No. (208) 267-2744
Relationship to Permit Holder: Plant Manager (Smith Falls Hydropower)
3. Source: Smith Creek tributary to Kootenai River

B. OVERLAP REVIEW

1. Other water rights with the same place of use: 98-07652
2. Other water rights with the same point of diversion: _____

C. DIVERSION AND DELIVERY SYSTEM

1. **Point(s) of Diversion:**

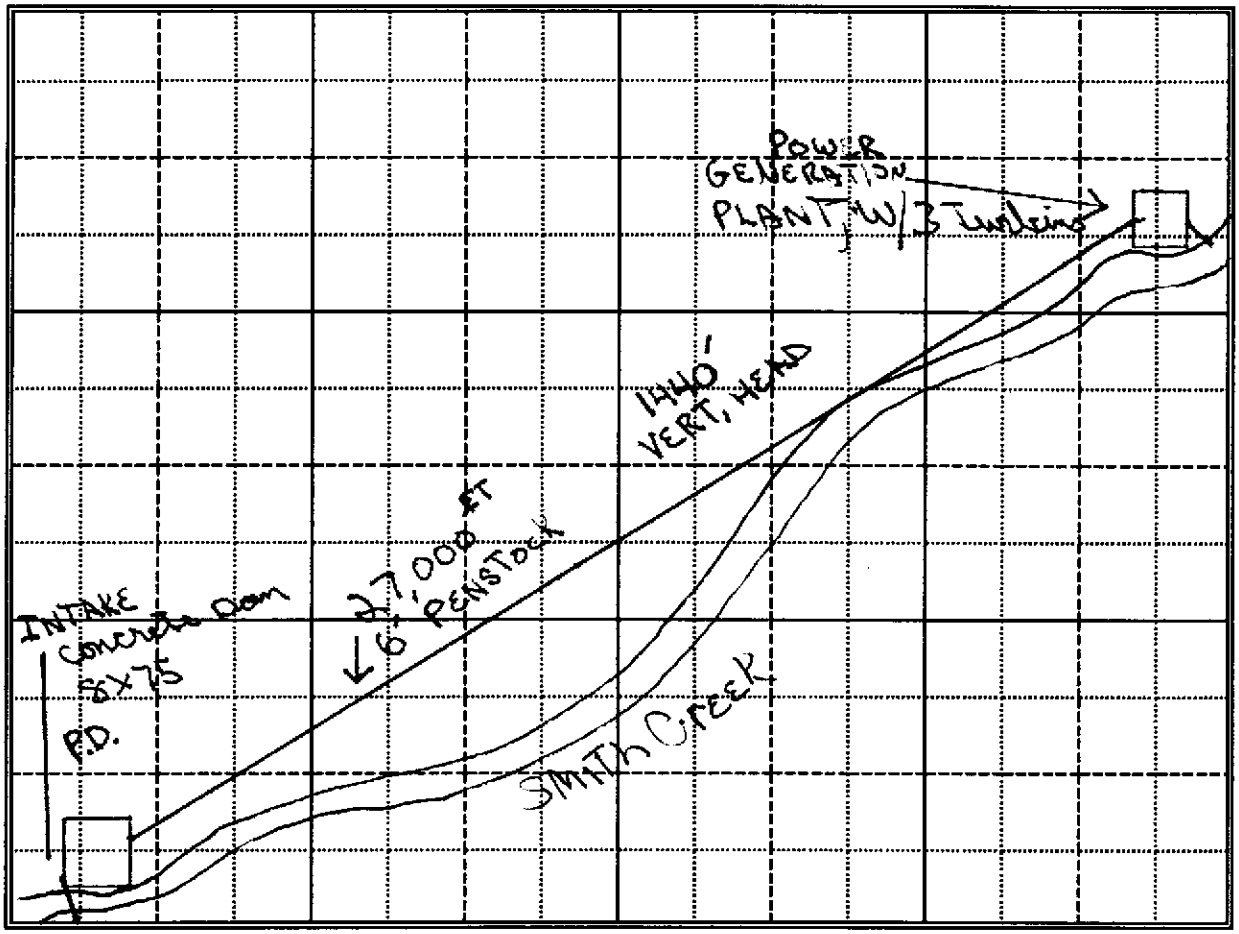
Ident No.	Gov't Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			SE	NE	01	64N	03W	Boundary	USGS 7.5 min Quad

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

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
65N	02W	26		P															

RECEIVED
JAN 1 1 1999

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



Scale: 1" = NTS

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

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

____ Photo of Diversion and System Attached

4.

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

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
On site flow indicator						

2. **Measurements:** _____

E. NARRATIVE/REMARKS/COMMENTS

Water from Smith Creek is diverted By a 8x75 concrete dam and is carried By a 6' penstock 27,000' To Power Plant Where it is channeled through Two(2) Turbines for power generation. the third Turbine is for power generation at times of low flow power is then sold out of State. Water is then returned to Smith Creek just before Smith falls. this filing is for 300 cfs Meter read 370 C.F.S the other 70 cfs is filed under WR# 98-07650 plant was producing 17,655 KW. at Time of inspection.

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

INFORMATION
MAR 17 2008

F. FLOW CALCULATIONS _____ Additional Computation Sheets Attached

Measured Method:

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

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

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

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

2. Volume Calculations for Other Uses:

300 X 365 X 1.9835 = 217193.25

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Power	01-01	12-31	300.00	217193.25
Totals:			300.00	217193.25

2. Recommended Amendments

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

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

I. AUTHENTICATION

Field Examiner's Name Ted McCracken Date 5/9/96

Reviewer _____ Date _____ SEAL

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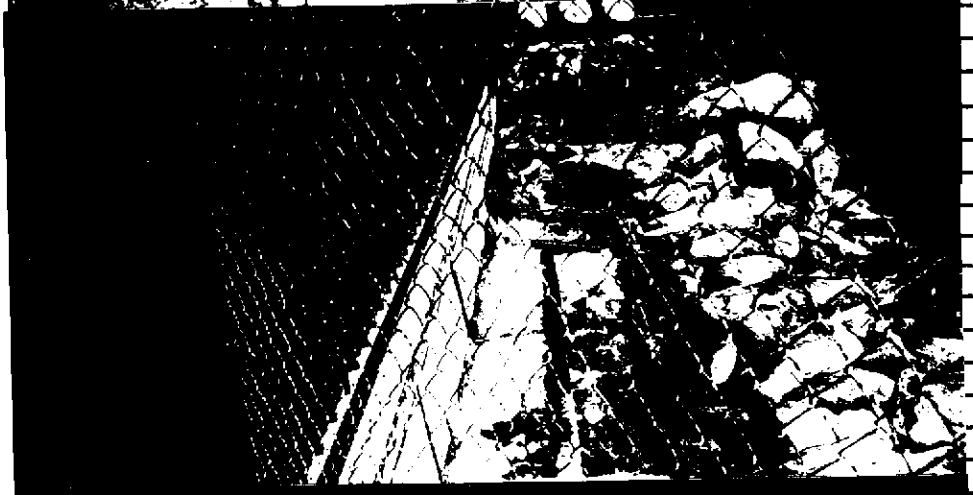
PERMIT # 98-7612

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
FIELD REPORT SUPPLEMENT

PHOTOGRAPHS



open flow at P.D.



- P.D intake



P.D. - water returned to Creek

98-07612



← Diversion House

← Power station

Computer

Showing plant
Power generation
and consumption of water
(320 cfs)

RECEIVED
SEP 13 1993
Department of Water Resources

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Smith Falls Hydropower

Project No. 8436-097
Idaho

P-98-7612
98-7650

ORDER GRANTING EXTENSION OF TIME

(Issued September 3, 1993)

The licensee for the Smith Creek Hydroelectric Project No. 8436 has requested an extension of the September 30, 1993, deadline to comply with the ordering paragraph C of the Commission's Order Approving Recreation Plan issued on May 28, 1991 (55 FERC ¶ 62,180).[1] The reasons advanced by the licensee in support of the requested extension of time are reasonable and justify the extension.

The Director orders:

(A) The deadline for completing the recreational facilities according to ordering paragraph C is extended until July 31, 1994.

(B) The order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. §385.713.

J. Mark Robinson
Director, Division of Project
Compliance and Administration

[1] In an unpublished order issued on March 13, 1992, the licensee received an extension of time to September 30, 1993, to complete the recreational facilities.

MICROFILMED

July 9, 1991

SMITH FALLS HYDROPOWER
HCR 60, BOX 251
PORTHILL, ID 83853

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 98-07612

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

I note that the permit issued to you by the department requires the installation of a measuring device to allow the department to determine the rate of diversion. The proof which you submitted does not show that you have installed this equipment.

The installation of the measuring device must be complete by the time the department representative conducts the examination of your system unless the department has rescinded the requirement prior to the field examination. In some cases, the equipment requirement can be rescinded because the equipment cannot be physically installed, is not appropriate or can be accommodated with other measuring methods.

If you have questions concerning this matter, please feel free to contact the NORTHERN Regional Office in Coeur D' Alene at (208)765-4639.

Sincerely,

Rita Fleck
Secretary/Records Manager

c: IDWR - Region

AUG 05 1991

ANALYSIS SHEET
for
PROOF OF BENEFICIAL USE

Permit No. 98-7612 Date 7-2-91

GENERAL CONSIDERATIONS

- ✓ Name same as permit?
- no Address same as permit? If no, indicate below.
- ✓ Proof timely received? If no, complete priority advancement below.

SOURCE OF WATER

- ✓ Surface water source
- ____ Ground water source
  - NA Drill permit req'd?
  - ____ Copy in file? Drill permit no. ____
  - ____ Amt paid for drilling permit? ____ Correct?
  - ____ Well log in file?

LICENSE EXAMINATION FEE

- ✓ Required?
- 600.00 Amount submitted?
- ✓ Correct amount?

MEASURING DEVICE

- yes Measuring device or access port required?
- yes Installed?
- ____ Waiver requested or needed?

DEFICIENCIES OR ACTION ITEMS

address change - 7-2-91 JS.

needs meas. device

PRIORITY CALCULATION

Date proof received	NA	____
Date proof due	____	- ____
No. of days late		= ____
Priority date	____	+ ____
NEW PRIORITY DATE	____	= ____

LB

SMITH FALLS HYDROPOWER

June 14, 1991

RECEIVED
JUN 18 1991
Department of Water Resources

Mr. L. Glen Saxton,
Chief, Water Allocation Bureau
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

RE: Proof of Beneficial Use of Water Rights Permits No. 98-07650 and 98-07612.

Dear Mr. Saxton:

Thank you for your help and advice today. Enclosed with this letter are both Proofs of Beneficial Use for the Water Right permits referenced above along with a check for $1200.00. This covers the $600 fee for each permit.

Please note that the Permit Holder is Smith Falls Hydropower and not Idaho Natural Energy, Inc. Smith Falls Hydropower purchased all of the rights to the Smith Falls Hydroelectric Project from Idaho Natural Energy, Inc. sometime ago. As you may know, Gary Spackman of your department assisted us in the transfer of the water rights to Smith Falls Hydropower as well as the assignment of these rights for financing purposes.

The measuring device and flow measurements are installed and recorded respectively. When your departments inspector visits the site he can readily see the U.S.G.S. gaging station and the hard copy record kept by the measuring device.

We are sending you this letter Federal Express (FED-X #0091549371) so that you can process the information on Monday. Please feel free to give me a call if any questions arise.

Thanks for your cooperation.

Sincerely,

David B. Van Otten
President, APPCII

cc: Gary E. May
R. Fred Moss

Encl

AUG 28 1991

98-7612

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Smith Falls Hydropower — Project No. 8436-076
Utah

ORDER APPROVING RECREATION PLAN

(Issued May 28, 1991)

On December 4, 1990, Smith Falls Hydropower (licensee) filed a recreation plan to fulfill the requirements of paragraph (B) of the Order Deleting License Article and Requiring Recreation Plan issued October 10, 1989 for the Smith Creek Project. Paragraph (B) requires the licensee, after consultation with the U.S. Forest Service (FS), to file for Commission approval a plan for enhancing recreational development in the general vicinity of the project.

The licensee's filing contains the required plan and FS comments and recommendations. The licensee proposes to construct a day-use picnic facility with parking and a trail, and an information turnout on FS Road #281 to enhance recreational development in the general vicinity of the project.

The FS, in its letter dated October 24, 1990, provided comments and recommendations on the licensee's plan. The FS recommends that the licensee provide specific picnic and interpretive facilities in the vicinity of the project's diversion dam site and an information turnout on FS Road #281 and work with the FS on the design and layout of the proposed facilities. The licensee incorporated these recommendations into its filed plan.

In addition, the FS provided other recommendations on the licensee's plan. Specifically, the FS requests that the licensee provide a written commitment that it will develop access to a viewpoint below Smith Falls at the first possible opportunity and, in the interim, provide access for kayakers to exit Smith Creek. The licensee states that it cannot give a written commitment to provide access below Smith Falls because the property occupied by the falls is privately owned and not under its control. Further, the licensee states that it is unable to provide access for kayakers to exit Smith Creek because the shoreline of the five privately owned acres of land it controls above Smith Falls is either directly adjacent to the powerhouse tailrace or located precipitously at the top of the falls. This being the case, it would be unable to insure against any liability associated with allowing kayakers in the area.

AUG 09 1991

The Commission's October 10, 1989 order approved the deletion of article 412 from the project license and required the licensee to file a plan to enhance recreational development in the general vicinity of the project. Article 412 required the licensee to provide specific recreation facilities at two FS campgrounds located near the project area. The licensee's plan proposes recreational development comparable to the facilities originally required by license article 412. Thus, the access facilities recommended by the FS are beyond the scope of development contemplated by the Commission at the time of licensing. Therefore, it would not be appropriate to require the licensee to provide the recommended access below Smith Falls or access for kayakers to exit Smith Creek.

The licensee states in its filing that it is not responsible for maintenance of the proposed recreation facilities. As such, the FS would assume maintenance responsibility for the facilities. It is important to note that the licensee is ultimately responsible for the proposed facilities and should ensure that the necessary actions are taken to adequately maintain the facilities.

Implementation of the filed recreation plan would enhance recreational development in the general vicinity of the project.

The Director orders:

(A) The recreation plan filed on December 4, 1990, is approved.

(B) The licensee shall ensure that the necessary actions are taken to adequately maintain facilities identified in the filed recreation plan.

(C) Within 90 days from the date of completion of the facilities identified in the filed recreation plan, the licensee shall file "as-built" drawings showing the type and location of the completed facilities, the project boundary, and any associated project features. The required facilities shall be completed no later than September 30, 1991.

(D) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

J. Mark Robinson
Director, Division of Project
Compliance and Administration

RECEIVED
JUN 03 1991
Department of Water Resources

RECEIVED
JUL 3 1990
Department of Water Resources

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Smith Falls Hydropower

Project No. 8436-059
Idaho

ORDER GRANTING EXTENSION OF TIME

(Issued June 28, 1990)

The licensee for the Smith Creek Project has requested an extension of time to comply with ordering paragraph B of the Commission's Order Deleting License Article and Requiring Recreation Plan issued on October 10, 1989. 1/ The reasons advanced by the licensee in support of the requested extension of time are reasonable and justify the extension.

The Director orders:

(A) The deadline for filing a recreation plan according to ordering paragraph B is extended to September 2, 1990.

(B) This order is issued under authority delegated to the Director pursuant to section 375.314 of the Commission's regulations. Section 385.1902 of the Commission's regulations provides 30 days from the date of this order for an appeal to the Commission of this action. Filing an appeal does not stay the effective date of this order or any date specified herein.

J. Mark Robinson
Director, Division of Project
Compliance and Administration

AUG 09 1990

1/ The extension requested was filed untimely. No public interest will be served by denying the extension based on the filing date. However, in the future, the licensee must make every effort to comply with the regulations and the terms and conditions of the license in a timely manner or face penalty provisions of section 31 of the Federal Power Act, including civil penalties of up to $10,000 per day for each violation or revocation of the license.

P 98-7612
96-7690

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Smith Falls Hydropower

Project No. 8436-050
Idaho

ERRATA NOTICE

(February 2, 1990)

ORDER AMENDING LICENSE
(MAJOR)
(Issued December 28, 1989)

On page 3 of the order under section (E) change "Article 301" to "Article 304" and change "Article 302" to "Article 305".

RECEIVED
FEB 9 1990
Department of Water Resources

Lois D. Cashell
Secretary

49 FERC ¶ 62,306

P 98-7612
98-7650

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Smith Falls Hydropower

Project No. 8436-051
Idaho

ORDER APPROVING CONVEYANCE OF PROJECT LANDS AND WORKS

(Issued December 28, 1989)

On December 21, 1989, Smith Falls Hydropower, the licensee for the Smith Creek Project, FERC No. 8436, filed an application seeking Commission approval for conveyance of project lands and works in order to obtain financing for the project. Under the Financing Agreement and Facility and Site Lease, as amended, Westinghouse will purchase the project works and lease the project's lands from the licensee, and simultaneously will lease the project works and sublease the project's land back to the licensee. The application was made pursuant to article 5 of the license.

A review of the application and the sales agreement indicates that the licensee has retained sufficient rights for all project purposes. Therefore, the conveyance of project lands and works will be approved herein.

The Director orders:

(A) The conveyance of lands and project works, as described in the application filed December 21, 1989, is approved.

(B) The licensee shall maintain all rights necessary for project purposes and shall be able to obtain title to their prospective project land and works prior to the expiration of the license. The licensee shall maintain, in any arrangement, sufficient ownership and control of the project to enable the Commission to carry out its regulatory responsibilities under the Federal Power Act with respect to the project.

(C) This order is issued under authority delegated to the Director. Section 385.1902 of the Commission's regulations (18 C.F.R.) provides 30 days from the date of this order for an appeal to the Commission of this action.

for J. Mark Robinson
Director, Division of Project
Compliance and Administration

March 21, 1990

David B. Van Otten
699 East South Temple, Suite 220
Salt Lake City, UT 84102

RE: PERMITS 98-7612 AND 98-7650

Dear Mr. Van Otten:

The department has received the information you forwarded on March 1, 1990 in response to our request for an operation manual which describes procedures and precautions to insure public safety and the mainenance of the minimum streamflow.

The information which you provided does not describe the procedures in the detail which the department had hoped for but the department does not want to store and maintain a full copy of the six (6) large manuals of operation referred to in your letter.

Assuming the complete manuals provide more detail to the operators of the power project than shown in the exerpts you have provided, the department will consider that the submittal is satisfactory.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: N. Region

SMITH FALLS HYDROPOWER

March 1, 1990

Mr. Robert G. Haynes
Idaho Dept. of Water Resources
1910 Northwest Blvd., Suite 210
Coeur d'Alene, Idaho 83814

RECEIVED
MAR 6 1990
Department of Water Resources

RE: Smith Creek Hydro Project operations manual.

Dear Mr. Haynes:

Pursuant to our phone conversation today we are sending you the portion of the operations manual which deals with Standard Operating Procedures, Normal Operation and Emergency Operation. This is to comply with the conditons of the Permits to Appropriate Water, #98-7612 and #98-7650 which your department has issued to Smith Falls Hydropower. Please review these procedures. As we discussed, we have six large manuals of operation which cover every aspect of the facilities operations. We believe that the above information is probably sufficient to meet your needs.

By this letter I am also asking Fred Moss of our Bonners Ferry Office to keep you apprised of the testing which is going on at the site. A static pressure test of the penstock is scheduled to commence March 2nd. A 1.25 times normal working pressure test is scheduled to commence in about a week. This will depend on weather and ground conditions which affects the preparation for this test. Once this test is completed, we anticipate performance testing units 1 and 2 prior to being declared ready for Commercial Operation on or about March 16th through 19th. Fred will keep you advised of the exact date as events progress so that you may attend these testing sessions at your discretion.

Thank you for your cooperation.

Sincerely,

SMITH FALLS HYDROPOWER

David B. Van Otten

RECEIVED
AUG 09 1991

cc: Gary Spackman, IDWR, Boise
Fred Moss
Gary May
Farley Eskelson

SMITH FALLS HYDROELECTRIC PROJECT

STANDARD OPERATING PROCEDURES

1. Organizational Unit:

Smith Falls Hydroelectric
Bonners Ferry, Idaho

2. Scope of Operation:

Intake structure including (spillway, [illegible] gates, fish ladder, fish screens, fish bypass notch, spillway windows) and associated equipment at the [illegible]. Penstock air\vac valves, visual inspection of penstock, powerhouse, switchyard (operation and inspection), and associated equipment at the powerhouse. Project roadways, buildings and grounds.

3. Headquarters location:

Smith Falls Hydroelectric
Powerhouse
Mile Marker 21.5
Westside Road
Copland, Idaho
Phone 208 - 267-5301
208 - 276-2744

Smith Falls Hydroelectric
Business Office Bonners Ferry
PO Box 3100 113 Eisenhower
Bonners Ferry, Idaho 83805

Phone 208 - 267-7511
Fax 208 - 267-7512

Smith Falls Hydroelectric
Corporate Offices
699 East South Temple, Suite 220
Salt Lake City, Utah 84102

Phone 801 - 363-7007
Fax 801 - 363-6661

MICROFILMED
AUG 09 1991

4. Staffing and Organization:

The project operation and maintenance subsection is headed by Chief of Operations with Chief Plant Operator and one part time plant operator. The Chief Plant Operator is with in phone contact of the plant at all times. When off duty

the operator will wear a pager that will call when the plant goes off line. The plant is automated to run during night time hours. There will be an operator on site during business hours including weekends and holidays. The operators will be on call during off hours. The plant has a automatic dialer that will contact operator on duty. The dialer will be set up as follows:

1. Chief Plant Operator
2. Plant operator
3. Chief of Operations
4. Assistant Chief of Operations
5. Corporate offices Bonners Ferry
6. Corporate offices Salt Lake City
7. County Sheriff

5. Functional Responsibility

A. The Chief of Operations supervises, directs, coordinates, schedules and performs all activities in connection with project operation functions. He will report to the Operations Committee. He writes all FERC reports and sees that the plant is operating with in the FERC license.

B. The Chief Operator supervises, directs coordinates, schedules of all plant operators in connection with project operation functions, routine maintenance, inspection, lubrication, cleaning, painting, etc. of all project facilities. He provides assistance to the Chief of operations on all matters pertaining to Project operations and major maintenance, and calls attention to operation or maintenance items which are beyond the ability of the regular operating force. He also assures that all labor and material charges are allocated to the proper account, all overtime approved, and that all expenditures have been properly authorized.

C. Functional responsibilities which are re-delegated to the operators or maintenance personnel, and for which the Chief Operator has the responsibility, include the following:

(1) The proper operation, inspection and care of all powerhouse, diversion, impoundment, penstock and project auxiliaries.

(2) Execution of switching, inspection and operating functions for powerhouse and switchyard or auxiliary equipment.

(3) Proper operations of water spilling for <u>minimum required Fisheries Flows</u> including <u>Flushing flows.</u>

(4) Maintenance of project roadways and mobil equipment.

(5) In absence of Chief Operator, The operator on duty is in charge of 1 through 4 .

(6) There will be part time assistance in cleaning and maintaining fish screens, trash rack, and diversion activities during spring time high flows.

(7) During time when trouble may occur such as floods, storms or other causes, the Chief Operator shall see that the project is adequately staffed with not less then two operators available plus labor as necessary. The Chief Operator will contact the Chief of Operations immediately so that the situation can be evaluated.

AUG 0 9 1991

STANDARD OPERATING PROCEDURES

1. Normal Operation

   A. Duties of the Plant Operator will revolve around a day-to-day checklist to verify safety and efficient operation as well as a schedule of maintenance as determined by the Chief of Operations. The day-to-day checklist will include visual observation of diversion structure, penstock, powerhouse, switchyard and all facilities associated with the project. He will fill out a Daily Operation Report (DOR) and keep a daily log of operations. Both the DOR and daily log will be kept in the office at the plant.

   B. More specific routine operations of the power plant and transmission facilities are as follows:

      1. Plan and control power generation and regulation. This will include maintenance at all times of the minimum required Fisheries Flows required by all governmental agencies. Read the USGS gage down stream daily to insure minimum bypass flow.

      2. Monitor all machinery in the plant to include but not limited to turbines, generators, lube-oil systems, hydraulic systems, lube-oil heating systems, building heating and air conditioning systems, switchgear, fish screens, trash racks, telecommunications equipment, stream flow gages and other equipment to be sure that they are all functioning properly and safely.

      3. Prepare reports, logs, records of electrical production and a record of any maintenance items. The DOR will provide the format for such information. This information will include daily summaries of electrical production in kwh and peak mw, average production, temperature and precipitation records. Record names and addresses of any visitors, including governmental agencies and other personnel which may be on hand to repair equipment, clean equipment on site. The DOR will be copied and forwarded to Chief of Operations on a weekly basis. The original DOR will be on file at the office of the plant.

      4. Communicate with EWEB, BPA, and NLI on a regular basis on all operational matters which affect power production and which may impact their systems.

DISCONTINUED
AUG 09 1991

5. Keep the powerhouse and diversion structure clean and presentable.

6. Ensure the safety of maintenance personnel. To train additional labors in their duties of operations to insure both plant and human safety.

7. Be responsible to secure and lock the powerhouse, and diversion building, and switchyard when not occupied by personnel.

8. Maintain the grounds and arrange for the removal of garbage. In the event oil is changed in the lube-oil system or the hydraulic units, the Chief plant operator will ensure the environmentally safe removal of the oil containers from the site.

9. Review and verify time sheets of assistant plant operators, and other maintenance personnel to be forwarded to Chief of Operations for payment.

10. To conduct tours and inspections of agency personnel and others which the Chief of Operations and Owner may approve (VIP'S). Tours of the plant and its operations will only be to those whom the Chief of Operations approves.

2. Emergency Operation

A. In emergencies involving danger to life or property, the plant operator on duty will immediately contact the Chief Plant Operator who will immediately contact the Chief of Operations giving him all details available, the plant operator on duty will take immediate local control, if necessary for safety. With the help of the Chief Plant Operator and the Chief of Operations will assist the plant operator on duty of what ever action will need to be taken.

B. More specific emergencies and there procedures are described as follows:

1. Emergency shut down of plant. If there is a need to shut down the plant due to safety of the plant or life, the plant operator will switch the main breaker to trip which will trip the turbines and generators off line.

2. Emergency evacuation of penstock. If there is a need to evacuate the penstock of water due to safety of the plant or life, the plant operator will shut down the turbines and generators in a emergency shut down as described above. The plant

AUG 09 1991

operator will go to the diversion and shut the knife gate. After closure of knife gate the operator will inspect the air vent to insure that it is free of ice. The operator will drain the penstock by means of opening one needle valve on one of the big turbines.

The plant is equipped with a pressure transducer that will sense a sudden loss of pressure which will in turn shut the knife gate automatically. This is incase of a penstock rupture.

3. Emergency shut down of power from Smith Falls substation above the plant to the plant. If there is a need to shut down the power into the plant from the substation due to safety of the plant or life, the plant operator will shut down the turbines and generators as indicated in No. 1 then trip the breaker for the substation located on the front panel of the switchgear.

4. Emergency shut down of power through the Smith Falls transmission line. If there is a need to shut down the power through the transmission line from BPA's substation at Bonners Ferry to the substation located at the plant due to safety of the plant or life, the plant operator will contact BPA's on call substation operator for tripping the breaker.

5. Emergency draining of impoundment at the diversion. If there is a need to drain the impoundment at the diversion due to safety of the plant or life, the plant operator will go to the diversion shut the knife gate then open the four 48" sluice gates. The impoundment can only be drained if the amount of water going out of the sluice gates is more then the water coming into the head of the diversion. In the spring time in high flows the diversion impoundment can not be drained.

6. Any other emergency other than what was listed will be evaluated at the time by the Chief Plant Operator and the Chief of Operations.

9 1991

SMITH FALLS HYDROPOWER

February 5, 199

RECEIVED
FEB 7 1990
Department of Water Resources

Mr. Gary Spackman, Manager
Water Rights Permit Section
State of Idaho
Department of Water Resources
1301 North Orchard St., Statehouse Mail
Boise, ID 83720

RE: Smith Falls Hydropower
Permits to Apropriate Water, #98-7612 and #98-7650;
Condition Requiring Submittal of Operation Plan

Dear Mr. Spackman,

Pursuant to our phone conversation today, I am sending you this letter to advise you of the Revised Schedule for placing the Smith Falls Hydropower Plant "on line".

At this point we feel we will be ready for performance testing during the week of February 12th through 16th. This may extend also into the week of February 19th. However, we feel that by the end of February, we will be on line with the Smith Falls Hydropower Project.

One of the conditions of the water permits is to submit an operations manual which would instruct an operator in the proper procedures and precautions to insure public safety and maintenance of the minimum stream flow. We anticipate submitting this manual by the end of February. Previously, you had sent us a letter dated December 14th which requested that the operations manual be submitted within 60 days of that letter; however, this was in response to our letter that indicated that we thought we would be on line the first week in January. Due to construction delays, this is not so. We are asking that the Department grant us several weeks extension to the end of February to comply with the provisions of the water permits. It is our understanding that this is okay with the Department.

Thank you for your cooperation.

Sincerely,

SMITH FALLS HYDROPOWER

David B. Van Otten

AUG 09 1991

DBVO/jp
cc: Robert Haynes
Gary May
Fred Moss
Farley Eskelson

699 East South Temple, Suite 220 • Salt Lake City, Utah 84102 • (801) 363-7007

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 23, 1990

David Van Otten
Smiths Falls Hydropower
699 East South Temple
Suite 220
Salt Lake City, UT 84102

RE: Permits to Appropriate Water Nos. 98-7612 & 98-7650:
Certification of Safety of the Smiths Falls Hydropower Plant

Dear Mr. Van Otten:

A condition of permits nos. 98-7612 and 98-7650 required:

> The adequacy of the project designed to protect public and employee safety during all phases of construction and operation of the project shall be reviewed and certified by a professional engineer licensed to practice in the state of Idaho. A copy of the certification shall be filed with the Department.

I requested this certification on October 17, 1989. In response to my request, Ted S. Sorenson, P.E., sent me a letter on October 23, 1989, which certified that the project design was adequate to protect public and employee safety.

The letter from Ted Sorenson satisfies the condition of permits nos. 98-7612 and 98-7650.

Respectfully,

Sharla Curtis

for GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc. Ted Sorenson
Northern Region

AUG 0 9 1991

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

December 14, 1989

David B. Van Otten
Smith Falls Hydropower
699 East South Temple, Suite 220
Salt Lake City, UT 84102

RE: Permits to Appropriate Water No. 98-7612 and 98-7650;
Condition Requiring Submittal of Operation Plan

Dear Mr. Van Otten:

I have reviewed the letter which you submitted on November 28, 1989, which discusses plans of Smith Falls Hydropower to begin operations. The information helped me understand what is planned.

The condition on the permits requiring submittal of an operation plan contemplated the submittal of an operation manual which would instruct an operator in the proper procedures and precautions to insure public safety and maintenance of the minimum streamflow.

The Department feels that operation instructions are necessary to insure safety and bypass flows. Please submit a copy of the operations manual within sixty (60) days of the date of this letter.

Please also inform Robert Haynes our Northern Regional Manager, 1910 NW Boulevard, Suite 210, Coeur d'Alene, Idaho, 83814, telephone number 765-4639, of the operation start up plan for December 30, 1989. He may desire to attend. I also suggest that you keep him informed of the meeting schedules for the operating committee. Bob may want to be apprised of the proceedings.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc. Northern Region - Robert Haynes

RECEIVED
AUG 09 1991

98-07612

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Smith Falls Hydropower — Project No. 8436-050
Idaho

ORDER AMENDING LICENSE
(MAJOR)

(Issued December 28, 1989)

Smith Falls Hydropower (licensee) has filed an application under Part I of the Federal Power Act (Act) to amend its license for the Smith Creek Project located in Boundary County, Idaho, on Smith Creek, tributary of the Kootenai River. The project would occupy lands of the United States within the Panhandle National Forest.

The licensee proposes to amend the project by installing two generating units with an installed capacity of 18 MW each instead of two 15 MW units as authorized in the original license, and install a third unit with an installed capacity of 2.15 MW. The license for the Smith Creek Project No. 8436 was issued to Idaho Natural Energy, Inc. on April 10, 1987. 1/ On July 24, 1989, the Commission issued an Order Approving Transfer of License from Idaho Natural Energy, Inc. to Smith Falls Hydropower. 2/

Notice of the application has been published. No protests or motions to intervene were filed. Comments received from the Idaho Department of Health and Welfare, the U.S. Department of Agriculture, the Idaho Department of Fish and Game and individuals have been fully considered in determining whether to issue this amendment of license.

Comprehensive Development

Section 10(a)(2) of the Act requires the Commission to consider the extent to which a project is consistent with federal or state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by the project.

Under section 10(a)(2), federal and state agencies filed 24 comprehensive plans that address various resources in Idaho. Of

1/ Idaho Natural Energy, Inc., 39 FERC ¶ 62,038 (1987).

2/ Idaho Natural Energy, Inc. and Smith Falls Hydropower, 48 ¶ 62,046 (1989).

AUG 09 1991

these, the staff identified 10 plans relevant to this project. 3/ No conflicts were found.

Based on our review of agency and public comments filed in this proceeding and on the staff's independent analysis, the Smith Creek Project, as proposed to be amended, is best adapted to a comprehensive plan for Smith Creek.

Recommendations of Federal and State Fish and Wildlife Agencies

Section 10(j) of the Act requires the Commission to include license conditions, based on recommendations of federal and state fish and wildlife agencies, for the protection, mitigation, and enhancement of fish and wildlife. The U.S. Fish and Wildlife Service and the Idaho Department of Fish and Game did not provide any recommendations for the proposed amendment of license.

Summary of Findings

The EA contains background information, analysis of impacts, support for related license articles, and the basis for a finding of no significant impact on the environment. Issuance of this amendment is not a major federal action significantly affecting the quality of the human environment.

The design of this project is consistent with the engineering standards governing dam safety. The project will be safe if constructed, operated and maintained in accordance with the requirements of this order. Analysis of related issues is provided in the Safety and Design Assessment (S&DA), also attached to this order.

The Director, Office of Hydropower Licensing, concludes that the amendment of the Smith Creek Project would not conflict with any planned or authorized development and would be best adapted

3/ Forest plan-Idaho Panhandle National Forest, 1987, Forest Service; Final environmental impact statement for the forest plan-Idaho Panhandle National Forest, 1987, Forest Service; Idaho fisheries management plan, 1986, Idaho Department of Fish and Game; Idaho water quality standards and wastewater treatment requirements, 1985, Idaho Department of Health and Welfare; Idaho outdoor recreation plan, 1983, Idaho Department of Parks and Recreation; State water plan, 1986, Idaho Water Resources Board; Columbia River basin fish and wildlife program, 1984, Northwest Power Planning Council; Northwest conservation and electric power plan, 1986, Northwest Power Planning Council; Columbia River Basin fish and wildlife program, 1987, Northwest Power Planning Council; Protected areas amendments and response to comments, 1988, Northwest Power Planning Council.

From: DWR50::HAYNES 21-DEC-1989 16:20:29.43
To: DWR03::YOUNG
CC: HAYNES
Subj: smith creek hydro

Van
File 98-7612

Norm,

I talked to Dave Van Otten about the FERC notice. He indicated that FERC made several errors in publishing the notice. The location of the the 2,150kw generator is at the downstream power plant. They opted to install a small unit because, at summer time flows, the bigger units were way down on the efficiency curves.

The change in capcity in the larger units came about because Bouvier, their supplier, had just completed a job in Canada for the larger units, so they already had patterns for the 1.8mw units. Bouvier was willing to sell Smith Creek Hydro the larger units for essentially the same price. The hydraulic capacity of the system will be something less than 370cfs, which is what the total of their water right permits is for.

The reason for building a new line instead of upgrading the old one came about apparently because that was what Nothern Lights wanted. I was told it has to do with the fact that, if a public utility line is on road right-of-way when the road is upgraded, the utility gets to move the line. If the line is on private property and the reconstruction of a road necessitates moving the line, the department of transportation moves it as part of the project costs.

RECEIVED
AUG 09 1991

SORENSON ENGINEERING
CONSULTING ENGINEER
550 LINDEN DRIVE
IDAHO FALLS, IDAHO 83401
208-522-8069
FAX 208-522-8223

Spackman Gary Files

RECEIVED
DEC 29 1989
Department of Water Resources

December 18, 1989

Keith Higginson
Director
Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83720

RE: SMITH CREEK HYDROELECTRIC FACILITY, LOCATED ON SMITH CREEK TRIBUTARY TO THE KOOTENAI RIVER, BOUNDARY COUNTY, IDAHO

Dear Mr. Higginson:

This letter is written to confirm my recent conversation with yourself and Mr. Norm Young.

The 2100 KW additional turbine and generator installation for the facility is not located at the diversion as delineated in the recent FERC notice. The FERC notice is in error. The additional 2100 KW would be installed at the powerhouse. The water necessary for the additional facility, as well as water for all the facilities installed has been applied for by the owner, and to my knowledge, the permits have been approved, subject to "proof of beneficial use."

Very truly yours,

Ted S. Sorenson mbk

Ted S. Sorenson, P.E.
Project Engineer

TSS:mbk

cc: Dave Van Otten, Smith Falls Hydropower

AUG 09 1991

SORENSON ENGINEERING
CONSULTING ENGINEER
550 LINDEN DRIVE
IDAHO FALLS, IDAHO 83401
208-522-8069
FAX 208-522-8223

RECEIVED
OCT 26 1989
Department of Water Resources

October 23, 1989

Gary Spackman
Manager
Water Rights Permit Section
Department of Water Resources
Statehouse Mail
1301 North Orchard
Boise, ID 83620

RE: SMITH FALLS HYDROPOWER PLANS, PERMITS #98-716, 98-7612 AND 98-7650

Dear Mr. Spackman:

Pursuant to your letter of October 17, 1989, to Mr. David Van Otten, this letter is written to certify the adequacy of the project design to protect public and employee safety during construction operation phases of the project.

This concern was paramount during design and will be throughout construction.

Trusting this to be of value;

Very truly yours,

Ted S. Sorenson, P.E.
Project Engineer

TSS:mbk

cc: David Van Otten

AUG 09 1991

October 17, 1989

Smith Falls Hydropower
Attn: David B. Van Otten
699 E. S. Temple, Suite 220
Salt Lake City, UT 84102

RE: SMITH FALLS HYDROPOWER PLANS - PERMITS 98-7612 AND 98-7650

Dear Mr. Van Otten:

The department has received the plans forwarded to the department by Ted Sorenson in connection with the above referenced project. We appreciate receiving the plan but wish to point out there appears to be some misunderstanding of what is needed. More specifically, the conditions of approval for the permits include the following condition:

> "The adequacy of the project design to protect public and employee safety during all phases of construction and operation of the project shall be reviewed and certified by a professional engineer licensed to practice in the state of Idaho. A copy of the certification shall be filed with the department."

Your engineer is the proper party to certify the adequacy of the project design to protect public and employee safety during construction and operation phases of the project as required by this condition. The certification then needs to be filed with the department.

If you have questions, please feel free to contact the department.

Sincerely,

GARY SPACKMAN, Manager
W.R. Permits Sec.

c: IDWR - N. Region
Ted Sorenson

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

October 2, 1989

Smith Falls Hydropower
Attn: David B. Van Otten
699 E. S. Temple, Suite 220
Salt Lake City, UT 84102

RE: Assignment & Encumbrance of Permit Nos. 98-7612 & 98-7650

Dear Mr. Van Otten:

The Department of Water Resources has reviewed the assignment and security documents related to Permit Nos. 98-7612 and 98-7650 (the permits). We find that the permits have been assigned to Smith Falls Hydropower.

Voluminous security documents expressly grant a security interest in Permit No. 98-7612 to Chicago Title Insurance Company and Westinghouse Credit Corporation. The documents also appear to encumber Permit No. 98-7650 although Permit 98-7650 is not specifically identified by number in the security documents.

The assignee, the secured parties and other parties to the transaction have submitted sufficient proof of authority to do business in the state of Idaho.

Pursuant to Idaho Code §42-207, the Department finds that Permit Nos. 98-7612 and 98-7650 have been assigned and encumbered in good faith, and not for speculation or delay. The transactions appear to be for the purpose of securing adequate financing for the project.

The Department will change its records to reflect that Smith Falls Hydropower is the owner of the permits. Notice will be posted in the file that Chicago Title and Westinghouse are secured parties.

The Department cannot guarantee that the secured parties will always be timely notified of matters pertaining to the permits. Furthermore, the Department may not be able to grant a time to cure defaults by the owner of record. If a dispute arises in the future regarding ownership, the secured parties must submit proof of ownership prior to being recognized as the owner.

AUG 0 9 1991

Conditions attached to the permits expressed concern about construction and operation safety. A condition required certification of public and employee safety by a professional engineer licensed to practice in the state of Idaho. The condition contemplated the review of plans and specification and certification prior to or simultaneous with construction. The Department understands that construction is now at least partially complete, but the public and employee safety of the project has not yet been verified.

This letter is a request for compliance with the condition. If an adequate response is not received within thirty (30) days, the Department will act to impose a bond or perhaps remove the permits from its records.

May I remind you that the safety of operating procedures must be reviewed and confirmed similarly.

Respectfully,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:sc

cc: Carl Barton, Esq.
Northern Region

AUG 0 9 1991

Vault —
File —

PRINCE, YEATES & GELDZAHLER
LAWYERS
CITY CENTRE I, SUITE 900
175 EAST FOURTH SOUTH
SALT LAKE CITY, UTAH 84111
TELEPHONE (801) 524-1000

PARK CITY OFFICE
SIS MAIN STREET
P.O. BOX 38
PARK CITY, UTAH 84060
(801) 649-7440

OF COUNSEL
LYLE M. WARD

TELECOPIER
(801) 524-1099

F. S. PRINCE (RETIRED)
ROBERT M. YEATES
DAVID S. GELDZAHLER
DENIS R. MORRILL
JON C. HEATON
JOHN P. ASHTON
RONALD F. SYSAK
RICHARD L. BLANCK
JOHN M. BRADLEY
D. JAY GAMBLE
STEVEN L. TAYLOR
GORDON STRACHAN
C. CRAIG LILJENQUIST
ANITA TORTI MOSELEY
J. RANDALL CALL
JOHN S. CHINDLUND
WILLIAM A. MEADERS, JR.
GEOFFREY W. MANGUM
JAMES A. BOEVERS
RONALD E. NEHRING
DAVID K. BROADBENT
J. SCOTT LUNDBERG
THOMAS J. ERBIN
PAUL J. TOSCANO
SAMUEL ALBA
ERIK STRINDBERG
ROBERT G. WING
GAIL S. REICH
BRIAN S. KING
GARY R. THORUP
CARL W. BARTON
THOMAS M. MELTON
GREGORY E. LINDLEY†
M. DAVID ECKERSLEY
DON R. SCHOW
SALLY BUCK McMINIMEE
JOSEPH A. WALKOWSKI‡

†ADMITTED IN TEXAS ONLY
‡REGISTERED PATENT ATTORNEY

RECEIVED
OCT 04 1989
Department of Water Resources

September 29, 1989

TELECOPIED TO (208) 327-7866

Mr. Norman C. Young
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Re: Assignment of Water Permits 98-7612 and 98-7650

Dear Mr. Young:

Thank you for your letter of today's date. Dave Van Otten has requested that I respond to you directly.

As I read your letter, you have a concern about who will bear ultimate financial responsibility for the Smith Creek Project (the "Project") and who would shoulder any damages or liability arising in connection with the Project. Under Utah law, the partners of a general partnership are jointly and severally liable for the debts and liabilities of the partnership. In this case, the three corporate general partners of Smith Falls Hydropower (the "Partnership") are jointly and severally liable for the debts and liabilities of the Partnership in connection with the Project. The Westinghouse financing documents are not intended to and do not alter this relationship or these responsibilities.

I hope this letter provides you with the information

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you need. Thank you for your cooperation in assigning the above-referenced water permits. Should you have any questions, please call me collect.

Sincerely,

PRINCE, YEATES & GELDZAHLER

Carl W. Barton

Carl W. Barton

3277D
092989

SEP 29 1989

SMITH FALLS HYDROPOWER

September 29, 1989

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OCT 02 1989
Department of Water Resources

Mr. Norman C. Young
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

RE: Assignment of Water Permits 98-7612 and 98-7650 and attached letter from Carl Barton, Atty.

Dear Norm:

Carl indicated that he couldn't get your FAX machine to accept his complete letter. Therefore, I am FAXing it to you from my machine with a copy to follow by mail.

I have advised Ted Sorenson of Sorenson Engineering to send you a certified set of Plans and Specifications on the Smith Creek Hydro Project. He will also include you on the mailing list and the agenda for the next Engineers/Agency/Contractors meeting to be held on October 26th at 10:00 A.M. at the site.

Thank you for your help and cooperation.

Sincerely,

David B. Van Otten

cc: Carl W. Barton
Gary E. May
R. Fred Moss
Ted Sorenson

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AUG 09 1991

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

September 12, 1989

Mike Faber
HCR 60 Box 137
Bonners Ferry, Idaho 83805

Re: Smith Creek Hydro Development, FERC #8436

Dear Mr. Faber:

I have reviewed the copy of the letter dated February 15, 1989 from William, Morden of the USFS to the FERC that you provided to Rick Sterling of this office. prior to receiving the letter, IDWR staff tried to determine if any petitions to the FERC or other actions were pending to revise the project.

Enclosed is a copy of a letter from this agency to the attorney for the assignee of the project asking for information on the matter. We have not received a response to the letter nor have we been able to identify any petitions to revise the license for FERC project no. 8436.

If you have notice of a proposed change to the license, I would appreciate receiving a copy.

Sincerely yours,

NORMAN C. YOUNG
Administrator

NCY:dc

Encl.

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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 14, 1989

Mr. McNeill Watkins II
Bishop, Cook, Purcell & Reynolds
1400 L Street, N.W.
Washington, D.C. 20005

Re: Smith Creek Project, FERC Project No. 8436

Dear Mr. Watkins:

On July 24, 1989 the Federal Energy Regulatory Commission (FERC) issued an Order Approving Transfer of License for the above-referenced project to Smith Falls Hydropower for which you are the named contact. The order states that Smith Falls Hydropower "agrees to accept all of the terms and conditions of the license and to be bound by the license as if it were the original licensee."

Enclosed for your information is a copy of a letter from the President of the Northern Idaho Chapter of the National Audubon Society concerning the project. The letter suggests that an attempt is being made through an appeal or other means to modify the 27 c.f.s. minimum flow requirement contained in article 103 of the project license. The Department of Water Resources has been unable to confirm an effort to modify the minimum flow requirement.

I would appreciate a response describing any current or planned efforts to modify the minimum flow requirements of the project license.

Sincerely,

Phillip J. Rassier

PHILLIP J. RASSIER
Deputy Attorney General
Department of Water Resources

Encl.

AUG 09 1989

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SEP 06 1989
Department of Water Resources

HCR 60 Box 137
Bonners Ferry, Id
83805

Aug 30, 1989

Dear Mr. Sterling,

Enclosed are the copies of Forest Service correspondence demonstrating the modification to Article 103 of FERC license 5436.

Perhaps of significance is that the developer has again changed the company name and is now called Smith Falls Hydropower. On July 24, 1989 FERC approved transfer of the license from Edaho Natural Energy to SFH.

In any case, your attention to this matter is appreciated and we remain deeply concerned over any modification to minimum release or fishway flows.

Sincerely,

Michael Faber

Michael Faber

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United States Department of Agriculture
Forest Service
Idaho Panhandle National Forests
1201 Ironwood Drive
Coeur d'Alene, ID 83814

REPLY TO: 2770

DATE: February 15, 1989

Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
825 North Capitol, N.E.
Washington D.C. 20426

Dear Mr. Plumb:

Re: FERC License #8436, Smith Creek
Boundary County, Idaho

On January 18, 1989, the licensee for this project requested that we reconsider the requirements of Article 103 of this license.

We have now re-evaluated our needs for instream flows in Smith Creek, and have consulted with the State of Idaho Fish & Game Dept. and the U.S. Fish & Wildlife Service on the subject.

We are willing to revise the requirements of Article 103, feeling that this can be done with no adverse effects to the fisheries or to the integrity of the stream channel.

Upon application by the licensee, we concur that the requirements of Article 103 may be changed to wording shown in the attached Exhibit A.

Sincerely,

For WILLIAM E. MORDEN
Forest Supervisor

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EXHIBIT A
FERC License #8436

1. Existing Article 103

Article 103. During the construction and operation of the facilities authorized by this license, the licensee shall assure that the discharge from the Smith Creek Project is a continuous, minimum flow of 27 cubic feet per second (cfs), as measured immediately below the point of proposed diversion. No diversion of water will be permitted when the natural flow is less than 27 cfs.

After notice to and concurrence by the Forest Service, the licensee shall release the entire unrestricted flow in Smith Creek down the channel for 10 consecutive days during the peak runoff period to maintain channel competence and to aggregate and flush the gravel.

The following chart is a flow duration curve and also reflects minimum flow needs for Smith Creek. The applicant, Idaho Fish & Game Dept., and the Forest Service have all agreed to these figures.

FAVORABLE FLOWS		
Date	Duration (days)	Flows (cfs)
Day 1	10	162
	8	309
	6	463
	4	617
	2	771
	3	926
	1	1080
	1	1234
est.	1	1389
5/25	1	1543
	1	1234
	1	1080
	1	771
	1	617
	1	463
	1	309
	1	162
	248	19
	37	12
	18	9
	14	6
	4	5

FISHERIES FLOWS		
Date	Duration (days)	Flows (cfs)
3/28	10	50
4/01	30	100
5/01	31	80
6/01	294	27

COMBINED FLOW CLAIM		
Date	Duration (days)	Flows (cfs)
3/21	10	50
4/01	18	100
	10	162
	8	309
	6	463
	4	617
	2	771
	3	926
	1	1080
	1	1234
est.	1	1389
5/25	1	1543
	1	1234
	1	1080
	1	771
	1	617
	1	463
	1	309
	1	162
6/1	293	27

AUG 0 9 1991

2. Revised Article 103 (Proposed)

Article 103. During the construction and operation of the facilities authorized by this license, the licensee shall assure that the discharge from the Smith Creek Project is a continuous, minimum flow of 27 cubic feet per second (cfs), as measured immediately below the point of proposed diversion. No diversion of water will be permitted when the natural flow is less than 27 cfs.

After notice to and concurrence by the Forest Service, the licensee shall release flows down the channel for a duration shown in the following flow chart which is a part of this article.

FLOW CHART
(Including Minimum Fisheries Flows)

Date	Duration (days)	Bypass Flows (cfs)
Beginning 3/21	10	50
4/01	30	100
5/01	31	80
*Day 6	3	1543 (or natural flow, whichever is less)

For the balance of the year, the minimum bypass flow of 27 CFS will be maintained.

*Day 6 is defined as five days following the first day that the flow reaches 1000 CFS, and maintains that amount for 24 hours, but no earlier than April 25th.

No blem a proposed [illegible] Brent

AUG 0 9 1991

United States Department of Agriculture
Forest Service
Idaho Panhandle National Forests
120 Ironwood Drive
Coeur d'Alene, ID 83814

Reply to: 2770

Date: February 15, 1989

Subject: FERC Project 8436

To: Regional Forester

We were recently asked by Idaho Natural Energy Inc., the permittee for the above project, to re-evaluate, and change if possible, Article 103 of the Project License.

Attached is our response to the Permittee, and also a letter and revised Article 103 to be forwarded to FERC.

We expect the Permittee to apply to FERC for the modification in the near future.

Sincerely,

JOHN CRISWELL
Staff Officer, Lands

cc:D-7

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United States Department of Agriculture
Forest Service
Idaho Panhandle National Forests
Rou. 4, Box 4860
Bonn[illegible] Ferry, ID 83805
(208[illegible]67-5561

Caring for the Land and Serving People

FERC RCVD
FEB 16 1989

Reply to: 2770

Date: February 15, 1989

Mr. R. Fred Moss
Idaho Natural Energy, Inc.
699 East South Temple, Suite 220
Salt Lake City, Utah 84102

Dear Mr. Moss,

This letter is in response to your letter of January 18, 1989 requesting that the Forest Service offer clarification and/or a modification to Article 103 of FERC License #8436, held by your company.

We understand that you must apply to F.E.R.C. to have the conditions of the license conditions modified. This letter and the enclosed material constitute our response to your request, and will be furnished to F.E.R.C.

The existing channel maintenance flow requirements (favorable flows) contained in Article 103 were developed using a procedure appropriate for alluvial channels. The channel of Smith Creek within the reach that would be effected by the proposed project is not alluvial, but is in fact bedrock controlled. Therefore, we are able to amend our instream flow requirements to more accurately reflect resource protection needs. At the same time, the new flow requirements will make additional water available for hydropower production.

For the purposes of channel maintenance, an instream flow will be required which is equivalent to bankfull discharge (1543 cubic feet per second) for a duration of three consecutive days and timed to coincide with peak snowmelt runoff. The timing of this flow requirement will be determined by observation of actual flows in Smith Creek. The day that flow at the diversion attains a rate of 1000 cubic feet per second and equals or exceeds that rate for 24 hours will be identified as Day 1. In no event will Day 1 be earlier than April 25.

The channel maintenance flow requirement of 1543 c.f.s. will begin five days later on Day 6 and will continue for three continuous days through Day 8. During the three day period, either 1543 c.f.s. or naturally occurring flow, whichever is less, will be allowed to flow down the channel.

AUG 09 1991

Flows in excess of 1543 c.f.s. will be available for hydropower generation. This three day bankfull flow requirement will replace the table labelled FAVORABLE FLOWS in Article 103, and also the stated requirement that "The licensee shall release the entire unrestricted flow in Smith Creek down the channel for 10 consecutive days during the peak runoff period...". It will NOT REPLACE but will supplement the Fisheries Flow requirements of Article 103.

The original intent of the terms in Article 103 was that only the flow duration table be used to dictate the required bypass flows needed for beneficial uses such as fisheries and channel maintenance. The phrase referencing the 10 days of unrestricted flows should have been removed before going to FERC as a Forest Service 4(e) condition. The phrase along with the flow chart is confusing. The 10 day phrase should be removed and the article should be changed to read " After notice to and concurrence by the Forest Service, the licensee shall release flows down the channel for a duration as shown in the flow chart, which is a part of this article."

I hope this clarifies our position on favorable flows and what our expectations are for the release of instream flows for the protection of instream beneficial uses in Smith Creek.

Sincerely,

for WILLIAM MORDEN
Forest Supervisor

cc: Ned Horner, IDF&G Dept.
Bill Horton, IDF&G Dept.
Roy Heberger, U.S. F&W Service
Kootenai Indian Tribe
Bonners Ferry, Idaho

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TER-DEPARTMENT MEMO — 1

FROM RICK STERLING

DATE 8/31/89

TO PHIL RASSIER

AUG 09 1991

SUBJECT SMITH CREEK HYDRO PROJECT # 3436

Debi received a call today concerning the Smith Creek project, but you, Norm and Keith were all out of the office, so it was referred to me.

The North Idaho Audubon Society is still very concerned about changes they claim have been made to Article 103 of the project license. It is not the 27 cfs minimum flow (they know that has not been changed), but the other release requirements which are given in Article 103. Specifically, a change from 10 days of unrestricted flow to 3 days, and other changes. They say they have a letter from the Forest Service to FERC saying that the Forest Service agrees to a new chart of minimum flow needs similar to the one shown in the license. You, Norm or Keith probably need to call this guy to hear his concerns. He said he will send a copy of the Forest Service's letter.

SIGNATURE

His name, address & phone are: Mike Faber, HCR 60 Box 137, Bonners Ferry 83805 267-5437 (left it ring

The project works generally described above are more specifically shown and described by those portions of Exhibits A and F recommended for approval in the attached Safety and Design Assessment.

(3) All of the structures, fixtures, equipment or facilities used to operate or maintain the project and located within the project boundary, all portable property that may be employed in connection with the project and located within or outside the project boundary, and all riparian or other rights that are necessary or appropriate in the operation or maintenance of the project.

(D) The Exhibit G described above and those sections of Exhibits A and F recommended for approval in the attached Safety and Design Assessment are approved and made part of the license.

(E) This license is subject to the following articles submitted by the United States Department of Agriculture, Forest Service under section 4(e) of the Act:

Article 101. Within 6 months following the date of issuance of this license and before starting any activities of a land-disturbing nature, the licensee shall file with the Director, Office of Hydropower Licensing, a special-use authorization approved and enforceable by the Forest Service.

The Licensee may not commence activities authorized in the license and Forest Service special-use authorization until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing, instructs otherwise.

Article 102. Each year on or before the anniversary date of the license, the licensee shall consult with the Forest Service with regard to measures needed to ensure protection and development of the natural resource values of the project area. Within 2 months following said meeting, the licensee shall file a report with the Commission of any recommendations made by these agencies. The Commission reserves the right, after notice and opportunity for hearing, to require changes in the project and its operation which may be necessary to accomplish natural resource protection and development.

Article 103. During the construction and operation of the facilities authorized by this license, the licensee shall assure that the discharge from the Smith Creek Project is a continuous, minimum flow of 27 cubic feet per second (cfs), as measured immediately below the point of proposed diversion. No diversion of water will be permitted when the natural flow is less than 27 cfs. After notice to and concurrence by the Forest Service, the licensee shall release the entire unrestricted flow in Smith Creek down the channel for 10 consecutive days during the peak runoff period to maintain channel competence and to aggregate and flush the gravel.

The following chart is a flow duration curve and also reflects minimum flow needs for Smith Creek. The applicant, Idaho Fish and Game Dept., and the Forest Service have all agreed to these figures.

FAVORABLE FLOWS			FISHERIES FLOWS			COMBINED FLOW CLAIM		
	Duration	Flows		Duration	Flows		Duration	Flows
Date	(days)	(cfs)	Date	(days)	(cfs)	Date	(days)	(cfs)
			3/28	10	50	3/21	10	50
Day 1	10	162	4/1	30	100	4/1	18	100
	8	309	5/1	31	80		10	162
	6	463	6/1	294	27		8	309
	4	617					6	463
	2	771					4	617
	3	926					2	771
	1	1080					3	926
	1	1234					1	1080
est.	1	1389					1	1234
5/25	1	1543				est.	1	1389
	1	1234				5/25	1	1543
	1	1080					1	1234
	1	771					1	1080
	1	617					1	771
	1	463					1	617
	1	309					1	463
	1	162					1	309
	248	19					1	162
	37	12				6/1	293	27
	18	9						
	14	6						
	4	5						

No diversion of water will be permitted when the natural flow is less than 27 cfs.

Article 104. Within 1 year from the issuance of this license and before starting any activities of a land-disturbing nature, the licensee in consultation with the Forest Service, shall file a fish and wildlife habitat mitigation plan approved by the Forest Service with the Director, Office of Hydropower Licensing. This plan shall identify requirements for construction and mitigation measures to meet Forest Service fish and wildlife habitat objectives and standards. The plan also shall include a schedule for accomplishing these objectives and standards and shall identify any needs for additional studies.

The licensee may not commence activities affected by the interim plan until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing, instructs otherwise.

98-7612 permit 98-7650 permit

48 FERC ¶ 62,046

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Natural Energy, Inc.
Smith Falls Hydropower

Project No. 8436-048

ORDER APPROVING TRANSFER OF LICENSE
(Issued July 24, 1989)

Idaho Natural Energy, Inc. seeks Commission approval to transfer its license for the Smith Creek Project to Smith Falls Hydropower. The project is located on Smith Creek in Boundary County, Idaho. The purpose of the transfer is to facilitate the financing of the project.

Idaho Natural Energy, Inc. has fully complied with the terms of the license and agrees to pay the annual charges that have accrued to the date of the transfer. Smith Falls Hydropower is qualified to hold the license and operate the property under license and agrees to accept all of the terms and conditions of the license and to be bound by the license as if it were the original licensee.

No protests or motions to intervene were filed in response to the public notice of the application to transfer the license. Transfer of the license for this project is consistent with the Commission's regulations and is in the public interest.

The Director orders:

(A) Transfer of the license for this project is approved.

(B) Approval of the transfer is contingent upon transfer of title of the properties under license and delivery of all license instruments to Smith Falls Hydropower which shall be subject to all terms and conditions of the license as though it were the original licensee. Smith Falls Hydropower shall submit certified copies of all instruments of conveyance within 60 days from the date of this order.

(C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission within 30 days from the date of this order. Smith Falls Hydropower shall acknowledge acceptance of this order and its terms and conditions by signing and returning the attached acceptance sheet within 60 days from the date of this order.

Sincerely,

Dean L. Shumway
Director, Division
of project Review

AUG 09 1991

Project No. 8436-042

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, Smith Falls Hydropower this _____ day of _____, 19__, has caused its corporate name to be signed hereto by _____, its _____ President, and its corporate seal to be affixed hereto and attested by _____ its Secretary, pursuant to a resolution of its Board of Directors duly adopted on the _____ day of _____ 19__, a certified copy of the record of which is attached hereto.

By _____
President

Attest:

_____
Secretary

(executed in quadruplicate)

WR-NUMBER: 98-07612

CURRENT OWNER:
IDAHO NATURAL ENERGY INC.
699 E. SOUTH TEMPLE
SUITE 220
SALT LAKE CITY, UT 841020000

PRIORITY DATE: 04-12-1985

STAGE: PERMIT

COUNTY: BOUNDARY
SOURCE: SMITH CREEK
TRIBUTARY: KOOTENAI RIVER

WATER USE:	DIVERSION RATE:	DIVERSION VOLUME:	PERIOD FROM:	PERIOD TO:
POWER	300.000		01/01	12/31
TOTAL:	300.000			

REMARKS: PRIOR TO DIVERTING WATER FOR THE PROJECT, THE PERMIT HOLDER SHALL INSTALL MEAS. DEVICES ACCEPTABLE TO THE DIRECTOR ON THE DIVERSION TO THE HYDROPOWER PLANT & ON THE BYPASS REACH. THE DIRECTOR RETAINS JURISDICTION OF THE PERMIT TO REVISE THIS COND. TO REQUIRE CONTINUOUS MEASUREMENT & RECORDING OF THE BYPASS FLOW RATE & PERIODIC REPORTING OF THE MEASUREMENTS TO THE DEPT. WATER USED UNDER THIS PERMIT SHALL BE DISCHARGED INTO THE NATURAL CHANNEL UPSTREAM FROM SMITH CREEK FALLS & SHALL MEET ID. WATER QUALITY STANDARDS. THE ADEQUACY OF THE PROJECT DESIGN TO PROTECT PUBLIC & EMPLOYEE SAFETY DURING ALL PHASES OF CONSTRUCTION & OPERATION OF THE PROJECT SHALL BE REVIEWED & CERTIFIED BY A PROFESSIONAL ENGINEER LICENSED TO PRACTICE IN THE STATE OF ID. A MIN. FLOW OF 27 CFS MEASURED IMMEDIATELY BELOW THE P/D SHALL BE LEFT IN THE NATURAL CHANNEL OF SMITH CREEK AT ALL TIMES THAT THE HYDROPOWER PROJECT IS OPERATING. ALL WATER SHALL BE LEFT IN THE NATURAL CHANNEL OF SMITH CREEK AT ANY TIME THE HYDROPOWER PROJECT IS NOT OPERATING. PRIOR TO OPERATION OF THE HYDROPOWER FACILITY, THE PERMIT HOLDER SHALL PROVIDE AN OPERATION PLAN TO THE DEPT. FOR REVIEW & APPROVAL. THE OPERATION PLAN SHALL PROVIDE FOR THE PROTECTION OF PUBLIC SAFETY & INSURE AN UNINTERRUPTED FLOW OF WATER OVER SMITH CREEK FALLS DURING CHANGES OF OPERATION OF THE HYDROPOWER FACILITY.
FEET OF HEAD = 1440. HORSEPOWER = 40926.

	Twp	Rge	Sec	Tract	Lot	Acres
POINT OF DIVERSION:	64N	03W	1	SE NE		
PLACE OF USE:	65N	02W	26	NW NE		

WR-NUMBER: 98-07650

CURRENT OWNER:
IDAHO NATURAL ENERGY INC.
550 LINDEN DR.
IDAHO FALLS, ID 83401

PRIORITY DATE: 12-19-1988

STAGE: PERMIT

COUNTY: BOUNDARY
SOURCE: SMITH CREEK
TRIBUTARY: KOOTENAI RIVER

WATER USE:	DIVERSION RATE:	DIVERSION VOLUME:	PERIOD FROM:	PERIOD TO:
POWER	70.000		01/01	12/31
TOTAL:	70.000			

WR-NUMBER: 98-07650 (cont'd)

REMARKS: WATER USED UNDER THIS PERMIT SHALL BE DISCHARGED INTO THE NATURAL CHANNEL UPSTREAM FROM SMITH CREEK FALLS & SHALL MEET IDAHO WATER QUALITY STANDARDS. THE ADEQUACY OF THE PROJECT DESIGN TO PROTECT PUBLIC & EMPLOYEE SAFETY DURING ALL PHASES OF CONSTRUCTION & OPERATION OF THE PROJECT SHALL BE REVIEWED & CERTIFIED BY A PROFESSIONAL ENGINEER LICENSED TO PRACTICE IN THE STATE OF IDAHO. A COPY OF THE CERTIFICATION SHALL BE FILED WITH THE DEPT. A MIN. FLOW OF 27 CFS MEASURED IMMEDIATELY BELOW THE POINT OF DIVERSION SHALL BE LEFT IN THE NATURAL CHANNEL OF SMITH CREEK AT ALL TIMES THAT THE HYDROPOWER PROJECT IS OPERATING. ALL WATER SHALL BE LEFT IN THE NATURAL CHANNEL OF SMITH CREEK AT ANY TIME THE HYDROPOWER PROJECT IS NOT OPERATING. PRIOR TO OPERATION OF THE HYDROPOWER FACILITY, THE PERMIT HOLDER SHALL PROVIDE AN OPERATION PLAN TO THE DEPT. FOR REVIEW & APPROVAL. THE OPERATION PLAN SHALL PROVIDE FOR THE PROTECTION OF PUBLIC SAFETY & INSURE AN UNINTERRUPTED FLOW OF WATER OVER SMITH CREEK FALLS DURING CHANGES OF OPERATION OF THE HYDROPOWER FACILITY. THIS PERMIT & ANY SUBSEQUENT LICENSE ISSUED SHALL BE LIMITED TO A TERM OF 40 YRS. ENDING ON JUNE, 2019 & SHALL BE SUBJECT TO REVIEW BY THE DIRECTOR. UPON FINDINGS BASED ON THE PUBLIC INTEREST, THE WATER RIGHT MAY BE RENEWED, AMENDED OR REVOKED.

	Twp	Rge	Sec	Tract	Lot	
POINT OF DIVERSION:	64N	03W	1	SE NE		
PLACE OF USE:	Twp	Rge	Sec	Tract	Lot	Acres
	65N	02W	26	SW NE		

END OF REPORT

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 8, 1989

Carl W. Barton, Attorney at Law
City Centre I, Suite 900
175 East 4th South
Salt Lake City, UT 84111

RE: Assignment of Water Permits Nos. 98-7612 and 98-7650

Dear Mr. Barton:

I received two packages by Federal Express containing information regarding the assignment of permits to appropriate water nos. 98-7612 and 98-7650. The last letter dated July 20, 1989, states that documents clearly specifying the transfer of permit no. 98-7650 would be forwarded to me. I have not yet received these documents.

I am also somewhat overwhelmed by the volume of contractual documents that have been sent to me. I appreciate your efforts in forwarding the agreements, but have difficulty digesting all of the documents. In my letter on June 27, 1989, I stated that the all inclusive mortgage and deed of trust discusses "water right permits" as those permits listed in a financing agreement. I cannot find the financing agreement unless it is buried in the documents in a place I cannot locate it.

If these two issues can be resolved, I will be happy to issue a letter recognizing the assignment of permits nos. 98-7612 and 98-7650.

Respectfully,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

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98-1650
98-1612

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FEB 06 1989
Department of Water Resources

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Natural Energy, Inc. Project No. 8436-026, 031 & 033
Idaho

ORDER GRANTING EXTENSION OF TIME

(Issued January 26, 1989)

On January 9, 1989, Idaho Natural Energy, Inc., licensee for the Smith Creek Project, requested a 60-day extension to comply with license article 410 (transmission line design plan), and a 90-day extension to comply with license articles 403 (functional design drawings for diversion structure) and 106 (visual enhancement plan).1/

The reasons stated by the licensees in support of the requested extension of time are reasonable and justify the extension.

The Director orders:

(A) The licensee's January 9, 1989, request for 60-day and 90-day extensions are granted. The deadline to submit the materials required by article 410 is extended to March 9, 1989, and the materials required by articles 403 and 106 are extended to April 9, 1989.

(B) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days for the date of this order. Failure to file a petition appealing this order to the Commission shall constitute acceptance of this order.

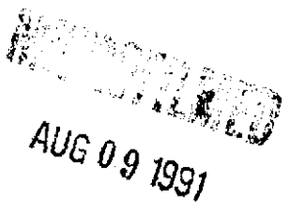
Fred E. Springer
Director, Office of
Hydropower Licensing

1/ Two previous extensions of time have been granted by orders dated June 24 and December 2, 1988, to comply with the requirements of articles 101, 102, 104, 105, 106, 108, 110, 403, 404, 406, 408, 410, 411, and 415.

AUG 09 1991

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300







POSTAGE AND FEES PAID
FEDERAL ENERGY
REGULATORY COMMISSION
FERC-351

P -0008436026 101465
STATE OF IDAHO DIRECTOR
IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE

BOISE, ID 83720

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

- -

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
MARCH 23, 1988

IDAHO NATURAL ENERGY, INC.
~~834 FALLS AVE.~~
~~TWIN FALLS, ID 83301~~ - new address
see memo 3/24/88

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 98-7612

DEAR PERMIT HOLDER:

ENCLOSED IS A COPY OF YOUR APPROVED APPLICATION FOR PERMIT. WE DIRECT YOUR ATTENTION TO THE CONDITIONS OF APPROVAL ON THE FOURTH PAGE.

BE SURE TO NOTE THE SPECIAL CONDITION REQUIRING YOU TO INSTALL A MEASURING DEVICE, OR A FLOW MEASUREMENT PORT, OR TO PROVIDE A CERTIFIED MEASUREMENT OR COMPUTATION OF FLOW BASED UPON THE DESIGN OF THE SYSTEM TO BE PREPARED BY A PROFESSIONAL ENGINEER.

SINCERELY,

GARY SPACKMAN
SUPERVISOR, WATER ALLOCATION SECTION

GS: SC
ENCLOSURES

MICROFILMED
JUL 29 1988

INTER-DEPARTMENT MEMO — 1

FROM Sharla

DATE 3/24/88

TO File 98-7612

SUBJECT New address

Per a telecon 3/22 w/ Dave VanOtten, Idaho Natural Energy, Inc's new address is as follows:

MICROFILMED
JUL 29 1988

699 E.S. Temple
Suite 220
Salt Lake City, UT
84102

(801) 363-6111

SIGNATURE

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

Memorandum To: Governor Cecil D. Andrus

From : R. Keith Higginson

OK CDA 3-14-88

CECIL D. ANDRUS
GOVENOR
R. KEITH HIGGINSON
DIRECTOR

Subject : State Policy - Hydropower Development for Out of State Sale

Date : 11-Mar-1988

We have finished the processing of an application filed by Idaho Natural Energy, Inc. of Twin Falls for the appropriation of 300 cfs of water from Smith Creek, a tributary of the Kootenai River in Boundary County to be used for hydroelectric power purposes.

Smith Creek is just south and west of Porthill and includes an accessible 80 foot waterfall which is enjoyed by many people. The project will not disturb the waterfall since it will discharge the diverted flows at the powerhouse which will be situated just upstream from the falls. The project has been licensed by the Federal Energy Regulatory Commission. It includes minimum bypass flows which have been approved by the Department of Fish and Game and by the Forest Service.

There are no protests against the issuance of the state water right for the project.

The only issue standing in the way of my approval is the policy issue we have spoken of several times - the issue of out of state sale of the energy.

It is proposed that the energy from the powerhouse will be transported over upgraded Northern Lights lines to the BPA substation at Bonners Ferry to be sold to Puget Sound Power and Light (PSLP). In fact, however, the energy will simply replace energy which would otherwise be delivered to Northern Lights by BPA and BPA will credit PSLP with the same energy to be delivered to its system.

I believe that if we were to make an issue of the out of state sale and even reject the application "in the public interest" that we would lose on appeal as an infringement on interstate commerce under the US Constitution.

Attached is a memo to me from Norm Young with some further information on this project. There are some rather substantial public benefits.

I, therefor, believe that I have no choice on this one but to approve but would like your comments before proceeding.

SIGNED
JUL 29 1988

M E M O R A N D U M

TO: Keith Higginson DATE: March 11, 1988

FROM: Norman C. Young NCY

RE: Smith Creek Project (Application No. 98-7612)
Telephone Conversation with David Van Otten (801-363-6111)

Mr. Van Otten indicates that a power sales contract is being finalized with Puget Sound Power and Light. Idaho Power Company refused to purchase and opposed the project. The Idaho PUC does not require projects of 10MW and over to be bought by IPCo under PURPA. Pacific Power and Light negotiated for the power but was not able to buy because of the need to obtain approval from PUC's in five states. Puget Power does not serve Idaho customers, but Mr. Van Otten emphasized the following as strong public interest reasons for the project:

1) The project will increase property taxes to Boundary County by $167,000 per year.

2) The kilowatt hour tax will add $60,000 per year to the state's income.

3) The $20 million construction cost will add to the local economy by employing 35 to 50 people for up to 18 months. Local sources will be used for project materials to the maximum extent possible. An Idaho based engineer is involved in the construction. The project is slated to commence construction this summer.

4) The water fall will be preserved (80 foot fall with total project head of 1575 feet). The penstock will be buried along an existing forest service road for most of the route.

5) The local power system grid will be upgraded at the sponsor's cost with 25 miles of 115KV line. Local entities will receive wheeling payments.

Idaho law does provide for any water right permit or license to have a term condition allowing a review of the water right.

JUL 29 1988

The need for power in Idaho could be a part of the review at that time. Normally the term is the same as the FERC license--50 years in this case.

Action on the water right is needed to allow the power sales contract to be finalized and the financing obtained. I recommended the permit be issued but a condition requiring a certification of design adequacy for safety purposes needs to be added.

RESOLUTION

WHEREAS the Idaho Water Resources Board has adopted a policy for hydroelectric water development projects which provides that in projects in which the Board is involved there may be restrictions imposed on the use of this electricty outside of Idaho which are deemed in the public interest, and

WHEREAS it now appears that there are major hydroelectric projects in which the IWRB is not a party which involve proposals for the sale of generated power outside of Idaho, and

WHEREAS there appears to be a need for the Legislature to prescribe additional legislation establishing reasonable restrictions on projects in which the Board is not a party or providing assistance,

NOW THEREFORE the Board urgently requests the Legislature now in session to review the laws regulating the use of Idaho water for hydroelectric generation to determine if additional legislation is necessary to restrict the sale of Idaho hydroelectric power outside the State of Idaho.

Donald Kramer

Franklin Jones, Sec.

FILMED
JUL 29 1988

M E M O R A N D U M

TO: File 98-7612 DATE: March 11, 1988

FROM: Norman C. Young

RE: Telecon with Keith Hessing, PUC

Keith reviewed the PUC records and found that Pacific Power and Light (PP&L) does supply electric power to the Sandpoint area. This load was 188.7M KW-HRS in 1986 and 197.9 in KW-HRS in 1985. PP&C purchases power from Washington Water Power to supply this load which is about four times the production expected from the Smith Creek power plant.

It does not appear that the power sales contract for the Smith Creek project constitutes an out-of-state power sale.

RECEIVED
JUL 29 1988

River Segment: SMITH CR Boundaries: SMITH FALLS to KOOTENAI R

Drainage Code: 10104 Region: 1 County: 9B Map: 56 Owner(s): PNNF,ID

FISHERIES

Species	Habitat	Concern	Abundance	Angler Use	Rating	Comments
KOK	I	I	H	L		Closed Kok fishing-pot. high
Rating:	3		2		2	

WILDLIFE

Species	Habitat	Access	Hunting	Viewing	State	Regional	National	Rating	Comments
3 WT, T, RG, E, BB, 3 AGRICULTURE 3 V,W	3	4	4	U	U	3			T habitat

CULTURAL FEATURES

	Archealogical Site	Archealogical Survey	Historical Site	Historical Survey	Architectural Site	Architectural Survey	Rating
Rating:	U		0		0		U

NATURAL FEATURES

Feature Name	Acronym	Rating	Comments
Waterfall		3	Smith Falls, Smith Creek
		3	

RECREATION

Land - based Opportunities	Land - based Season	Water - based Opportunities	Water - based Season	Rating
1,2,8,9	S,F			3

Users	Access	ROSVRM
L,R	A	RN,SP/III

Comments: ACCESS TO OTHER TRAILS & LAKES

RECEIVED
JUL 29 1988

River Segment: SMITH CR Boundaries: HEADWATERS to SMITH FALLS

Drainage Code: 10104 Region: 1 County: 9B Map: 56 Owner(s): PHNF,P,ID

FISHERIES

Species	Habitat	Concern	Abundance	Angler Use	Rating	Comments
CT	I	H	I	I		Proposed hydro-project
Rating:		2	3	2		

WILDLIFE

Species	Habitat	Access	Hunting	Viewing	State	Regional	National	Rating	Comments
1									
GZ, CU, M, WT, BB, BG									
	1								
	CEDAR-HEMLOCK								
		1							
		V,W							
			2	4	3	U	U	1	GZ,CU habitat at Hw

CULTURAL FEATURES

Archealogical Site	Archealogical Survey	Historical Site	Historical Survey	Architectural Site	Architectural Survey	Rating
	X					
Rating: U		0		0		U

NATURAL FEATURES

Feature Name	Acronym	Rating	Comments
Waterfall		3	Smith Falls, Smith Creek
pRNA	SMK	1	upper West Fork and Beaver Creeks
		1	

RECREATION

Land - based Opportunities	Land - based Season	Water - based Opportunities	Water - based Season	Rating
1,2,8,9	S,F			3

Users	Access	ROSVRM
L,R	A	SPM/III

Comments:

RECEIVED
JUL 29 1988

Form No. 202a
3/79

State of Idaho

Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: RJH APPLICATION NUMBER: 98-7612

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.

Field check by: _____
Date: _____
Comments: _____

- ☐ 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.

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

☐ Idaho State Health Department.	Copies sent by: ~~[illegible]~~	Date:
☑ Idaho Fish and Game Department.	[illegible]	4/29/85
☐ Idaho Department of Lands.		
☐ U.S. Bureau of Land Management.		
☑ U.S. Forest Service.	[illegible]	4/29/85
☐ Other _____		

PROCESSING:

- ☐ Yes ☐ No Platted by: _____ Map No. _____
- ☐ Yes ☐ No Other rights on same place of use. _____
- ☑ Yes ☐ No* In form for advertising.
  Final date for protests: 5/13/85 Statewide 12/1/86
- ☑ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

statewide ☑ Affidavit of publication received. Date: 12/86

- ☑ 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? _____

4/12/85 Date of priority recommended.

Special conditions of approval or cover letter.

Probably should with Secretary of States office to make sure Idaho Natural Energy is still licensed to do business in Idaho.
per Sec. of States office 2/24/88 - yes, they are qualified to do business in Idaho...

5 yrs. is reasonable for BLM development -

By: RJH Date: 1/26/88

STATE OFFICE REVIEW:

[redacted] L19, L17 26A 04 01F 08A 09E 17G 17K 25 27 30

☐ See attached sheet for more information.
By: EW 2/24/88 Date: _____

Department of Water Resources

ULE 4,5,3. CHECKLIST OF REQUIREMENTS: App. 98-7612

1. EFFECT ON EXISTING RIGHTS.
   A. FOR SPRINGS/SURFACE STREAMS WITH 5 OR LESS EXISTING USERS.
      1) IDENTIFICATION NUMBER OF IMPACTED RIGHT
      2) NAME AND ADDRESS OF USER
      3) LOCATION OF P/D
      4) NATURE OF USE OF THE EXISTING RIGHTS.
   N/A B. FOR GROUNDWATER
      1) PLAT SHOWING PROPOSED WELL AND ANY OTHER WELLS &/OR SPRINGS WITHIN 1/2 MILE RADIUS.
   C. ANY DESIGN, CONSTRUCTION, OR OPERATION TECHNIQUES WHICH WILL BE USED TO REDUCE IMPACT ON EXISTING RIGHTS.

2. SUFFICIENCY OF WATER SUPPLY
   A. WATER REQUIREMENTS OF PROPOSED PROJECT.
      1) REQUIRED DIVERSION RATE DURING PEAK USE
      2) REQUIRED DIVERSION RATE DURING AVERAGE USE PERIOD
      3) VOLUME TO BE DIVERTED PER YEAR
      4) PERIOD OF YEAR WATER REQUIRED
      5) VOLUME TO BE CONSUMPTIVELY USED PER YEAR.
   B. QUANTITY OF WATER AVAILABLE FROM SOURCE
      1) FLOW RATES FOR SURFACE WATER SOURCES AVAILABLE DURING PEAK AND AVERAGE WATER DEMAND PERIOD
      2) PROPERTIES OF AQUIFERS
      3) OTHER SOURCES AVAILABLE FOR SUPPLEMENTATION

3. GOOD FAITH, DELAY OR SPECULATION
   A. COPIES OF DEEDS, LEASES, EASEMENTS, RIGHT-OF-WAYS FROM FEDERAL/STATE AGENCIES (FOR POWER APPLICATIONS AFFIDAVIT FORM 205/206 IS REQUIRED)
   B. OTHER NEEDED PERMITS, LICENSES OR APPROVALS REQUIRED.
   C. FINANCIAL RESOURCES.
      1) CURRENT CERTIFIED FINANCIAL STATEMENT
      2) FINANCIAL COMMITMENT LETTER/FINANCIAL STATEMENT FROM COMMITTED PARTY
      3) PROJECT DESIGN/PLANS ALONG WITH COST ESTIMATION TO COMPLETE PROJECT
      4) PROJECT IMPACTS/IMPLICATIONS.

4. LOCAL PUBLIC INTEREST
   A. APPLICANT SEEKS COMMENT AND SUBMITS COPIES OF COMMENTS FROM: CITY, COUNTY, RESERVATIONS, IDF&G, IDH&W, DIV. OF ENVIRONMENT, IRRIGATION DISTRICTS OR CANAL COMPANIES (WHERE APPLICABLE)

In my review of this ~~file~~ application it appears that the rules & regs. requirements have been addressed in our file and this application can be approved- (see corres. of 11/6/87)

KW
2/24/88

POWER CALCULATIONS FOR APPLICATION NO. 98-7612

P = Kilowatts 30285.24 .74 X hp 40,926

Q = cfs 300

H = feet 1440

e = efficiency 83%

✓ 1.) Affidavit of Residency
✓ 2.) Ownership of Facilities
✓ 3.)*Financial Ability
✓ 4.) Feasibility of Project
a. Plans, drawings
b. Economic analysis
License issued 4/10/87 ✓ 5.)*Compliance w/FERC
*only for projects of more than 25 cfs or more than 500 horsepower.

$$e = \frac{P(11.8)}{QH} = \frac{30285\,(11.8)}{300 \times 1440} = \frac{357,363}{432,000} = 0.83$$ -ok

Based on the above calculations the proposed project must have an 83 % efficiency.

****

OVERLAP REVIEW per VAX 2/24/88:

P/D none

P/U 98-4021 for domestic use - 0.04 cfs
this is the only other right on this source & trib. that shows up in VAX.
see proof report attached

BYPASSED AREA

kw 2/24/88

01 Water Right Number - 98-4021 02 Old (D) Number - Adj. Flag Translation: STANDARD WATER RIGHT NUMBER

	LAST NAME	FIRST NAME	ORIG. OWNER
03001 - MEAD		04001 - FRANCIS C.	05001 - C
03002 - MEAD		04002 - GLEA	05002 - C

06 Add Line 1 - STAR RT. 1

07 Add Line 2 -

08 Add Line 3 -

09 City - PORTHILL 10 State - ID 11 ZIP - 83853

12 Stage - S STATUTORY CLAIM

13 Status -

SOURCE	TRIBUTARY OF
14001 - SMITH CREEK	15001 - KOOTENAI RIVER

16 Diversion Means -

17 County - 21 BOUNDARY

18 Diversion Capacity - .000 19 Total Diversion Rate - .040 20 Total Diversion Volume - .00

21 Water District -

DIVERSION POINTS

Tract	Sec	Twn	Rng	Lot	Rflg	STREAM INDEX FIELDS
22001 - NWNE	23001 - 26	24001 - 65N	25001 - 02W	26001 -	27001 -	
				28001 - 0	500.0 117.0	0.0 0.0 0.0 0.0 0.0 0 0 0 1.1

29 Non-Irrigation Use -

PLACE OF USE

Use Code / Use	Twn	Rng	Sec	Tract	Acres	Lot
30001 - 43 DOMESTIC	31001 - 65N	32001 - 02W	33001 - 26	34001 - NWNE	35001 -	36001 -

Total Acres: 0

WATER USE

Period From	Period To	Use Code / Use	Diversion Rate	Diversion Volume
37001 - 0101	38001 - 1231	39001 - 43 DOMESTIC	40001 - 0.040	41001 - 0.00

42 Decree Plaintiff Name -

43 Decree Defendant Name -

REMARKS
44001 - DIV. RATE=17 GPM.

Approval Conditions: 45001 -

46 Other Rights for Same Use -

DATES		DATES		FLAGS	
47 Priority	- 1-Jan-1958	55 License	-	63 Transfer/Amended	-
48 Proof Due	-	56 Appl Received	-	64 DLE/Carey Act	-
49 Proof Made	-	57 Field Exam Made	-	65 Flag 1	-
50 Approve/Denied	-	58 Decree	-	66 Flag 2	-
51 Protested	-	59 Start Work	-	67 Flag 3	-

DATES			DATES			FLAGS
52	Hearing	-	60	Order Show Cause	-	
53	Verified	- 9-Dec-1985	61	Date 1	-	
54	Last Update	- 9-Dec-1985	62	Date 2	-	

BINGHAM ENGINEERING

5160 Wiley Post Way, 100 Lindbergh Plaza 2, Salt Lake City, Utah 84116
820 Mililani Street, Suite 701, Honolulu, Hawaii 96813-2972
RCI Plaza #47, Afton, Wyoming 83110

January 9, 1988

RECEIVED
JUL 29 1988

Mr. Robert G. Haynes
Regional Supervisor
Idaho Department of Water Resources
Northern Region, Suite 9
4055 Government Way
Coeur d'Alene, ID 83814

RE: Smith Creek Hydroelectric Project FERC #8436

Dear Robert:

Enclosed please find a January 7, 1988 letter from the Idaho Department of Fish and Game. This letter is in response to my November 29, 1987 letter to Ned Horner requesting comments on the position of the Idaho Department of Fish and Game regarding the issuance of a water right for the Smith Creek Hydroelectric Project.

I have enclosed copies of the above referenced letters for your information along with a copy of the license from the Federal Energy Regulatory Commission for the above referenced project. The Order Issuing License for the Smith Creek Hydroelectric Project was issued April 10, 1987 and contains several license articles, each of which must be adhered to prior to commencement of construction. The Idaho Department of Fish and Game letter indicates that they have protested the issuance of a water right until provisions are made in the FERC licensing process to insure maintenance of the fish and wildlife resources at Smith Creek. A review of the license would indicate that these provisions are contained in the license and that the applicant is required to comply with the license articles prior to commencement of construction of the project. It should also be noted that many of the license articles require consultation with and approval of the required plans by the Idaho Department of Fish and Game. The applicant has made progress on each of the items, but since compliance with each article is in a varying stage of completion, following is an article by article discussion of the current position and status of each license article.

RECEIVED
JUL 29 1988

Article 103 requires that "the licensee shall assure that the discharge from the Smith Creek Project is a **continuous minimum flow of 27 cubic feet per second (cfs)** as measured immediately below the point of diversion. No diversion of water will be permitted when the natural flow is less than 27 cfs. After notice to and concurrence by the Forest Service the licensee shall release the entire unrestricted flow in Smith Creek down the channel for ten consecutive days during the peak runoff period. . ." The article also contains a water flow chart showing flows necessary to protect the stream channel and the fishery resource in the stream. The

license continues to say "the applicant, Idaho Fish and Game, and the Forest Service have all agreed to these figures. . . No diversion of water will be provided when the natural flow is less than 27 cfs." The licensee and the above referenced agencies have agreed to these flows. Both the license from the Federal Energy Regulatory Commission and the Special Use Permit from the Forest Service require that these flows be met or the project cannot operate. A continuous recorder is being installed immediately below the diversion to insure compliance with this article. Flow records will be made available to the appropriate agencies for their inspection.

Article 401 requires the completion of a plan to control erosion, sedimentation, turbidity and instability of slopes resulting from construction and operation of the project. This plan is to be completed in consultation with the Idaho Department of Fish and Game (IDFG), U.S. Fish and Wildlife Service (FWS), the Forest Service (FS), and the Soil Conservation Service (SCS) and is to be completed before any land clearing or ground disturbing activities. This plan is dependent upon completion of functional design drawings for the project and coordination will be completed following completion of final plans and specifications. The applicant is currently in the process of negotiating an engineering agreement. The required consultation and compliance will follow.

Article 402 requires the development of a plan to remove accumulated sediment from the project intake and diversion structure. This plan was developed in consultation with the U.S. Fish and Wildlife Service (FWS), the Idaho Department of Fish and Game (IDFG) and the U.S. Forest Service. Following an initial consultation session a draft of the plan was completed and submitted to the appropriate agencies for their review and comment. Following receipt of their comments the plan was revised and resubmitted to the agencies for comment. A final of the plan was submitted on January 8, 1988 to the appropriate agencies and the Federal Energy Regulatory Commission.

Article 403 requires the licensee to complete and file functional design drawings of the diversion structure to be constructed at the Smith Creek Project. These drawings must be completed after consultation with the Idaho Department of Fish and Game (IDFG), the U.S. Fish and Wildlife Service (FWS), and the Forest Service. Initial designs have been submitted to the agencies for their review and approval. Comments have been received, the requested changes are being incorporated. Revised drawings will be submitted to the agencies for their review and comment prior to submittal of these drawings to the Federal Energy Regulatory Commission.

Article 404 requires the licensee to develop a plan to maintain dissolved gas levels of project discharges at equilibrium with dissolved gas levels at the receiving waters of Smith Creek. This plan must be developed in consultation with the U.S. Fish and Wildlife Service, the Idaho Department of Fish and Game and the Forest Service. The applicant has

completed initial consultation with the agencies. The Smith Creek Hydroelectric Project discharges at the head of Smith Falls. Smith Falls is a naturally occurring water fall. The water then plunges over the falls to a pool. Significant aeration of the water occurs in this process as well as the natural turbulence releases any entrained super saturated nitrogen that may have occurred in the process. In addition to this naturally occurring process, the intake to the project has been designed with anti-vortexing devices to create a smooth laminar flow into the intake and prevent entrainment of gases.

Article 406 requires the licensee to develop a plan to install a stream flow gage in Smith Creek to monitor the minimum flow releases required by Articles 103 and 405. This plan must be developed in cooperation with the Idaho Department of Fish and Game and the U.S. Fish and Wildlife Service. The requirement for gaging is recognized by the applicant and construction of the gage is being incorporated into the final design for the project. Prior to commencement of construction approval of the final design for the project is required by the U.S. Forest Service, Idaho Department of Fish and Game and the Federal Energy Regulatory Commission.

Article 407 requires the licensee to set limits on the maximum rate of change in river flow (the ramping rate) needed to protect fish and wildlife resources in Smith Creek. Following consultation with the Idaho Department of Fish and Game and the U.S. Fish and Wildlife Service a ramping rate for the project was set and a plan submitted to the agencies for their review and approval. Following receipt of approval from the above referenced agencies the plan required under Article 407 was submitted to the Federal Energy Regulatory Commission on January 8, 1988.

Article 408 requires the filing of functional design drawings for the screening structure and fish passage facilities to be constructed at the Smith Creek Project. These plans must be developed in consultation with the Idaho Department of Fish and Game (IDFG), the U.S. Fish and Wildlife Service (FWS), and the Forest Service. Following initial consultation on the above referenced item, preliminary plans of the screening and bypass facilities were submitted to the agencies for their review and comments. Comments have been received and are being incorporated into the final design drawings being completed for the project. These will be resubmitted to the agencies and the Federal Energy Regulatory Commission prior to commencement of construction.

RECEIVED
JUL 29 1988

Article 409 requires the licensee to file a wildlife mitigative plan for commission approval. This plan must be developed in consultation with the U.S. Fish and Wildlife Service, the Idaho Department of Fish and Game and the U.S. Forest Service. Following initial consultation a draft plan was developed and submitted to the agencies for their review and approval. Following receipt of their comments on the plan the appropriate changes were made and the plan resubmitted. Following

receipt of approval of the plan from the various agencies the plan was submitted to the Federal Energy Regulatory Commission on January 8, 1988.

Article 410 requires the licensee to develop a transmission line design plan for the project. The plan must be developed in consultation with the U.S. Fish and Wildlife Service and the Idaho Department of Fish and Game. The line must be constructed in accordance with guidelines set forth in the 1981 publication "Suggested Practices for Raptor Protection on Power Lines" Raptor Research Report No. 4 issued by the Raptor Research Foundation, Inc. Plans for the transmission line have been submitted to the agencies for their approval. The agencies have approved the design drawings. The final alignment of the proposed transmission line connection to the Northern Lights facility in Bonners Ferry is awaiting approval of Northern Lights. Upon finalization of the alignment, copies of the plan specifying the design and alignment will be forwarded to the Federal Energy Regulatory Commission. Copies will also be forwarded to the agencies for their information.

The letter from the Idaho Department of Fish and Game closes with the statement that "We have no objection to the issuance of the water right for this project if the provisions listed above are adhered to". Since adherence of these license articles is required prior to commencement of construction, we would hope that licensing for the project can continue.

If you have any additional questions or need additional information on the above submittal, please let me know.

Sincerely,

BINGHAM ENGINEERING

Clark M. Mower

Clark M. Mower
Executive Vice President

jm

CMM/jm
1048-004

Attachments

cc: Fred Moss

JUL 29 1988

Region 1
2320 Government Way
Coeur d'Alene, Idaho 83814-3683
Telephone: (208) 765-3111

January 7, 1988

Bingham Engineering
RECEIVED
JAN 11 1988
Salt Lake City, Utah

Mr. Clark Mower
Bingham Engineering
100 Lindberg Plaza 2
5160 Wiley Post Way
Salt Lake City, UT 84116

Dear Mr. Mower:

REFERENCE: SMITH CREEK HYDRO PROJECT (FERC 8436) WATER RIGHTS

The Idaho Department of Fish and Game has protested the issuance of a water right for the Smith Creek hydro project until provisions are made in the FERC licensing process to insure maintenance of the fish and wildlife resources of Smith Creek. A minimum bypass flow of 27 cfs and spring time channel maintenance flow (article 103) as stipulated by the Forest Service, are necessary to insure integrity of the aquatic community in Smith Creek. Other provisions in articles 401, 402, 403, 404, 406, 407, 408, 409 and 410 of the FERC license are also necessary to insure minimal impacts to fish and wildlife populations.

We have no objection to the issuance of a water right for this project if the provisions listed above are adhered to.

Sincerely,

David W. Ortmann
Regional Supervisor

DWO:NJH:amh

CC: Bureau of Fisheries
Bureau of Program Coordination

JUL 29 1988

HAM ENGINEERING
100 Lindbergh Plaza 2, 5160 Wiley Post Way, Salt Lake City, Utah 84116, 801-532-2520

December 29, 1987

Mr. Ned Horner
Idaho Department of Fish & Game
Region 6
2320 Government Way
Coeur d'Alene, ID 83814

Dear Ned:

As part of the approval process for the water right for the proposed Smith Creek Hydroelectric Project, I have been asked to provide a letter from the Idaho Department of Fish and Game stating that with the satisfaction of the minimum release requirements of 27 cfs and the other conditions of the license affecting fish and wildlife concerns Idaho Department of Fish and Game has no objection to the issuance of a water right for operation of the Smith Creek Hydroelectric Project.

Would you please review this with your people and send me a letter at your earliest convenience. Thanks again for your cooperation throughout this process.

Sincerely,

BINGHAM ENGINEERING

Clark M. Mower

Clark M. Mower
Executive Vice President

CMM/jm
609-004

cc: Bob Haynes - Idaho Dept. of Water Resources
David Van Otten - Dominion

MICROFILMED
JUL 29 1988

December 23, 1987

Mr. Clark M. Mower
Bingham Engineering
5160 Wiley Post Way
100 Lingbergh Plaza 2
Salt Lake City, Ut. 84116

Re: Smith Creek Hydroelectric Project FERC #8436
IDWR Application #98-7612

Dear Clark:

Thank you for your letter of December 14, 1987. Everything appears to be in order with the exception of the submittal covered by Paragraph C of your letter.

The position statment which we need is from the Idaho Department of Fish & Game rather than the U. S. Fish & Wildlife Service. As soon as that requirement is fulfilled, I will forward the application to our State Office for action.

If you have any questions, please contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Supervisor

RGH/pms

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JUL 29 1988

COPY

BINGHAM ENGINEERING

5160 Wiley Post Way, 100 Lindbergh Plaza 2, Salt Lake City, Utah 84116
820 Mililani Street, Suite 701, Honolulu, Hawaii 96813-2972
RCI Plaza #47, Afton, Wyoming 83110

December 14, 1987

RECEIVED
DEC 21 1987
Department of Water Resources
Northern District Office

Mr. Robert Haynes
State of Idaho
Department of Water Resources
Northern Region
Suite No. 9
4055 Government Way
Coeur d'Alene, ID 83814

RE: Smith Creek Hydroelectric Project FERC #8436

Dear Bob:

Enclosed please find the information on the Smith Creek Hydroelectric Project that we talked about. I have included a copy of the following:

a. Commitment for project financing from BayBank in Boston. This should alleviate any concerns about the financial capability of the project sponsors.

b. The Conditional Use Permit issued to Idaho Natural Energy, Inc. from Boundary County. Considered in the issuance of the Conditional Use Permit was a review of the overall project, including project water diversion for project operation.

c. A November 20, 1985 letter from the U.S. Fish and Wildlife Service. Please note that paragraph 3 specifically mentions a recommendation for the 25 cfs minimum fish flow and a discussion that the Fish and Wildlife Service would oppose any project minimum flow less than 25 cfs. Article 103 of the Order Issuing License for the Smith Creek Project specifies that the Smith Creek Project is subject to a flow of 27 cfs and no diversion of flow will be permitted when flows are less than 27 cfs. This Article has been approved by both the U.S. Fish and Wildlife Service and the Idaho Department of Fish and Game.

d. A copy of an October 29, 1987 letter from State of Idaho Department of Health and Welfare commenting on water quality certification for the Smith Creek Hydroelectric Project. The letter states that "if construction is completed in accordance with the described work plan and above conditions the construction of the project. . . will not violate Idaho Water Quality Standards and Wastewater Treatment Requirements".

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e. A copy of Appendix A from the license consisting of the Environmental Assessment and Finding of No Significant Impact (FONSI) completed by the Division of Environmental Analysis Federal Energy Regulatory Commission as part of the licensing process. Please notice on page 11 that the first and second paragraphs contain recommendations by the Forest Service, Idaho Department of Fish and Game and Fish and Wildlife Service that 27 cfs minimum release be maintained in Smith Creek. All of these conditions have been agreed to by the licensee and are general provisions of the license.

This should satisfy the concerns of the Department of Water Resources over the acceptability of water diversions to the above referenced agencies. If there are any additional concerns or if you need any additional information, please let me know.

I have appreciated working with you throughout the course of the project.

Sincerely,

BINGHAM ENGINEERING

Clark M. Mower

Clark M. Mower
Executive Vice President

CMM/jm
1048-004

Attachments

cc: David Van Otten
Jim Fellows - U.S. Army Corps of Engineers

JUL 29 1988

Department of Energy
Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

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DEC 22 1988
Department of Water Resources

DEC 19 1988

In reply refer to: PG

A FINDING OF NO SIGNIFICANT IMPACT FOR SMITH CREEK HYDROELECTRIC PROJECT HAS BEEN ISSUED

The U.S. Department of Energy (DOE) has issued a Finding of No Significant Impact (FONSI) on Bonneville Power Administration's (BPA) proposed agreement with Eugene Water and Electric Board (EWEB) to transmit the output of Smith Creek Hydroelectric Project to EWEB. The Smith Creek Project is a 30-megawatt hydroelectric facility under construction in Boundary County, Idaho, near the town of Porthill, being developed by Hydro Flow, Inc., a private developer. BPA would transmit (wheel) the power from the Bonners Ferry Substation over its transmission system to EWEB in Eugene, Oregon.

On March 11, 1985, Idaho Natural Energy, Inc., now known as Hydro Flow, Inc., filed an application for license of the Smith Creek Project. The Federal Energy Regulatory Commission (FERC) issued a license, an Environmental Assessment (EA), and a FONSI on February 10, 1987. DOE recently adopted FERC's EA (DOE/EA-0373). Based on the evaluation in the EA, DOE has determined there are no significant environmental impacts associated with the project. The finding is documented in a FONSI issued by DOE on November 4, 1988.

You may obtain copies of the Smith Creek Hydroelectric Project EA and FONSI by calling BPA's document request line. Toll-free numbers are: 800-841-5867 for Oregon; 800-624-9495 for the other western states.

Questions about the project may be directed to Barbara Pharayra of my staff at 503-230-4235.

Roy B. Fox
Coordination and Review Manager
Office of Power Sales

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FEB 22 1989

98-7612

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JUL 08 1987
Department of Water Resources

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Natural Energy, Inc.) Project No. 9819-002

NOTICE REJECTING LATE-FILED APPEAL
(June 30, 1987)

By letter dated February 20, 1987, the Director, Office of Hydropower Licensing (Director), rejected the application for license filed by Idaho Natural Energy, Inc. (INE), for the North Fork Boise River Water Power Project No. 9819. The Director's rejection was based on INE's failure to timely correct deficiencies in its license application, pursuant to Section 4.32(d) of the Commission's regulations. 18 C.F.R. § 4.32(d) (1986). By letter dated April 7, 1987, INE has appealed the Director's rejection.

Pursuant to Rule 1902 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.1902 (1986), staff action may be appealed to the Commission within 30 days of that action. Under this rule, the deadline for filing an appeal was March 23, 1987. See 18 C.F.R. § 385.2007 (1986). INE's appeal was filed April 7, 1987, and is therefore untimely.

INE did not file a motion for extension of time, pursuant to Rule 2008, 18 C.F.R. § 385.2008 (1986), and provided no explanation for its late filing. Accordingly, notice is hereby given that the appeal filed by INE on April 7, 1987 is rejected.

Kenneth F. Plumb
Secretary

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FEB 22 1989

DC-A-2

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

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Idaho Parks & Recreation Dept.

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FERC-351

P -6009919902 10145
STATE OF IDAHO DIRECTOR
IDAHO DEPARTMENT OF WATER RESOURCES
450 WEST STATE STREET

BOISE, ID 83720

98-7612

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Natural Energy, Inc

Project No. 8436-005
Idaho

ORDER APPROVING IN PART AND MODIFYING IN PART
A RAMPING RATE PLAN

(Issued June 20, 1988)

On January 11, 1988, Idaho Natural Energy, Inc. (licensee), filed a ramping rate plan, pursuant to article 407 of the license issued on April 10, 1987, for the Smith Creek Hydroelectric Project. In addition to limiting the vertical change in creek depth to one foot per hour, the plan contains provisions to develop a stage:discharge relationship, and to install a monitor to continuously measure flows in the creek. These provisions were recommended by the Idaho Department of Fish and Game, in a letter dated October 27, 1987.

The licensee's one-foot-per-hour change in depth should effectively prevent the stranding of fish and invertebrates during project operation. However, because the licensee's plan did not contain a schedule for developing the stage:discharge relationship, nor installing the flow monitor necessary to measure the ramping rate, modification of the licensee's plan is needed. To ensure that this proposed ramping rate is monitored throughout project operation, the licensee must develop the stage:discharge relationship and install the flow monitor prior to commencing project operation.

The Director orders:

(A) The ramping rate plan filed by the licensee on January 11, 1988, as modified in paragraph B, is approved.

(B) Prior to the start of project operation, the licensee shall develop the stage:discharge relationship and install the monitor to continuously monitor flow that are part of the January 11, 1988 plan.

(C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.

J. Mark Robinson
Director, Division of Project
Compliance and Administration

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FEB 22 1989

DC-A-5

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Department of Water Resources

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WASHINGTON, D.C. 20426

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REGULATORY COMMISSIO
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P -0002436005 101405
STATE OF IDAHO DIRECTOR
IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE

BOISE, ID 83720

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

December 17, 1985

Chris J. Magoc
Powder River Basin Resource Council
48 North Main
Sheridan, WY 82801

Dear Mr. Magoc:

Your letter dated December 5, 1985 inquiring about a proposed hydro-electric project on the South Fork of the Clearwater River has been referred to me for response.

Apparently, Idaho Natural Energy, Inc. has not made water appropriation filings on the Clearwater River for hydrogeneration purposes. It is possible that the Federal Energy Regulatory Commission (FERC) has made some sort of rejection of the proposal pending before them.

Department files show that Application No. 98-7612 was filed in April, 1985 by Idaho Natural Energy, Inc., however, This application proposes to divert 300 cfs from Smith Creek tributary to the Kootenai River in Boundary County, Idaho. This application has been protested by the U.S. Forest Service on the basis of interference with claimed rights of the U.S. Forest Service. To date a hearing has not been scheduled or held on this matter.

I hope this information will be of assistance to you.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

ls

MICROFILMED
FEB 22 1989

Powder River Basin Resource Council
48 North Main Sheridan, Wyo. 82801 (307) 672-5809

December 5, 1985

RECEIVED
DEC 6 19[illegible]
Department of Water Resources

A. Kenneth Dunn
Director, Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Dunn,

Our organization is currently investigating a proposal to develop water on Ten Sleep Creek in the Bighorn National Forest for the purpose of generating hydroelectric power. We have found out that a similar project--proposed by the same company on the South Fork of the Clearwater River--was recently cancelled due to agency and pulic pressure. We would like to have any and all information your department may have on that project.

Specifically, we would like to know what issues were involved and what steps the company was or was not willing to take in order to mitigate negative environmental effects. (The company is Bingham Engineering out of Salt Lake City, A.K.A. Idaho Natural Energy, Inc.) Also, we've also been told that this company has built thirteen other projects in other western states. If there are other small hydro projects you can give me information on, I'd be most grateful.

For your information, the main issue thus far on Ten Sleep is minimum stream flow on a Class II stream of great importance. Our Wyoming Game and Fish is recommending a 22.5 cfs to be maintained, while the company insists in its application to the F.E.R.C. that they will operate it at 15 cfs.

The Powder River Basin Resource Council is a public, non-profit conservation organization of ranchers and other citizens committed to sound and wise economic development in Wyoming without the expense of our scenic and agricultural heritage. I'd surely appreciate any help you can give us.

Thank you in advance for your help and consideration.

Sincerely,

Chris J. Magoc

CJM/jm

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NOV 30 1987
Department of Water Resources

Nancy — Spokane Co.

98-7612

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Natural Energy, Inc. Project No. 8436-003

ORDER GRANTING EXTENSION OF TIME

(Issued November 13, 1987)

On October 9, 1987, Idaho Natural Energy, Inc., the licensee for the Smith Creek Project, requested an 90-day extension until January 10, 1987, to comply with articles 101 (Forest Service special use permit), 402 (sediment removal plan), 403 (diversion structure drawings), 407 (ramping rates), 408 (fish passage facility drawings), 409 (wildlife mitigative plan), and 410 (transmission line design plan). The reasons advanced by the licensee in support of the requested extension of time are reasonable and justify the extension.

The Director orders:

(A) The deadline to submit requirements pursuant to articles 101, 402, 403, 407, 408, 409, and 410 are extended to January 10, 1987.

(B) This order is issued under the authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.

Dean L. Shumway
Director, Division of
Environmental Analysis

DC-A-4

FEB 02 1988

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

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FERC-351

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STATE OF IDAHO DIRECTOR
IDAHO DEPARTMENT OF WATER RESOURCES
450 WEST STATE STREET

BOISE, ID 83720

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Natural Energy, Inc. Project No. 8436-001
NorthHydro, Inc. Project No. 7880-000

ORDER ISSUING LICENSE
(Major Project - Unconstructed)
AND DISMISSING PRELIMINARY
PERMIT WITH PREJUDICE

(Issued April 10, 1987)

Idaho Natural Energy, Inc. has filed a license application under Part I of the Federal Power Act (Act) to construct, operate, and maintain the Smith Creek Project located in Boundary County, Idaho, on Smith Creek, tributary of the Kootenai River. The project would occupy lands of the United States within the Panhandle National Forest.

Notice of the application has been published. The motions to intervene that have been granted and the comments and protests filed by agencies and individuals have been fully considered in determining whether to issue this license, as discussed below. Idaho Power Company asked that a need for project output be shown. The need for project power and its economic feasibility are discussed in the attached Environmental Assessment (EA) and the Safety and Design Assessment. The Commission has also discussed these issues raised by Idaho Power Company in its license order for the Horseshoe Bend Project No. 5376, 36 FERC ¶61,135 (July 30, 1986).

Competing Preliminary Permit Application

The license application was filed in competition with a preliminary permit application filed by NorthHydro, Inc. for Project No. 7880. The permit applicant failed to substantiate the technical, environmental, economic, and other aspects of its proposal and was therefore dismissed without prejudice so that it could be automatically reinstated if the competing development application were subsequently denied. See Dennis V. McGrew, 32 FERC ¶61,229(1985). The licensee has met the statutory and regulatory license requirements including demonstrating its ability to carry out its plans. The preliminary permit application is therefore dismissed with prejudice.

Recommendations of Federal and State Fish and Wildlife Agencies

Section (10)(j) of the Act, as amended by the Electric Consumer Protection Act of 1986 (ECPA), Pub. L. No. 99-495, requires the Commission to include license conditions based on recommendations of federal and state fish and wildlife agencies for the protection, mitigation, and enhancement of fish and wildlife. The environmental assessment (EA) for the Smith Creek Hydroelectric Project, addresses the concerns of the federal and state fish and wildlife agencies, except as indicated below, and makes recommendations consistent with those of the agencies.

Idaho Department of Fish and Game (IDFG) has requested authority to approve various plans in the interest of protecting fish and wildlife resources. The Commission must retain its final authority to approve or disapprove various plans required to be submitted under the license. Since IDFG recommendations do not request specific terms and conditions for the protection, mitigation, or enhancement of fish and wildlife, these recommendations are considered outside the scope of section 10(j) of the Federal Power Act. There are various articles herein requiring consultation with IDFG and other agencies prior to making filings with the Commission. The views of IDFG will be given full consideration prior to any Commission action on any filing pursuant to this license affecting IDFG's interests.

Further, recommendations concerning the hiring of a Bio-engineer and location of the powerhouse are also outside the scope of section 10(j) because they do not involve specific measures to protect fish and wildlife.

IDFG recommendations have been fully considered and are addressed in the attached Environmental Assessment.

Comprehensive Plans

Section 10(a)(2) of the Act, as amended by ECPA, requires the Commission to consider the extent to which a project is consistent with comprehensive plans (where they exist) for improving, developing, or conserving a waterway or waterways affected by the project that is prepared by an agency established pursuant to federal law that has the authority to prepare such a plan or by the state in which the facility is or will be located. The Commission considers plans to be within the scope of section 10(a)(2) only if such plans reflect the preparers' own balancing of the competing uses of a waterway, based on their data and applicable policy considerations (i.e., consider and balance all relevant public use considerations). With regard to plans prepared at the state level, such plans are within the scope of section 10(a)(2) only if they are prepared and adopted pursuant to a specific act of the state legislature and developed, implemented and managed by an appropriate state agency. 1/

1/ 99 CONG. REC. S4140 (remarks by Senator McClure, April 11, 1986).

Two comprehensive plans of the type referred to in section 10(a)(2) of the Act have been identified. 2/ In addition, three resource plans 3/ that touch on various aspects of the waterway management were brought to our attention and have been reviewed in relation to the proposed project as part of our broad public interest examination under section 10(a)(1) of the Act. No conflicts were found.

Project Boundary

The applicant proposes to upgrade Northern Lights Inc.'s existing transmission line 30 miles to the point of interconnection with an existing Bonneville Power Authority Substation in Bonners Ferry, Idaho. This 30 miles of upgraded transmission line should be included as a project facility. Accordingly, the applicant must acquire rights to this project facility pursuant to article 5. Article 303 requires the submission of a revised Exhibit G to include the 30 miles of upgraded transmission line within the project boundary.

Summary of Findings

An Environmental Assessment (EA) was issued for this project. Background information, analysis of impacts, support for related license articles, and the basis for a finding of no significant impact on the environment are contained in the EA attached to this order. Issuance of this license is not a major federal action significantly affecting the quality of the human environment.

The design of this project is consistent with the engineering standards governing dam safety. The project will be safe if constructed, operated, and maintained in accordance with the requirements of this license. Analysis of related issues is provided in the Safety and Design Assessment attached to this order.

Based upon our review of the agency and public comments filed in this proceeding, and our independent analysis, as discussed herein, we conclude that the Smith Creek Project is best adapted to a comprehensive plan for Smith Creek, taking into consideration the beneficial public uses described in section 10(a)(1) of the Act.

2/ Northwest Power Planning Council's Fish and Wildlife Program, Columbia River Basin, 1984; and Northwest Power Planning Council's Northwest Conservation and Electric Power Plan, 1986, volumes I and II.

3/ State of Idaho's Plan for the Future Management of Idaho's Fish and Wildlife Resources, Goals, Objectives, and Policies 1975-1990; and Idaho Statewide Comprehensive Outdoor Recreational Plan, 1977 and 1983.

The Director orders:

(A) The application for preliminary permit for Project No. 7880 filed by NorthHydro, Inc. is dismissed with prejudice.

(B) This license is issued to Idaho Natural Energy, Inc. (licensee), for a period of 50 years, effective the first day of the month in which this order is issued, to construct, operate, and maintain the Smith Creek Project. This license is subject to the terms and conditions of the Act, which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provision of the Act.

(C) The project consists of:

(1) All lands, to the extent of the licensee's interests in those lands, enclosed by the project boundary shown by Exhibit G

Exhibit G-	FERC No. 8436-	Showing
1	13	Project Boundary Map (revised 12/85)
2	14	Vicinity Map
3	15	Location Map
4	16	Ownership Plat

(2) Project works consisting of: (1) an 8-foot-high, 75-foot-wide concrete diversion dam having sluice gates, trashracks, fish screens and a fish bypass located at elevation 3,450 feet; (2) a 27,770-foot-long steel penstock with a diameter varying from 72 inches to 60 inches ; (3) a 100-foot-wide, 50-foot-long, 30-foot-high powerhouse containing two generating units with a total installed capacity of 30 MW, producing an estimated average annual energy output of 81.8 million kWh; (4) a 20-foot-wide, 30-foot-long tailrace discharging water released from the turbines into Smith Creek above Smith Falls at elevation 1,840 feet ; (5) 4.16-kV generator leads; (6) a 4.16/115-kV, 25/30/35-MVA transformer; (7) a 700-foot-long, 115-kV transmission line interconnecting to an existing Northern Lights, Inc. transmission system; (8) 30-miles of existing Northern Lights Inc.'s transmission line upgraded to 115-kV leading to an existing Bonneville Power Authority Substation in Bonners Ferry, Idaho; (9) a 1,100-foot-long, 20-foot-wide access road allowing access from Forest Service Road #281 to the south side of the diversion structure; (10) an existing 200-foot-long logging road widened to permit access to the diversion dam from the north side; and (11) appurtenant facilities.

The project works generally described above are more specifically shown and described by those portions of Exhibits A and F recommended for approval in the attached Safety and Design Assessment.

(3) All of the structures, fixtures, equipment or facilities used to operate or maintain the project and located within the project boundary, all portable property that may be employed in connection with the project and located within or outside the project boundary, and all riparian or other rights that are necessary or appropriate in the operation or maintenance of the project.

(D) The Exhibit G described above and those sections of Exhibits A and F recommended for approval in the attached Safety and Design Assessment are approved and made part of the license.

(E) This license is subject to the following articles submitted by the United States Department of Agriculture, Forest Service under section 4(e) of the Act:

Article 101. Within 6 months following the date of issuance of this license and before starting any activities of a land-disturbing nature, the licensee shall file with the Director, Office of Hydropower Licensing, a special-use authorization approved and enforceable by the Forest Service.

The Licensee may not commence activities authorized in the license and Forest Service special-use authorization until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing, instructs otherwise.

Article 102. Each year on or before the anniversary date of the license, the licensee shall consult with the Forest Service with regard to measures needed to ensure protection and development of the natural resource values of the project area. Within 2 months following said meeting, the licensee shall file a report with the Commission of any recommendations made by these agencies. The Commission reserves the right, after notice and opportunity for hearing, to require changes in the project and its operation which may be necessary to accomplish natural resource protection and development.

Article 103. During the construction and operation of the facilities authorized by this license, the licensee shall assure that the discharge from the Smith Creek Project is a continuous, minimum flow of 27 cubic feet per second (cfs), as measured immediately below the point of proposed diversion. No diversion of water will be permitted when the natural flow is less than 27 cfs. After notice to and concurrence by the Forest Service, the licensee shall release the entire unrestricted flow in Smith Creek down the channel for 10 consecutive days during the peak runoff period to maintain channel competence and to aggregate and flush the gravel.

The following chart is a flow duration curve and also reflects minimum flow needs for Smith Creek. The applicant, Idaho Fish and Game Dept., and the Forest Service have all agreed to these figures.

FAVORABLE FLOWS		
Date	Duration (days)	Flows (cfs)
Day 1	10	162
	8	309
	6	463
	4	617
	2	771
	3	926
	1	1080
	1	1234
eat.	1	1389
5/25	1	1543
	1	1234
	1	1080
	1	771
	1	617
	1	463
	1	309
	1	162
	248	19
	37	12
	10	9
	14	6
	4	5

FISHERIES FLOWS		
Date	Duration (days)	Flows (cfs)
3/28	10	50
4/1	30	100
5/1	31	80
6/1	294	27

COMBINED FLOW CLAIM		
Date	Duration (days)	Flows (cfs)
3/21	10	50
4/1	18	100
	10	162
	8	309
	6	463
	4	617
	2	771
	3	926
	1	1080
	1	1234
eat.	1	1389
5/25	1	1543
	1	1234
	1	1080
	1	771
	1	617
	1	463
	1	309
	1	162
6/1	293	27

No diversion of water will be permitted when the natural flow is less than 27 cfs.

Article 104. Within 1 year from the issuance of this license and before starting any activities of a land-disturbing nature, the licensee in consultation with the Forest Service, shall file a fish and wildlife habitat mitigation plan approved by the Forest Service with the Director, Office of Hydropower Licensing. This plan shall identify requirements for construction and mitigation measures to meet Forest Service fish and wildlife habitat objectives and standards. The plan also shall include a schedule for accomplishing these objectives and standards and shall identify any needs for additional studies.

The licensee may not commence activities affected by the interim plan until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing, instructs otherwise.

The licensee may not commence activities affected by the final plan until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing, instructs otherwise.

Article 105. Within 1 year following the date of issuance of this license, and before starting any activities of a land-disturbing nature, the licensee shall file with the Director, Office of Hydropower Licensing, a plan approved by the Forest Service for the control of erosion, stream sedimentation, dust, and soil mass movement.

The licensee may not commence activities affected by the plan until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing, instructs otherwise.

Article 106. Within 1 year following the date of issuance of this license and before starting any activities of a land-disturbing nature relative to the construction of the proposed project features or facilities, the licensee shall file with the Director, Office of Hydropower Licensing, a plan approved by the Forest Service for the design and construction of the project facilities in order to preserve or enhance its visual character. The plan shall consider facility configurations and alignments, building materials, color, conservation of vegetation, landscaping, and screening. Project facilities include, among other things, the diversion structure, penstock, powerhouse, transmission lines and corridor, and all access roads.

The licensee may not commence activities affected by the plan until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing, instructs otherwise.

Article 107. Licensee shall, prior to any changes in the location of any existing or proposed project features or facilities, or any changes in the proposed uses of project lands and waters, or divergence from any approved exhibits filed with the Commission, consult and cooperate with the Forest Service in regard to measures needed to ensure the protection and development of the natural resource values of the project area that could be affected by such changes or divergence. Within 60 days following any consultations and prior to any such changes or divergence, the licensee shall file a report with the Commission describing the changes, the reasons for the changes, and showing the approval of the Forest Service. This article does not relieve the licensee from the requirements of Article 3 of this license. In the event that Forest Service approval of the changes cannot be secured, the proposed changes or modifications shall be considered to be a substantial alteration and must be submitted to the Commission for approval in accordance with Article 2.

Article 108. Licensee shall not use pesticides or herbicides on National Forest System (NFS) lands for any purpose without the prior written approval of the Forest Service. Each year on or about the anniversary date of the license, the licensee shall file a pesticide and herbicide use plan approved by the Forest Service with the Director, Office of Hydropower Licensing. Exceptions to this schedule may be allowed only when unexpected outbreaks of pest require control measures that were not anticipated at the time the annual report was submitted. At that time the Forest Service may grant an emergency approval. The licensee shall, within 1 month, file a copy of this approval with the Director, Office of Hydropower Licensing. Only those materials registered by the U.S. Environmental Protection Agency for the specified purpose planned will be considered for use on National Forest System lands. Label instructions will be strictly followed in the preparation and application of pesticides and disposal of excess materials and containers.

Article 109. The licensee shall construct road crossings over the pipeline/ penstock locations designated by the Forest Service. Such crossings will be designed to carry a loaded logging truck.

Article 110. Within 1 year from the issuance of this license and before starting activities of a land-disturbing nature, the licensee shall file with the Director, Office of Hydropower Licensing, a survey and mititigation plan approved by the Forest Service of the sensitive, threatened, and endangered species located within the area to be disturbed.

(F) This license is subject to the articles set forth in Form L-2, (October 1975), entitled "Terms and Conditions of License for Unconstructed Major Project Affecting Lands of the United States, except Article 20. The license is also subject to the following additional articles:

Article 201. The licensee shall pay the United States the following annual charge, effective the first day of the month in which this license is issued:

a. For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. The authorized installed capacity for that purpose is 40,000 horsepower.

b. For the purpose of recompensing the United States for the use, occupancy, and enjoyment of 18.04 acres of its lands, other than for transmission line right-of-way, a reasonable annual charge as determined by the Commission in accordance with its regulations, in effect from time to time.

Article 202. Pursuant to Section 10(d) of the Act, after the first 20 years of operation of the project under license, a specified reasonable rate of return is the product of its capital ratio and cost rate. The annual capital ratio for each component of the rate of return upon the net investment in the project shall be used for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. One half of the project surplus earnings, if any, accumulated after the first 20 years of operation under the license, in excess of the specified rate of return per annum on the net investment, shall be set aside in a project amortization reserve account at the end of each fiscal year. To the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year after the first 20 years of operation under the license, the amount of that deficiency shall be deducted from the amount of any surplus earnings subsequently accumulated, until absorbed. One-half of the remaining surplus earnings, if any, cumulatively computed, shall be set aside in the project amortization reserve account. The amounts established in the project amortization reserved account shall be maintained until further order of the Commission.

The annual specified reasonable rate of return shall be the sum of the annual weighted costs of long-term debt, preferred stock, and common equity, as defined below. The annual weighted cost for each component of the reasonable rate of return is the product of its capital ratio and cost rate. The annual capital ratio for each component of the rate of return shall be calculated based on an average of 13 monthly balances of amounts properly includable in the licensee's long-term debt and proprietary capital accounts as listed in the Commission's Uniform System of Accounts. The cost rates for long-term debt and preferred stock shall be their respective weighted average costs for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the Treasury Department's 10 year constant maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).

Article 203. The licensee shall clear and keep clear to an adequate width all lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which result from maintenance, operation, or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. All clearing of lands and disposal of unnecessary material shall be done with due diligence to the satisfaction of the authorized representative of the Commission and in accordance with appropriate federal, state, and local statutes and regulations.

Article 301. The licensee shall commence construction of project works within two years from the issuance date of the license and shall complete construction of the project within four years from the issuance date of the license.

Article 302. The licensee shall at least 60 days prior to start of construction, submit one copy to the Commission's Regional Director and two copies to the Director, Division of Inspections of the final contract drawings and specifications for pertinent features of the project, such as water retention structures, powerhouse, and water conveyance structures. The Director, Division of Inspections may require changes in the plans and specifications to assure a safe and adequate project.

Article 303. The licensee shall within 90 days of completion of construction file, for approval by the Commission revised Exhibits A, F, and G to describe and show the project as built. The project shall include the 30 miles of upgraded transmission line to Bonners Ferry.

Article 401. The licensee, after consulting with the Idaho Department of Fish and Game (IDFG), the U.S. Fish and Wildlife Service (FWS), the Forest Service (FS), and the Soil Conservation Service (SCS), and before starting any land-clearing or ground-disturbing activites, shall file with the Commission a plan to control erosion, sedimentation, turbidity, and instability of slopes resulting from construction and operation of the project.

The plan shall include the following: (1) functional design drawings and topographic map locations of control measures; (2) provisions for an automatic shut-off device at the intake structure to operate in the event of a pipeline or penstock rupture; (3) provisions for notifying IDFG and FS within 24 hours of a facility failure; (4) a construction schedule that minimizes effects of sedimentation on aquatic resources; (5) a plan of accomplishment detailing equipment, methods, and procedures for any work done in Smith Creek below the high water mark; and (6) design of velocity dissipation structures to reduce water velocities from the powerhouse. The plan also shall include an implementation schedule, monitoring and maintenance programs for project construction, and provisions for making any necessary revisions to the plan. The licensee shall document in the filing consultation with IDFG, FWS, FS, and SCS on the plan and shall include copies of any agency comments or recommendations.

If the licensee does not concur with agency comments or recommendations, the licensee shall provide a discussion of the reasons for not concurring based on geological, soil, and ground-water conditions at the project site. The Commission reserves the right to require changes to the plan. Unless the Director of the Office of Hydropower Licensing directs otherwise, the licensee may begin land-clearing or ground-disturbing activities at the

project 60 days after filing this plan.

Article 402. The licensee, after consultation with the U.S. Fish and Wildlife Service (FWS), the Idaho Department of Fish and Game (IDFG), and the Forest Service (FS), shall develop a plan to remove accumulated sediment from the project intake and diversion dam. The plan shall include an implementation schedule that provides for the following: (1) initial and normal maintenance sediment flushing periods, designed to minimize adverse impacts on fish spawning and rearing; (2) minimum flow releases from the project dam during flushing operations; and (3) cooperation with and notification of agencies before sediment flushing operations. The plan shall be consistent with the conditions of the water quality certificate issued to the licensee by the Idaho Department of Health and Welfare on December 18, 1985. Within 6 months from the date of issuance of this license and before any sediment flushing at the project, the licensee shall file the plan with the Commission for approval, along with comments from FWS, IDFG, and FS on the adequacy of the plan. At the same time, copies of the filing shall be served upon the agencies consulted. The Commission reserves the right to require modifications to the plan.

AT Article 403. The licensee, after consultation with the Idaho Department of Fish and Game (IDFG), the U.S. Fish and Wildlife Service (FWS), and the Forest Service (FS), and within 6 months from the date of issuance of this license, shall file for Commission approval functional design drawings of the diversion structure to be constructed at the Smith Creek Project. The diversion structure shall be designed in a manner that will facilitate the flushing of accumulated sediment from the project reservoir. The filing shall include documentation of consultation with IDFG, FWS, and FS, and any comments of the consulted agencies on the drawings. The licensee shall file as-built drawings with the Commission within 6 months after completing construction.

Article 404. The licensee, after consultation with the Idaho Department of Fish and Game (IDFG), the U.S. Fish and Wildlife Service (FWS), and the Forest Service (FS), shall develop a plan to maintain dissolved gas levels of project discharges at equilibrium with dissolved gas levels of the receiving waters of Smith Creek. The plan shall include functional design drawings of project features that would be used to maintain dissolved gas levels of project discharges at equilibrium with those of Smith Creek. Within 1 year from the date of issuance of this license, the licensee shall file the plan with the Commission for approval, along with documentation of consultation with IDFG, FWS, and FS on the plan and copies of any agency comments or recommendations.

Article 405. The license shall discharge from the Smith Creek Hydroelectric Project either a continuous minimum flow of 27 cubic feet per second, as measured immediately downstream from the project diversion dam, or the inflow to the reservoir, whichever is less, to protect and enhance fish and wildlife resources in Smith Creek. This flow may be temporarily modified if required by operating emergencies beyond the control of the licensee, and for short periods upon mutual agreement among the licensee, the Forest Service, and Idaho Department of Fish and Game.

Article 406. The licensee, in cooperation with the Idaho Department of Fish and Game and the U.S. Fish and Wildlife Service, shall develop a plan to install a streamflow gage in Smith Creek to monitor the minimum flow release required by articles 103 and 405. The plan shall include the location and design of the gage, a schedule for the installation of the gage, the method of flow data collection, and a provision for providing the flow data to the agencies. The Commission reserves the right to require modification to the plan. The plan shall be filed with the Commission for approval within 1 year from the date of issuance of this license and shall include comments from the consulted agencies on the plan.

MMJ Article 407. The licensee, after consulting with the Idaho Department of Fish and Game (IDFG) and the U.S. Fish and Wildlife Service (FWS), shall set limits on the maximum rate of change in river flow (the ramping rate) needed to protect fish and wildlife resources in Smith Creek. At least 6 months before beginning operation of the project, the licensee shall file for Commission approval recommendations for ramping rates. The filing shall include comments from IDFG and FWS on the ramping rate.

MMJ AT Article 408. The licensee, after consulting with the Idaho Department of Fish and Game (IDFG), the U.S. Fish and Wildlife Service (FWS), and the Forest Service (FS), and within 6 months after the date of issuance of this license, shall file for Commission approval functional design drawings of the fish screening structure and fish passage facilities to be constructed at the Smith Creek Project. The filing shall include documentation of consultation with IDFG, FWS, and FS and copies of agency comments on the drawings. The licensee shall file as-built drawings with the Commission within 6 months after completing construction.

CMM Article 409. The licensee, after consulting with the U.S. Fish and Wildlife Service (FWS) and the Idaho Department of Fish and Game (IDFG), and within 6 months after the date of issuance of the license, shall file a wildlife mitigative plan for Commission approval. The plan shall include the following: (1) specific measures for revegetating the disturbed areas with plant species beneficial to wildlife, as soon as practicable after the completion of project construction at specific sites; (2) a provision for the replacement of lost riparian vegetation on a replacement-to-loss ratio of 1.25 to 1; and (3) construction procedures that ensure that the removal of riparian vegetation is minimized. The licensee shall include in the filing an implementation schedule and the comments of FWS and IDFG on the plan.

Article 410. The licensee, after consulting with the U.S. Fish and Wildlife Service and the Idaho Department of Fish and Game, shall file a transmission line design plan within 6 months from the date of issuance of this license, prepared in accordance with guidelines set forth in the 1981 publication, Suggested Practices for Raptor Protection on Power Lines, Raptor Research Report No. 4, issued by the Raptor Research Foundation, Inc. The plan shall include detailed design drawings of the transmission line, clearly showing phase spacing, configuration, and grounding practices, a construction schedule, and agency comments on the adequacy of the design plan. Unless the Director of the Office of Hydropower Licensing instructs otherwise, the licensee may begin construction 90 days after filing the plan. The licensee shall not use PCB-cooled transformers.

Article 411. The licensee, before starting any land-clearing or land-disturbing activities within the project boundary, other than those specifically authorized in this license, shall consult with the State Historic Preservation Officer (SHPO) and with the Forest Service (FS), in Region 1, in Missoula, Montana, and shall file with the Commission a cultural resource management plan. If the licensee discovers previously unidentified archeological or historic properties during the course of constructing or developing project works or other facilities at the project, the licensee shall stop all land-clearing and land-disturbing activities in the vicinity of the properties and shall consult with the SHPO and FS. The licensee after consulting with a qualified cultural resource specialist, the SHPO, and FS, shall file with the Commission a cultural resource management plan. The management plan shall include the following: (1) a description of each discovered property, indicating whether it is listed on or eligible to be listed on the National Register of Historic Places; (2) a description of the potential effect on each discovered property; (3) proposed measures for avoiding or mitigating effects; (4) documentation of the nature and extent of consultation; and (5) a schedule for mitigating effects and conducting additional studies. The Commission may require changes to the plan. Before starting to excavate or to remove any archeological resource located on National Forest System lands, the licensee shall secure a permit from FS authorizing the excavation or removal. The licensee shall not begin any land-clearing or land-disturbing activities, other than those specifically authorized in this license, or resume such activities in the vicinity of a property discovered during construction, until informed by the Director of the Office of Hydropower Licensing that the requirements of this article have been fulfilled.

Article 412. The licensee shall consult with the Forest Service (FS) to determine a suitable design and location for recreational facilities at Dirt Oven and Union Bridge Campgrounds. The facilities shall include but shall not be limited to campsites

and toilet facilities at the Dirt Oven Campground and a toilet, fire pits, and picnic facilities at the Union Bridge Campground. The licensee shall complete construction of the recreational facilities within 3 years from the issuance date of this license. Within 90 days after completion of the recreational facilities, the licensee shall file with the Commission as-built drawings needed to show the location and design of the constructed facilities. The filing shall include copies of any comments from the FS.

Article 413. The Commission, upon its own motion or upon the recommendation of federal or state fish and wildlife agencies or affected Indian tribes, reserves the authority to order alterations of project structures and operations, taking into account to the fullest extent practicable, at each relevant stage of the decision-making processes, the regional fish and wildlife program developed and amended under the Pacific Northwest Electric Power Planning and Conservation Act.

Article 414. The licensee shall allow employees of the Idaho Department of Fish and Game, showing proper credentials, free and unrestricted access to, through, and across project lands and project works in the performance of their official duties.

Article 415. (a) In accordance with the provisions of this article, the licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain other types of use and occupancy, without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensee shall also have continuing responsibility to supervise and control the uses and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, cancelling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The types of use and occupancy of project lands and waters for which the licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures

and facilities that can accommodate no more than 10 watercraft at a time and where said facility is intended to serve single-family type dwellings; and (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the uses and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program. The Commission reserves the right to require the licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges and roads for which all necessary state and federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir. No later than January 31 of each year, the licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary state and federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary federal

and state water quality certificates or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary federal and state approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 45 days before conveying any interest in project lands under this paragraph (d), the licensee must submit a letter to the Director, Office of Hydropower Licensing, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any federal or state agency official consulted, and any federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraphs (c) or (d) of this article:

(1) Before conveying the interest, the licensee shall consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include covenants running with the land adequate to ensure that: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project.

(4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

(g) The authority granted to the licensee under this article shall not apply to any part of the public lands and reservations of the United States included within the project boundary.

(G) This order is issued under authority delegated to the Director and is final unless appealed under Rule 1902 to the Commission by any party within 30 days from the issuance date of this order. Filing an appeal does not stay the effective date of this order or any date specified in this order. The licensee's failure to appeal this order shall constitute acceptance of the license.

Fred E. Springer
Acting Director, Office
of Hydropower Licensing

APPENDIX A 1/

ENVIRONMENTAL ASSESSMENT
DIVISION OF ENVIRONMENTAL ANALYSIS, OFFICE OF HYDROPOWER LICENSING
FEDERAL ENERGY REGULATORY COMMISSION

Smith Creek Hydroelectric Project
FERC No. 8436-001
February 10, 1987

I. APPLICATION

On March 11, 1985, Idaho Natural Energy, Inc. (INE) filed an application for license for the Smith Creek Project, an unconstructed project greater than 5 megawatts (MW). The project would be located on Smith Creek in Boundary County, Idaho, near the town of Porthill, Idaho, and would be located within the Kaniksu National Forest (figure 1).

II. RESOURCE DEVELOPMENT

A. Purpose

The proposed project would generate an estimated annual average of 81.8 million kWh of electrical energy to a utility in the region.

B. Need for Power

Available data show that growth in the demand for electric power and energy will continue. Given load growth and an existing generating resource base, a need for additional generating resources can be projected to exist in the future for any power system. Additional resources would have to be obtained for any system at some time in order to meet projected additional load requirements with the same degree of reliability required by an existing criterion for the system. The timing of the need would vary in different systems, depending upon such factors as the rates of load growth, the load characteristics, the available existing power resources, and the reliability criteria established for each system. A power-generating facility may be added to a system before a generating resource deficit exists, if, over its operating life, the additional generation provides benefits that would not be available through operation of the system without the addition.

The proposed project is located in the Northwest Power Planning Council (NPPC) area, within the Northwest Power Pool of the Western Systems Coordination Council (WSCC) region. NPPC, in its 1986 Northwest Conservation and Electric Power Plan, projects a northwest regional need for additional power resources by 1992, based on a medium-high load growth rate forecast (2.0 percent per year), and by 1996 based on a medium-low load growth rate forecast (1.3 percent per year). The Bonneville Power Administration forecast, released in April 1986, and the Pacific Northwest Utilities Conference Committee (PNUCC) show northwest regional energy deficits for

1/ Illustrations referenced in the text are omitted from this document due to reproduction requirements.

mid-range load forecasts beginning in 1994 and 1991, respectively. Individual systems within the northwest region also indicate resource deficits will exist on their systems before northwest regional deficits occur.

Because of the small size of the proposed project in relation to the existing and projected generating capabability in the NPPC area, the traditional approach of linking project development with a forecasted need for a specific project is inapplicable to assessing a need for the proposed project.

The small size of the project in relation to existing and projected generating capability ensures that the power from the project would be integrated into the existing generating resource base without the temporary overbuilding commonly associated with bringing large power projects on-line (becoming commercially operational). Moreover, in accordance with the Federal Power Act, the schedule for the project can be made to accommodate uncertain market conditions to some extent by the licensee's delaying the beginning of construction as much as 4 years after the license is issued.

The power from the project would be useful in meeting a small part of the need for power projected by the NPPC for the northwest region. From the time the project goes on-line, it will be available to displace fossil-fueled power generation in the WSCC region, thereby conserving nonrenewable fossil fuels and reducing the emission of noxious byproducts caused by the combustion of fossil fuels.

III. PROPOSED PROJECT AND ALTERNATIVES

A. Proposed Project

1. Project Description

The proposed project would consist of: (a) an 8-foot-high, 75-foot-long concrete diversion dam, with sluice gates, trashracks, fish screens, and fish passage facilities, located at elevation 3,450 feet above mean sea level (msl); (b) a 27,770-foot-long steel penstock, with a varying diameter of 60, 66, and 72 inches; (c) a 100-foot-wide, 50-foot-long, and 30-foot-high powerhouse at elevation 1,840 msl, containing two generating units with a total rated capacity of 30 MW; (d) a 20-foot-wide, 30-foot-long tailrace; (e) 700 feet of new 115-kilovolt transmission line and 30 miles of upgraded transmission line; and (f) 1,100-foot-long, 20-foot-wide access road (figure 2).

2. Proposed Mitigative Measures

INE proposes the following mitigative actions: (1) conducting earthmoving activities from June through October to reduce siltation; (2) releasing a minimum flow of 27 cubic feet per second (cfs) to protect the aquatic environment downstream of the dam; (3) taking measures to prevent air entrainment in the

intake; (4) providing a flow shutoff valve; (5) installing a screen to prevent fish mortality; (6) designing the diversion structure to pass bedload; (7) designing the transmission line to minimize raptor electrocutions; (8) replanting disturbed areas; (9) carrying out measures to prevent erosion and protect unstable slopes; and (10) improving the Dirt Oven and Union Bridge campgrounds.

3. Federal Land Management Conditions

The Forest Service (FS), in a letter dated May 14, 1986, has provided license conditions for the proposed project (attachment A), pursuant to Section 4(e) of Federal Power Act. These conditions require INE to take the following actions: (1) file with the Commission a special-use authorization, approved and enforceable by FS; (2) develop measures to ensure future natural resource protection; (3) provide minimum flow releases; (4) prepare a fish and wildlife habitat mitigative plan; (5) prepare an erosion, stream sedimentation, dust, and soil mass movement control plan; (6) prepare a plan to preserve visual quality; (7) develop measures to protect natural resources in the event of project changes; (8) prepare a pesticide and herbicide use plan; (9) construct road crossings over pipeline; and (10) prepare a sensitive, threatened, and endangered species survey and mitigative plan.

B. Alternatives to the Proposed Project

Because INE is not an electric utility, the available alternatives are to construct or not to construct the project. If the license is not issued, the project would not be constructed; the power that would have been developed from a renewable resource would be lost and eventually would have to be developed using nonrenewable fuels.

C. Alternative of No Action

No action would mean that the potential hydropower of the proposed project would not be used; there would be no construction and no alteration of the existing environment.

IV. CONSULTATION AND COMPLIANCE

A. Agency Consultation

Commission regulations require prospective applicants to consult with the appropriate resource agencies before filing an application for license. This consultation constitutes an initial step in compliance with the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Act), and other federal statutes. Prefiling con-

sultation must be complete and must be documented in accordance with the Commission's regulations.

After the Commission accepts the application, formal comments may be submitted by concerned entities during the public notice period. In addition, organizations and individuals may petition to intervene and to become a party to any subsequent proceedings. The Commission makes the comments of concerned entities part of the record, and the staff considers the comments during the review of the proposed project. The following entities commented on the application after the Commission issued a public notice of the application on March 7, 1986.

Commenting entity	Date of letter
Forest Service	May 14, 1986; July 25, 1986
Idaho State Historical Society	July 21, 1986
Department of the Interior	July 21, 1986

Northern Lights, Inc., Idaho Power Company, and Idaho Department of Fish and Game filed petitions to intervene on April 29, May 2, and May 15, 1986, respectively.

INE responded to the FS comments in a letter dated June 12, 1986.

B. Water Quality Certification

On December 18, 1985, the Idaho Department of Health and Welfare issued INE a water quality certificate for the project under Section 401 of the Clean Water Act.

C. Pacific Northwest Electric Power Planning and Conservation Act

Under Section 4(h) of the Northwest Act, NPPC developed the Columbia River Basin Fish and Wildlife Program (Program) to protect, mitigate, and enhance fish and wildlife resources associated with the development of hydroelectric projects. The program provides a framework for assessing the effects of new hydroelectric development on fish and wildlife resources and contains a number of general mitigative measures that should be implemented for any new development.

The Program requires that fish and wildlife agencies, Indian tribes, and the NPPC be consulted during the study, design, construction, and operation of new hydroelectric projects. As noted in the section on agency consultation, the Commission's regulations require applicants to initiate prefiling consultation with these entities, and gives these entities the postfiling opportunity to review and to comment on the license application. INE and the entities have completed this consultation process.

The Program requires that authorization for new hydroelectric projects should include conditions of development that would mitigate the impacts of the project on fish and wildlife resources.

INE proposes ways to mitigate adverse impacts and agrees with the consulted entities on mitigative measures. Further, INE must satisfy the intent of the Program by providing adequate mitigate measures. Moreover, the Commission has the authority to order, where practical, alterations of project structures and operations in order to take into account the NPPC's Program. Accordingly, the staff concludes that the proposed project does not conflict with the applicable provisions of the NPPC's Program.

V. ENVIRONMENTAL ANALYSIS

A. Proposed Project

1. General Description of the Locale

The project is located in the Selkirk Mountains within the Kootenai River Basin. The topography surrounding the project is of steep, mountainous terrain with forested slopes.

The climate of the project area shows a strong maritime influence. Average annual precipitation is betwen 25 and 35 inches, with 60 to 75 percent of the precipitation falling as snow.

There would be no direct or indirect adverse environmental effects on visual and other aesthetic resources, because the proposed project and the proposed mitigative measures adequately maintain the character of the area.

2. Geology and Soils

Affected Environment: The project site consists of a thin soil cover over bedrock. The spoils are silty fine to median grained sands with some gravel. The underlying bedrock is a very hard grandodiorite. Surface soil with silty sands exhibit low to median strength when saturated, and may be the primary cause of slope mass movement. The soil stability of the area is classified as having a potential for fairly high erodability of surface soils and moderate to high potential for mass movement.

Environmental Impact and Recommendations: Construction of the project features would increase erosion, sedimentation, turbidity, and instability of slopes during land-clearing and ground-disturbing activites. The penstock aligment area would continue to be subject to erosion and slope instability during project operation. The Idaho Department of Fish and Game (IDFG) recommends that INE do the following: take every reasonable care to prevent long-term erosion; prepare a specific plan for the control of erosion and sedimentation; install remote sensors for automatically shutting off the flow of water in case of penstock rupture; provide adequate flow control and energy dissipation

of bypass flows to prevent soil erosion in case of turbine shutdown; notify IDFG within 24 hours of any project facility failure that may introduce sediment into Smith Creek; prepare a plan of accomplishment detailing equipment, methods, and procedures for any work done in the stream below the high water mark; and install velocity dissipation structures to reduce water velocities from the powerhouse to a level comparable to that of the natural stream to reduce erosion.

Because of the high potential for slope instability and mass movement in the project impact area, particularly along the penstock route, a stability analysis of the project area is necessary to evaluate the adequacy of any proposed mitigative measures. INE, before starting any land-clearing or ground-disturbing activities, should file with the Commission a plan to control erosion, sedimentation, turbidity, and instability of slopes as a result of construction and operation of the project. The plan should include the measures recommended by IDFG.

Uneavoidable Adverse Impacts: Minor, adverse, short-term increases in erosion, sedimentation, and turbidity would be unavoidable during project construction.

3. Water Resources

Affected Environment: The flow regime of Smith Creek is typical of mid- to high-elevation streams in northern Idaho. The headwaters of Smith Creek originate at approximately 5,800 foot elevation of the Selkirk Range in the northern Rocky Mountains (Idaho Natural Energy, Inc., 1984, application, exhibit E). Approximately three quarters of the runoff occurs during April, May, and June and results from melting of the snowpack. Mean monthly discharges range from 821 cfs during the spring high-flow period to 29 cfs during the latter portion of the summer. Maximum monthly discharges can exceed 1,200 cfs while discharge during August and September can be as low as 9 and 10 cfs, respectively. The mean annual discharge, based on a flow record extending from 1931 to 1960, is 192 cfs (Idaho Natural Energy, Inc., 1984, application, exhibit E).

Stream channel stability in the project reach is rated good based on FS criteria (Idaho Natural Energy, Inc., 1984, application, exhibit E). The evaluation of a given channel takes into account detachability of streambed materials, quantity of mobile materials, erodibility of streambanks, and quantity and size of deposition areas (personal communication, Nick Gerhardt, hydrologist, Forest Service, Nez Perce National Forest, Grangeville, Idaho, September 25, 1986). A good rating means that the channel is stable; there exists few areas of erosion and sedimentation. In recent years, sediment production has been increasing in the watershed as a result of past timber harvest and associated road construction (Idaho Natural Energy, Inc., 1984, application, exhibit E). Smith

Creek has the capacity to carry the usual sediment load during periods of peak discharges. Therefore, except for unusually large inputs, such as landslides, sedimentation is not a problem (personal communication, Mike Collette, Forest Service, Bonners Ferry Ranger District, September 17, 1986).

Environmental Impacts and Recommendations:

Construction Impacts

Project construction would introduce sediment into the water column through erosion of disturbed land surfaces and instream construction activities. Most of the fine sediment introduced to the stream would be transported well downstream of the project area due to high gradient of the stream.

In an effort to minimize adverse impacts to water quality associated with project construction, INE agrees to adhere to IDFG, Idaho Department of Health and Welfare (IDHW), and FS directives regarding measures to protect water quality during and after construction. INE also agrees to limit instream construction activities to the summer low-flow period to minimize the introduction of sediment to Smith Creek.

Increases in turbidity and sedimentation, with subsequent negative effects on aquatic resources, are among the most significant construction-related effects of hydroelectric development (Rochester et al., 1984). The application of good construction techniques, such as sediment traps and diversions away from excavated areas, should minimize construction related sediment problems. INE should implement a detailed erosion control and sedimentation plan, as discussed in the Geology and Soils section, to minimize construction related impacts to water quality.

Toxic chemicals

Oil and gas spills from construction machinery and lime released from curing cement can be toxic to aquatic biota (Idaho Natural Energy, Inc., 1984, application, exhibit E). INE states that all heavy equipment would be refueled and prepaired at designated sites away from the creek and a diversion weir would be built to divert water away from curing cement. INE should adhere to the required construction guidelines and directives of FS, IDFG, and IDHW.

Sediment transport

Operation of the project would divert up to 300 cfs of the flow of Smith Creek, thereby reducing flows in a 5.6-mile-long reach of the creek. Reduced peak flows would affect the capacity of a watercourse to transport sediments and maintain existing channel conditions and gravel quality (Morisawa, 1968). A project induced reduction in peak flows would reduce the size and amount of fine

sediment transported through the bypassed reach and sediment would accumulate in the stream channel.

IDFG recommends that INE release the channel maintenance flow required by the FS 4(e) condition (Attachment A, condition No. 3) to remove accumulated sediment from the bypass reach and to maintain the existing channel morphology. INE contends that the diversion of 300 cfs, the maximum hydraulic capacity of the project, would have little effect to peak runoff.

The diversion of 300 cfs maximum into the penstock would significantly reduce the magnitude of peak discharges that occur in the creek. This reduction could affect sedimentation rates in Smith Creek. The flow release schedule stipulated by FS 4(e) conditions would minimize the accumulation of sediment within the bypassed reach.

Reservoir flushing

Operation of the facility would modify the sediment transport characteristics of the watercourse. Small impoundments, such as the one formed by the proposed diversion dam, effectively act as settling basins that retain sand size an larger sediments.

Maintenance for efficient operations of the diversion dam and intake structure would require the periodic removal or flushing of accumulated sediment.

IDHW recommends that reservoir flushing be conducted in a manner that would not cause water quality degradation. IDFG recommends that the diversion structure be designed to facilitate the flushing of sediments from the reservoir during the release of channel maintenance flows required by the FS 4(e) condition. INE agrees to schedule reservoir flushing to minimize impacts to aquatic resources and to design the diversion structure to pass bedload at a natural rate.

In order to minimize the impacts to water quality associated with periodic flushing of sediments from the reservoir, INE should, in cooperation with appropriate resource agencies, develop a plan to remove sediments from the reservoir. In addition, INE should incorporate into the design of the diversion structure, sluice gates or other appropriate structures, to ensure that sediment accumulated in the impoundment is removed during the release of the channel maintenance flow recommended by FS.

Dissolved gases

The entrainment of air into the project intake would result in supersaturated levels of dissolved gases in project discharges. Water becomes supersaturated when significant volumes of air are mixed with water under pressure much greater than 1 atmosphere

(Weitkamp and Katz, 1980). Fish exposed to supersaturated gas levels, especially nitrogen, are subject to gas bubble disease and possible mortality (Bell, 1984; Weitkamp and Katz, 1980).

IDFG recommends that the intake structure be designed to prevent air entrainment and that INE provide IDFG with copies of the final intake structure design and operation specifics for their approval. INE proposes to ensure adequate water depth over the intake, to incorporate anti-vortexing features at the intake to prevent air entrainment, and install air relief valves along the conduit to eliminate trapped air should air be entrained. If gas supersaturation occurs, INE proposes to curtail project operation and correct the conditions.

In the event that air is entrained into the project penstock at the intake, the pressure differential created by the approximately 1,610-foot difference in elevation between the intake and the powerhouse could lead to the dissolving of entrained gases and to supersaturated conditions. Gas supersaturation resulting from project operation can kill fish living downstream of the powerhouse and tailrace. In order to minimize gas supersaturation, INE should design the intake facility and conduit to prevent air entrapment and eliminate it if it becomes entrapped. This would decrease the possibility of gas supersaturation occurring.

Unavoidable Adverse Impacts: Project construction would cause short-term increases in sedimentation and turbidity.

4. Fishery Resources

Affected Environment: The fishery of Smith Creek is comprised of westslope cutthroat trout (Salmo clarki lewisi), rainbow trout (Salmo gairdneri), and eastern brook trout (Salvelinus fontinalus) (Idaho Natural Energy, Inc., 1984, application, exhibit E). Cutthroat, rainbow, and brook trout captured by electrofishing range in size from 28 to 150 millimeters (mm), with the majority being less than 80 mm (Idaho Natural Energy, Inc., 1984 application, exhibit E). Snorkel surveys show that adult fish (greater than 110 mm) occur in the bypassed reach. Cutthroat trout are the most numerous and largest of the fish. Individuals larger than 200 mm inhabit the project area. The occurrence of significant numbers of all life stages of cutthroat trout shows that these fish carry out their entire life cycle in the bypassed reach. A similar determination could not be made for rainbow and brook trout due to limited number of fish observations (Idaho Natural Energy, Inc., 1984, application, exhibit E).

IDFG classifies the westslope cutthroat trout as a species of special concern because it has declined from its historical abundance (personal communication, Larry LaBolle, regional fishery biologist, Region 1, IDFG, Coeur d'Alene, Idaho, September 18, 1986). Loss of spawning habitat in tributaries and larger rivers has contributed to the decline in the Idaho panhandle and elsewhere

in North America. In order to protect and restore these fish, restrictive angling regulations are employed and they receive emphasis in management.

Fish habitat in the project reach of Smith Creek consists of pools (29 percent) and pocket pools behind boulders (30 percent). The remaining portion of the bypassed reach consists of poor quality fish habitat comprised of cascades and chutes (Idaho Natural Energy, Inc., 1984, application, exhibit E). In the bypassed reach, trout spawning habitat is limited to isolated patches in the downstream end of the pools, and are presumably the principal spawning locations for trout (personnal communication, Nick Gerhardt, hydrologist, Forest Service, Nez Perce National Forest, Grangeville, Idaho, September 25, 1986).

Cutthroat and rainbow trout were the target evaluation species in the instream flow incremental methodology (IFIM) analysis, as recommended by IDFG (Idaho Natural Energy, Inc., 1985). The two study sites for the IFIM were located in the upper mile of the bypass reach and each site represented pool habitat. Modeled habitat was greatest at flows of 75 to 125 cfs for all life stages of cutthroat and rainbow trout at study site 1. At study site 2, fry habitat did not change significantly over the range of modeled flows (5 to 200 cfs) for both trout species. Juvenile and adult trout habitat significantly increased from 5 cfs and peaked at 175 cfs at this location.

Environmental Impacts and Recommendations:

Sedimentation and Turbidity

The increased sedimentation and turbidity levels resulting from construction activities would have minor, short-term adverse effects on the fishery resources of the project area. Rochester et al. (1984) state that construction-induced sedimentation and turbidity may reduce the visibility of fish, disrupt spawning, and smother aquatic fish food organisms. To reduce the effects of construction, INE should develop and implement a detailed erosion control and sedimentation plan, as described in the Geology and Soils section. INE should specify the time of construction in the plan. As discussed in the Water Resources section, INE should conduct construction activities from July through October, after the emergence of rainbow and cutthroat trout fry spawned in the spring and before brook trout spawning in the fall.

Instream flow

The diversion of up to 300 cfs from Smith Creek would reduce flows and lessen available trout habitat in the 5.6-mile-long bypassed reach. Flow reductions in western streams typically reduces usable habitat for fishery resouces (Loar and Sale, 1981).

FS, IDFG, and FWS recommend that INE release 27 cfs from the diversion dam to protect the fish resources of the bypass reach. To ensure the continuous release of minimum flows, IDFG and FS also recommend that the dam be designed to release minimum flows automatically before diverting water for project operation. IDFG further recommends the installation of flow monitoring equipment that records continuous flow data.

To protect the resident fishery resources in Smith Creek during project operation, it would be necessary to maintain suitable streamflows in the bypass reach. The recommended minimum flow of 27 cfs would provide adequate habitat for the fishery resources of Smith Creek. To ensure the release of the 27-cfs minimum flow, INE included a minimum flow release slot in the design of the diversion dam, consistent with the agencies' recommendation. INE should install recording streamflow gages in sufficient number to verify compliance with the flow releases required by FS and recommended by IDFG and FWS.

Ramping rate

Starting the project would cause rapid flow fluctuation, both in the bypassed reach and downstream of the tailrace, and would adversely affect the fishery resources. Rapid reductions in flow might strand fish (Walburg et al., 1981; Hildebrand et al., 1981; Cushman, 1985). To protect the fishery resources from rapid, project-induced flow fluctuations, INE should limit the maximum rate of change in the flow of Smith Creek after consultation with the appropriate agencies.

Fish protection

Fish moving downstream and entering the project intake would be subject to turbine-induced injury or mortality. The approach velocity of the intake could exceed the swimming speed of trout fry, which are less than 40 mm in size, or attract them into the intake, resulting in entrainment or impingement. Mortality studies of the swimming ability of juvenile salmonids show that fish with a fork length of 36 to 38 mm can withstand a maximum water velocity of 0.4 feet per second (fps) for 6 minutes (Odenweller and Brown, 1982). The studies also show that swimming ability increase with the size of fish. The staff infers similar swimming abilities for resident trout and probably less for newly emerged trout fry.

To minimize turbine-induced fish mortality, IDFG recommends that INE install a fish screen that conforms to IDFG criteria. IDFG requires the use of a 1/4-inch mesh screen (or 3/16-inch bar spacing) at the intake facility with approach velocities of 0.5 fps or less. INE agrees to design fish protection facilities according to IDFG standards.

Fish diverted into the power generating system would be killed or injured fish as a result of the pressure changes that would occur within the penstock or collision with the turbine blades. The proximity of the fish passage facility to the fish screen would increase the chance of impingement and entrainment of trout fry. In order to minimize turbine-induced fish mortality, INE should install a fish screen that would minimize the introduction of fish into the project intake.

Fish Movement

The proposed diversion dam would prevent all upstream migration of trout in Smith Creek, and during low flows, all downstream migration. The amount and length of fish migration in Smith Creek is unknown. Studies have shown that trout do migrate but the distances traveled are not considered to be great (Stefanich, 1952; Whitworth and Strange, 1983; Bachman, 1984; and Cargill, 1980).

FWS and IDFG recommend that INE design fish passage facilities to allow fish passage past the diversion dam. INE proposes to construct a fish ladder to pass fish both upstream and downstream.

The diversion dam would block fish access to the upstream and downstream reaches of Smith Creek. To prevent a disruption of fish migration, INE should construct a fish ladder at the diversion dam and should submit functional design drawings of the ladder for Commission approval.

Unavoidable Adverse Impacts: Construction-related increases in sedimentation and turbidity would cause minor, short-term reductions in the quality of the fish habitat. The diversion dam would collect gravel destined for downstream areas; this would temporarily deplete the gravel supply until the gravel fills in the upstream side of the dam. Operation of the project could impinge and entrain newly emerged trout fry on the intake screens.

5. Vegetation

Affected Environment: The vegetation in the project area is mostly forested. Most of the project area is classified as western hemlock (Tsuga heterophylla)-pachistima (Pachistima myrsinites) habitat type. Scattered ponderosa pine (Pinus ponderosa), lodgepole pine (P. contorta), and Douglas fir (Pseudotsuga menziesii) are also found along the slopes. Smaller areas of Douglas fir-ninebark (Physocarpus malvaceous) rockland and pachistima rockland habitat types are also found in the project area. Most of the timber is pole-sized (5- to 8.9-inch diameter at breast height), with lesser amounts of immature saw timber (Idaho Natural Energy, Inc., 1984, application, exhibit E).

Riparian vegetation along Smith Creek is limited by the existence of granite outcroppings. Dominant species include willow (Salix spp.), western red cedar (Thuja plicata), and various herbaceous species.

Environmental Impacts and Recommendations: Building the project would cause the loss of less than 5 acres of vegetation. The diversion structure would affect 2,250 square feet of forest and riparian habitat, consisting of second-growth, pole-size conifers. The powerhouse would affect about 3,000 square feet of open, second-growth forest, consisting mostly of scattered pole-sized pines. The pipeline would affect 3.9 acres of pole-size timber. The pipeline right-of-way would be revegetated after construction.

IDFG recommends that no riparian vegetation be removed except for an area at the diversion intake and the powerhouse site that vegetation destroyed during construction be replaced by suitable plantings. INE proposes to minimize disturbance to riparian habitat and to revegetate disturbed areas. Riparian vegetation is very scarce in Idaho (Boccard, 1980). INE, after consultation with appropriate agencies, should develop a detailed plan that includes these features: construction procedures that would minimize the removal of riparian vegetation; provisions for in-kind replacement of riparian vegetation; and provisions for revegetating disturbed areas with native plant species as soon as possible after completion of construction.

Unavoidable Adverse Impacts: The project would cause the permanent loss of less than 2 acres of vegetation.

6. Wildlife Resources

Affected Environment: The project area provides habitat for wintering mule deer (Odocoileus hemionus) and white-tailed deer (O. virginianus). Predatory mammals include coyote (Canis latrans), bobcat (Lynx rufus), and black bear (Ursus americanus). Upland game species include ruffed grouse (Bonasa umbellus) and snowshoe hare (Lepus americanus) (Idaho Natural Energy, Inc., 1984, application, exhibit E).

Environmental Impacts and Recommendations: Wildlife populations inhabitating the project area and adjacent areas would be adversely affected by increased human activities and noise levels during the 2-year construction period and would be adversely affected by the disturbance of less than 5 acres of wildlife habitat. Revegetation of disturbed areas with plant species beneficial to wildlife would reduce these effects. Less than 2 acres of wildlife habitat would be permanently lost. Construction during the summer and fall, as proposed by INE, would minimize disturbances to deer.

IDFG and Interior recommend that INE design the transmission line to prevent mortality of large raptors. Interior also recommends that the licensee avoid the use of transformers cooled with

polychlorinated biphenyls (PCB). INE agrees to comply with the recommendations.

Improperly designed transmission lines can electrocute large raptors (Raptor Research Foundation, Inc., 1981). Because of the existence of large raptors in the project area and the toxicity of PCB's to fish and wildlife, INE should comply with the agency recommendations. INE should file a transmission line design plan, that shows phase spacing, configuration, and grounding practices. PCB-cooled transformers should not be used.

IDFG also recommends that the penstock be located to avoid interference with wildlife. The penstock would be buried, with the exception of two less than 500-foot-long sections, which would span existing depressions. No significant impact to wildlife movement would occur.

Unavoidable Adverse Impacts: Local wildlife populations would be disturbed during the construction period. About 2 acres of wildlife habitat would be lost.

7. Threatened or Endangered Species

Affeted Environment: The bald eagle (Haliaeetus leucocephalus) and woodland caribou (Rangifer tarandus montanus), federally listed endangered species, and the grizzly bear (Ursus arctos horribilus), a federally listed threatened species, occur in the general project vicinity (letter from John P. Wolflin, Field Supervisor, Boise Field Office, U.S. Fish and Wildlife Service, Department of the Interior, Boise, Idaho, June 3, 1985).

From November to early March, approximately eight eagles winter along the Kootenai River from Bonners Ferry to the Montana state line. During the summer, eagles make only limited use of the area (Idaho Natural Energy, Inc., 1984).

Caribou has not been sighted in the Smith Creek drainage since the mid-1970's, although upper portions of the drainage have historically supported herds of caribou. IDFG plans to transplant individual caribou into the Ball Creek headwaters, about 15 miles southwest of the project area.

Grizzly bears are known to inhabit the upper elevations of the Smith Creek drainage, upstream of the project area (Idaho Natural Energy, Inc., 1984, applciation, exhibit E).

No threatened, endangered, or candidate plant species are known to occur in the project area (letter from John P. Wolflin, Field Supervisor, Boise Field Office, U.S. Fish and Wildlife Service, Department of the Interior, Boise, Idaho, June 3, 1985). A survey of the project area did not reveal the presence of any rare or protected plant species (Buck, 1986).

Environmental Impacts and Recommendations: Transient bald eagles, caribou, or grizzly bear could pass through the project during the construction period. FWS concluded that any effects on the three threatened or endangered species would be short-lived and unimportant (letter from John P. Wolfin, Field Supervisor, Boise Field Office, U.S. Fish and Wildlife Service, Department of the Interior, Boise, Idaho, November 19, 1985).

Interior recommends that INE's proposed survey of threatened, endangered, candidate, and sensitive plant species be conducted before licensing. Subsequent to Interior's comments, INE submitted the results of the proposed survey; no rare or protected plants were identified (Buck, 1986).

Unavoidable Adverse Impacts: None.

8. Cultural Resources

Affected Environment: A cultural resources survey of the project area has been conducted. No properties have been identified in the area as listed on or eligible for listing on the National Register of Historic Places (letters from Thomas J. Green, Idaho State Historical Society, Boise, Idaho, July 21, 1986; and James C. Overban, Region 1, Forest Service, Department of Agriculture, Missoula, Montana, July 2, 1986).

Environmental Impacts and Recommendations: Land-clearing and land-disturbing activities could adversely affect archeological and historic properties not previously identified in the project area. Therefore, if INE encounters such properties during the development of the project works or related facilities, INE should stop land-clearing and land-disturbing activites in the vicinity of the properties and should consult with the SHPO and FS about the eligibility of the properties and about designing any measures needed to avoid or to mitigate effects on the properties. In addition, before beginning any land-clearing or land-disturbing activities within the project boundaries, other than those specifically authorized in the license, INE should consult with the SHPO and FS about the need to conduct an archeological or historical survey and the need for avoidance or mitigative measures. In these instances, 60 days before starting such land-clearing or land-disturbing activities, INE should file a plan and a schedule for conducting the appropriate studies along with copies of written comments by the SHPO and FS concerning the plan and the schedule. Before starting to excavate or to remove any archeological resource located on National Forest System lands, INE should secure a permit from FS authorizing the excavation or removal. INE should not start any land-clearing or land-disturbing activities, other than those specifically authorized in this license, and should not resume such activities in the vicinity of an archeological or historic property discovered during construction, until informed by the Director of the Office of Hydropower Licensing that the requirements discussed here have been fulfilled.

Unavoidable Adverse Impacts: None.

9. Recreation and Other Land and Water Uses

Affected Environment: Recreational uses of the project area includes fishing, hunting, camping, picnicking, snowmobiling, sight-seeing, and collecting firewood. Although there are no developed recreational facilities within the proposed project boundaries, there are several popular sites above and below the project area. Two FS campgrounds, Dirt Oven and Union Bridge, are located just above the proposed diversion. Both areas offer limited facilities, but are popular for picnicking, camping, and fishing access to Smith Creek. FS has told INE that Smith Falls, which is located on private property just below the proposed powerhouse, is also a popular attraction for visitors to the area. FS includes Smith Falls, Union Bridge, and Dirt Oven in different recreational experience units and classifies each according to its recreational opportunity index.

The project area is located in the Selkirk Mountain Range within the Kaniksu National Forest. Just east of the project is the Kootenai Indian Reservation; south is the Long Canyon Roadless Area. The project area itself receives a moderate amount of traffic, because several logging roads and the FS road no. 281 traverse the area. Logging continues to be the primary land use of the project area with additional uses including recreation and several rural residences. There are no consumptive use of Smith Creek; water is utilized solely for recreation and maintaining fisheries.

Environmental Impacts and Recommendations: The proposed project would have minimal effects on the recreational use of the area. Construction of the powerhouse near Smith Falls would temporarily disrupt the tranquility of the area for visitors. Since the proposed penstock route would follow a portion of the Smith Creek Highway, construction vehicles and excavation would temporarily disrupt access. Although no agencies have provided terms and conditions or made recommendations about recreational opportunities at the project, INE, in cooperation with the FS, proposes to improve the existing facilities at Dirt Oven and Union Bridge Campgrounds. The proposed measures would enhance recreational use in the project vicinity. INE should construct campsites and a toilet facility at the Dirt Oven Campground and a toilet facility, fire pits, and picnic facilities at the Union Bridge Campground. INE should coordinate any recreational facility development and operation with FS.

Unavoidable Adverse Impacts: Development of the project would temporarily disrupt vehicle access along FS road no. 281 and would temporarily disturb visitors to Smith Falls.

10. Socioeconomic Considerations

Affected Environment: The construction and operation of the proposed Smith Creek Project would affect socioeconomic factors primarily in Boundary and Bonner Counties. The economy of Boundary County is based on logging and on the manufacture of lumber and wood products. The total population of Boundary County increased from 5,484 in 1970 to an estimated 7,700 persons as of July 1, 1985. Bonners Ferry City, the only significant commercial center in Boundary County, had a population of 2,102 on July 1, 1984.

Bonner County's population increased from 15,560 in 1970 to an estimated 26,000 persons on July 1, 1985. Like Boundary County, Bonner County's economy is heavily dependent on its forest resources. In March 1984, 45 establishments in the county employed 1,138 persons to produce lumber and wood products. This county also has an important tourism and second-home industry. The 1980 Census of Housing lists 3,171 housing units in Bonner County as vacant structures that were being held for seasonal or occasional use.

Farming provides substantial income for residents of both counties. The 1982 Census of Agriculture shows that the 301 farms in Boundary County received $10,400,000 from the sale of agricultural products, including these sums: $2,387,000 for wheat; $1,828,00 for dairy products; $1,096,000 for cattle and calves; and $2,585,000 for grain crops other than wheat. In 1982, the 559 farms in Bonner County had agricultural sales totaling $7,520,000, of which $3,650,000 was for cattle and calves (personal communication, Kathy O'Brian, Statistical Information Assistant, Joe Tintera, Statistician, Janet Allen, Agricultural Information Assistant, and Robert Bonnette, Housing Statistician, Bureau of the Census, Department of Commerce, Suitland, Maryland, August 19, 1986).

Environmental Impacts and Recommendations: During the construction period, on site machinery and project-related vehicles would produce noise, dust, exhaust emissions, and additional traffic in the project vicinity. The project would not displace any homes or business establishments.

Based on comparable projects, on site construction employment would average 20 to 25. Many workers would commute daily from residence in Boundary and Bonner Counties. Supervisory personnel and some highly skilled workers would be recruited from the Spokane or Coeur D'Alene areas. Most of these persons would commute to the site on a weekly basis, occupying a trailer or motel room near the project during the week and spending weekends at their permanent residence. The project would not induce the inmigration of families with school-age children, and there would be only very minor impacts to local government services in Boundary and Bonner Counties.

The earnings of residents from the two counties and the spending of all project personnel at lodging places, eating and drinking establishments, gasoline service stations, and other business establishments in the counties would benefit the local economy. Moreover, the construction contractor undoubtedly would obtain some material from local establishments, further benefiting employment and income in the two counties.

After the project becomes operational, the completed project facilities would generate property taxes totaling initially $82,000 per year to local government entities in Boundary County.

Mitigative mesures should not be required, because the project's socioeconomic impacts would be primarily beneficial.

Unavoidable Adverse Impacts: Construction of the proposed project would produce noise, dust, exhaust emissions, and additional traffic in the project vicinity.

ii. Other Environmental Concerns

IDFG recommends the following: the Commission should modify fish and wildlife conditions, if INE changes the project design; INE should be responsible for correcting any fish and wildlife problems that might occur in the future; and if INE abandons the site, INE should restore the project site to preproject conditions. Standard articles included in any license issued would require Commission approval for any changes in project design, and would require restoration of the project area after abandonment of the project.

IDFG requests delay of any project construction until IDFG approves all outstanding resource protection measures. Construction of specific project features should not be allowed until plans involving that specific facility are reviewed by the agencies and approved by the Commission. Following this procedure would ensure that resources affected by the particular plans would be protected. Delaying all project construction activities pending agency review and Commission approval of all of the specific resource protection plans would not provide any added protection to the affected resources, and would delay project construction.

IDFG recommends that it be granted access to the project to inspect fish facilities and other features of license terms and conditions. IDFG should be granted access to the project without prior notice.

IDFG also requests the following: authority to approve various plans and design drawings; authority to stop operation in the event INE does not comply with fish and wildlife recommendations; and the right to change or add terms and conditions.

The Commission reserves the authority to approve or disapprove the design of the project features, to stop operation of the project, and to change terms and conditions. In approving the design of project features, comments and recommendations of fish and wildlife agencies are given full consideration. In the event that project operation should result in adverse impacts to fish and wildlife resources, IDFG should petition the Commission to require INE to implement changes necessary to minimize impacts to these resources. Terms and conditions of any license include provisions that would require modification of project structures and operation, for the development and conservation of fish and wildlife resources.

As a result of past experiences with project developers and construction crews, IDFG requests that INE retain a bioengineer to serve as an independent project inspector to supervise project construction. Since the majority of the project would be located on FS lands, FS personnel would be onsite regularly to ensure compliance with required construction procedures. The Commission's Portland Regional Office staff would also periodically inspect the construction site to assure that the project is being built in accordance with license exhibits, special license provisions, and contract plans and specifications, and that the licensee is employing sound construction practices, satisfactory field supervision, adequate quality control, and satisfactory surveillance and monitoring. Therefore, a bioengineer is not justified.

IDFG recommends that the location and design of any roads necessary for transmission line construction be subject to IDFG approval. Such access road construction would not be necessary.

IDFG also requests the opportunity to approve the location of the powerhouse. Staff doesn't believe that this is necessary because fish and wildlife resources would not be a factor in final powerhouse location. The Commission will review final plans and specifications of the powerhouse to assure compliance with sound construction practices and to ensure that the project would be constructed as licensed.

B. Alternative of No Action

Implementing the no-action alternative would not change the existing physical or biological components of the area, but would preclude the use of the renewable water resource of Smith Creek to generate electricity.

C. Recommended Alternative

The proposed project is the preferred alternative, because electricity generated from a renewable resource would be sold to either the Idaho Power Company or to the Pacific Power and Light Company, thus lessening the use of existing fossil-fueled, stream-electric plants, and because the environmental effects that would result from constructing and operating the project would not be major and would be adequately mitigated.

VI. FINDING OF NO SIGNIFICANT IMPACT

Construction of the project would cause short-term increases in erosion, sedimentation, and turbidity levels in Smith Creek and would produce noise, dust, exhaust emissions, and additional traffic. Minor, short-term reductions in the quality of fish habitat would also result. Less than 2 acres of wildlife habitat would be lost. Operation of the project could impinge and entrain newly emerged trout fry.

The project would not affect any federally listed threatened or endangered species. Similarly, no sites or structures listed or eligible for listing on the National Register of Historic Places would be affected.

In accordance with the National Environmental Policy Act of 1969, this environmental assessment was prepared for the Smith Creek Hydroelectric Project. On the basis of the record and of the staff's independent environmental analysis, issuance of a license for the project would not constitute a major federal action significantly affecting the quality of the human environment.

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VIII. LIST OF PREPARERS

Alan D. Mitchnick, EA Coordinator--Vegetation, Wildlife Resources, Threatened or Endangered Species (Wildlife Biologist; M.S., Wildlife and Fisheries Sciences).

Angelo Colianni--Geology and Soils (Soil Conservationist; B.S., Agriculture [Range Mangement, Soil Science]).

Robert Deibel--Water Resources, Fishery Resources (Fishery Biologist; B.S., Fisheries Biology).

J. T. Griffin--Cultural Resources (Archeologist; B.A., Anthropology, M.P.A.).

James Haimes--Socioeconomic Considerations (Economist; B.S. Economics, 60 semester hours for Ph.D.).

John Mitchell--EA Editor (Writer-editor; B.S., Social Science).

Reed Snyder--Recreation and Other Land and Water Uses (Environmental Protection Specialist; M.S., Recreation and Park Administration).

Martin Thorpe--Need for Power, Alternatives (Electrical Engineer; B.S.E.E.).

ATTACHMENT A

United States Department of Agriculture | Forest Service | Region 1 | Federal Building P.O. Box 7669 Missoula, MT 59807

Reply to: 2770

Date: MAR 1985

Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
825 North Capitol Street, NE
Washington, DC 20426

Dear Mr. Plumb:

This is in response to the March 7 Notice of Application for Major License (under 5 MW) concerning Idaho Natural Energy, Inc.'s application for the proposed Smith Creek Project No. 8436-0001 located on Smith Creek in Boundary County, Idaho. This letter is the Secretary of Agriculture's report pursuant to Section 4(e) of the Federal Power Act (16 U.S.C. 791).

The proposal is not in conflict with any project of which we are aware that has been or should be constructed by the United States. Issuance of a license would neither interfere nor be inconsistent with the purposes for which the Kaniksu National Forest was created or acquired.

Comments on the application are contained in Exhibit B. The Forest Supervisor feels that, although enough information has been submitted to set licensed conditions, more data is necessary from the applicant before a special-use authorization can be issued.

Conditions necessary for the protection and utilization of affected National Forest System lands and minimum flow requirements are contained in Exhibit A in the form of Articles to be included in the license. The conditions are based upon Forest District review of the application for license, coordination with other agencies and consultation with the applicant.

The Secretary of Agriculture considers these conditions necessary to avoid or mitigate environmental impacts caused by project operations.

The application and other interested parties have the right to appeal the conditions for a period of 45 days from the date of this letter. We will advise you if an appeal is filed.

Sincerely,

for JAMES C. OVERLY
Regional Forester

Enclosures

8606020001

QUALITY PAGES

DOCKETED
MAY 9 1985

Exhibit A

LICENSE CONDITIONS NECESSARY FOR THE PROTECTION AND UTILIZATION OF THE IDAHO PANHANDLE NATIONAL FORESTS IN CONNECTION WITH THE APPLICATION FOR LICENSE PROJECT NO. 9436-001

A. CONDITIONS

License articles contained in the Commission's Standard Form L- 2 (revised October 1975) issued by Order No. 540, dated October 31, 1975, cover general requirements that the Secretary of Agriculture considers necessary for adequate protection and utilization of the land and resources of the Idaho Panhandle National Forests. The following conditions, covering specific requirements for protection and utilization of National Forest System lands, shall also be included in any license issued.

Condition No. 1

Within 6 months following the date of issuance of this license and before starting any activities of a land-disturbing nature, the Licensee shall file with the Director, Office of Hydropower Licensing, a special-use authorization approved and enforceable by the Forest Service.

The Licensee may not commence activities authorized in the license and Forest Service special-use authorization until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing instructs otherwise.

Condition No. 2

Each year on or before the anniversary date of the license, the Licensee shall consult with the Forest Service with regard to measures needed to ensure protection and development of the natural resource values of the project area. Within 2 months following said meeting, the Licensee shall file a report with the Commission of any recommendations made by these agencies. The Commission reserves the right, after notice and opportunity for hearing, to require changes in the project and its operation which may be necessary to accomplish natural resource protection and development.

III. FISH AND WILDLIFE RESOURCE MANAGEMENT

Condition No. 3

During the construction and operation of the facilities authorized by this license, the Licensee shall ensure that the discharge from the Smith Creek Project is a continuous, minimum flow of 27 cubic feet per second (cfs), as measured immediately below the point of proposed diversion. No diversion of water will be permitted when the natural flow is less than 27 cfs. After notice to and concurrence by the Forest Service, the Licensee shall release the entire unrestricted flow in Smith Creek down the channel for 10 consecutive days during the peak runoff period to maintain channel competence and to aggregate and flush the gravel.

[See exhibit A table]

Condition No. 5

Within 1 year from the issuance of this license and before starting any activities of a land-disturbing nature, the Licensee in consultation with the Forest Service, shall file a fish and wildlife habitat mitigation plan approved by the Forest Service with the Director, Office of Hydropower Licensing. This plan shall identify requirements for construction and mitigation measures to meet Forest Service fish and wildlife habitat objectives and standards. The plan also shall include a schedule for accomplishing these objectives and standards and shall identify any needs for additional studies.

The Licensee may not commence activities affected by the interim plan until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing, instructs otherwise.

The Licensee may not commence activities affected by the final plan until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing, instructs otherwise.

Condition No. 10

Within 1 year following the date of issuance of this license, and before starting any activities of a land-disturbing nature, the Licensee shall file with the Director, Office of Hydropower Licensing, a plan approved by the Forest Service for the control of erosion, stream sedimentation, dust, and soil mass movement.

The Licensee may not commence activities affected by the plan until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing, instructs otherwise.

Condition No. 15

Within 1 year following the date of issuance of this license and before starting any activities of a land-disturbing nature relative to the construction of the proposed project features or facilities, the Licensee shall file with the Director, Office of Hydropower Licensing, a plan approved by the Forest Service for the design and construction of the project facilities in order to preserve or enhance its visual character. The plan shall consider facility configurations and alignments, building materials, color, conservation of vegetation, landscaping, and screening. Project facilities include, among other things, the diversion structure, penstock, powerhouse, transmission lines and corridor, and all access roads.

The Licensee may not commence activities affected by the plan until after 60 days following the filing date, unless the Director, Office of Hydropower Licensing, instructs otherwise.

Condition No. 16

Licensee shall, prior to any changes in the location of any existing or proposed project features or facilities, or any changes in the proposed uses of project lands and waters, or divergence from any approved exhibits filed with the Commission, consult and cooperate with the Forest Service in regard to measures needed to ensure the protection and development of the natural resource values of the project area that could be affected by such changes or divergence. Within 60 days following any consultations and prior to any such changes or divergence, the Licensee shall file a report with the Commission describing the changes, the reasons for the changes, and showing the approval of the Forest Service. This article does not relieve the Licensee from the requirements of Article 3 of this License. In the event that Forest Service approval of the changes cannot be secured, the proposed changes or modifications shall be considered to be a substantial alteration and must be submitted to the Commission for approval in accordance with Article 2.

Condition No. 17

Licensee shall not use pesticides or herbicides on National Forest System (NFS) lands for any purpose without the prior written approval of the Forest Service. Each year on or about the anniversary date of the license, the Licensee shall file a pesticide and herbicide use plan approved by the Forest Service with the Director, Office of Hydropower Licensing. Exceptions to this schedule may be allowed only when unexpected outbreaks of pests require control measures that were not anticipated at the time the annual report was submitted. At that time the Forest Service may grant an emergency approval. The Licensee shall, within 1 month, file a copy of this approval with the Director, Office of Hydropower Licensing. Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned will be considered for use on National Forest System lands. Label instructions will be strictly followed in the preparation and application of pesticides and disposal of excess materials and containers.

Condition No. 20

The Licensee shall construct road crossings over the pipeline/penstock locations designated by the Forest Service. Such crossings will be designed to carry a loaded logging truck.

Condition No. 22

Within 1 year from the issuance of this license and before starting activities of a land-disturbing nature, the Licensee shall file with the Director, Office of Hydropower Licensing, a survey and mitigation plan approved by the Forest Service of the sensitive, threatened, and endangered species located within the area to be disturbed.

EXHIBIT A

The following chart is a flow duration curve and also reflects minimum flow needs for Smith Creek. The applicant, Idaho Fish and Game Dept., and the Forest Service have all agreed to these figures.

FAVORABLE FLOWS			FISHERIES FLOWS			COMBINED FLOW CLAIM		
Date	Duration (days)	Flow (cfs)	Date	Duration (days)	Flow (cfs)	Date	Duration (days)	Flow (cfs)
Day 1	10	162	3/26	10	50	3/21	10	50
	8	309	4/1	18	100	4/1	18	100
	6	463	5/1	31	50		10	162
	4	617	5/1	294	27		8	309
	2	771					6	463
	1	926					4	617
	1	1080					2	771
	1	1234					1	926
est.	1	1389					1	1080
5/25	1	1543					1	1234
	1	1234				est.	1	1389
	1	1080				5/25	1	1543
	1	771					1	1234
	1	617					1	1080
	1	463					1	771
	1	309					1	617
	1	162					1	463
	245	50					1	309
	31	50					1	162
	18	27				6/1	293	27
	18	0						
	0	0						

No diversion of water will be permitted when the natural flow is less than 27 cfs.

EXHIBIT B

The Forest Service has not received data items necessary to satisfy the concerns generated in the Preliminary Environmental Assessment (PEA) of 8/6/84 and highlighted in a letter to the applicant dated 8/28/84. These items will be necessary in order for the Forest Service to arrive at a decision regarding the issuance of a special use permit. The Special Use process will not proceed until a decision has been rendered.

APPENDIX B

SAFETY AND DESIGN ASSESSMENT
SMITH CREEK HYDROELECTRIC PROJECT
FERC NO. 8436-001 - IDAHO

DAM SAFETY

The Smith Creek diversion dam would be 8 feet high and 75 feet long impounding less than 2 acre-feet of storage in a rural undeveloped area. Failure of the dam and appurtenant structures would not pose a hazard to downstream property or human life.

PROJECT DESIGN

Flow would be diverted from Smith Creek into the intake structure at invert elevation 3448 feet. A 37,770 foot-long penstock consisting of 72 and 60 inch diameter sections would convey the flows to two 15 MW Pelton units located in the masonry and concrete powerhouse with the floor at the approximate elevation of 1,840 feet. Flows from the turbines would be returned via tailrace to Smith Creek.

CONSIDERATION OF COUNCIL'S POWER PLAN

Staff has reviewed the Northwest Power Planning Council's (Council) 1986 Power Plan to determine if the project is consistent. The Council's Plan envisions meeting the growing regional energy requirements in the most economical manner with environmentally acceptable resources. The Plan considers any environmentally acceptable resource, that is less expensive than coal-fueled steam electric generation, as an acceptable resource for development before the development of coal-fueled power plants (the Council's planned marginal resource).

Staff has developed life-cycle costs of energy from the Council's planned generic coal plant, assumed to be needed in the year 2002 under the Council's medium-high load growth assumption, for determining if proposed hydroelectric projects are, in the long term, consistent with the Council's plan, as required by section 10(a) 2 of the Federal Power Act.

Since the life-cycle levelized cost of the proposed project is less, as of its projected on-line date, than the levelized life-cycle cost of the least cost or marginal long term alternative, included in the Plan, the proposed project is not inconsistent with the Council's 1986 Power Plan, and is economically feasible within the long term objectives of the Plan.

ECONOMIC FEASIBILITY

A proposed project is economically feasible so long as its projected levelized cost is less than the long-term levelized cost of alternative energy to any utility in the region that can be served by the project.

Staff has calculated the projected levelized alternative energy cost in the region to be 73.9 mills per kilowatt hour. This cost is based upon the cost of a generic coal-fueled steam electric plant forecasted by the Northwest Power Planning Council in its proposed resource portfolios to come on line about the year 2002. The proposed Smith Creek Project is economically feasible with an estimated levelized cost of 66.9 mills per kilowatt hour.

The applicant anticipated selling the project power to the Idaho Power Company (IPC) or the Pacific Power and Light Company (PP&L) when the license application was filed. Currently the avoided costs of PP&L and IPC are significantly lower than the projected energy costs of the project, and the project would not be financially feasible if it had to depend on the sale of power to either utility. Since the avoided costs of utilities in the region vary from a short term low of 20 mills to a long term high of 80 mills, staff is reasonably confident that there will be a market for the project power at a price sufficient to support the project's construction within the time constraints of a license. The project is therefore potentially financially feasible.

WATER RESOURCE PLANNING

The proposed project would have two equal sized generating units with a total installed capacity of 30 MW. The powerplant would operate run-of-river under a gross head of 1590 feet and a total hydraulic capacity of 300 cfs. The probability of occurrence of available streamflows 300 cfs or greater is approximately 0.16.

The applicant estimates that the project would generate about 81,800,000 kWh annually. The staff finds this estimate of annual generation reasonable for the proposed minimum flow of 27 cfs.

The Commission staff's Kootenai River Basin Planning Status Report has been reviewed. The report does not include any proposed or constructed project that would conflict with the proposed Smith Creek project

The project does not conflict with any existing or planned developments or any pending applications for exemption, license, or preliminary permit.

The "Idaho State Water Plan" dated January 1982, reprinted July 1984 is a plan for future water policies in the State of Idaho. The plan sets forth general policies for the Panhandle Basins in which the project, in the Kootenai Basin is located. Specific criteria concerning the consumptive use of water are given in the plan. The project will not have an impact on the consumptive use of water, diverted flows are returned to Smith Creek after their use in generation.

Based on the review of the above plans and the public and agency comments, the project will not affect flood control, navigation, water supply or irrigation and will adequately develop the hydroelectric potential of Smith Creek.

EXHIBITS

The following parts of Exhibit A and the following Exhibit F drawings conform to the Commission's rules and regulations and are included in the license.

Exhibit A. Pages A-1 through A-9; the 4.16-kV generator leads; the 4.16/115-kV, 25/30/35-MVA transformer; 700 feet of new 115-kV transmission line; and 30 miles of upgraded, transmission line.

Exhibits	FERC No. 8436-	Title
F-1	1	Penstock Plan and Profile Sheet 1
F-2	2	Penstock Plan and Profile Sheet 2
F-3	3	Penstock Plan and Profile Sheet 3
F-4	4	Penstock Plan and Profile Sheet 4
F-5	5	Typical Access Road Section
F-6	6	Pipe Span Support Details
F-7	7	Typical Cross Section of Penstock at Culvert Crossing
F-8	8	Intake Structure
F-9	9	Intake Structure Details
F-10	10	Powerhouse and Diversion Structure
F-11	11	Powerhouse Elevations
F-12	12	Powerhouse Floor Plan and Section
F-13	13	Overbuild of Existing Transmission Line

Form L-2
(Revised October, 1975)

FEDERAL POWER COMMISSION

TERMS AND CONDITIONS OF LICENSE FOR
UNCONSTRUCTED MAJOR PROJECT
AFFECTING LANDS OF THE UNITED STATES

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Upon the completion of the project, or at such other time as the Commission may direct, the Licensee shall submit to the Commission for approval revised exhibits insofar as necessary to show any divergence from or variations in the project area and project boundary as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the exhibits approved by the Commission, together with a statement in writing setting forth the reasons which in the opinion of the Licensee necessitated or justified variation in or divergence from the approved exhibits. Such revised exhibits shall, if and when approved by the Commission, be made a part of the license under the provisions of Article 2 hereof.

Article 4. The construction, operation, and maintenance of the project and any work incidental to additions or alterations shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of the project and for any subsequent alterations to the project. Construction of the project works or any feature or alteration thereof shall not be initiated until the program of inspection for the project works or any such feature thereof has been approved by said representative. The Licensee shall also furnish to said representative such further information as he may require concerning the construction, operation, and maintenance of the project, and of any alteration thereof, and shall notify him of the date upon which work will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the termination of the license as provided in Section 14 of the Federal Power Act, or is transferred to a new licensee or to a non-power licensee under the provisions of Section 15 of said Act, the Licensee, its successors and assigns shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

Article 7. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Federal Power Act and the Commission's Rules and Regulations thereunder.

Article 8. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative. The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 9. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 10. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 11. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission under the Federal Power Act.

Article 12. The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

Article 13. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity

for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 14. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by any other lawful authority for avoiding or eliminating inductive interference.

Article 15. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 16. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 17. The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

Article 18. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: Provided, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 19. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 20. The Licensee shall consult with the appropriate State and Federal agencies and, within one year of the date of issuance of this license, shall submit for Commission approval a plan for clearing the reservoir area. Further, the Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. Upon approval of the clearing plan all clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 21. Timber on lands of the United States cut, used, or destroyed in the construction and maintenance of the project works, or in the clearing of said lands, shall be paid for, and the resulting slash and debris disposed of, in accordance with the requirements of the agency of the United States having jurisdiction over said lands. Payment for merchantable timber shall be at current stumpage rates, and payment for young growth timber below merchantable size shall be at current damage appraisal values. However, the agency of the United States having jurisdiction may sell or dispose of the merchantable timber to others than the Licensee: Provided, That timber so sold or disposed of shall be cut and removed from the area prior to, or without undue interference with, clearing operations of the Licensee and in coordination with the Licensee's project construction schedules. Such sale or disposal to others shall not relieve the Licensee of responsibility for the clearing and disposal of all slash and debris from project lands.

Article 22. The Licensee shall do everything reasonably within its power, and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon the request of officers of the agency concerned, to prevent, to make advance preparations for suppression of, and to suppress fires on the lands to be occupied or used under the license. The Licensee shall be liable for and shall pay the costs incurred by the United States in suppressing fires caused from the construction, operation, or maintenance of the project works or of the works appurtenant or accessory thereto under the license.

Article 23. The Licensee shall interpose no objection to, and shall in no way prevent, the use by the agency of the United States having jurisdiction over the lands of the United States affected, or by persons or corporations occupying lands of the United States under permit, of water for fire suppression from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license, or the use by said parties of water for sanitary and domestic purposes from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license.

Article 24. The Licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

Article 25. The Licensee shall allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across those project lands which are lands of the United States such conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other routes or means of transportation and communication as are not inconsistent with the enjoyment

of said lands by the Licensee for the purposes of the license. This license shall not be construed as conferring upon the Licensee any right of use, occupancy, or enjoyment of the lands of the United States other than for the construction, operation, and maintenance of the project as stated in the license.

Article 26. In the construction and maintenance of the project, the location and standards of roads and trails on lands of the United States and other uses of lands of the United States, including the location and condition of quarries, borrow pits, and spoil disposal areas, shall be subject to the approval of the department or agency of the United States having supervision over the lands involved.

Article 27. The Licensee shall make provision, or shall bear the reasonable cost, as determined by the agency of the United States affected, of making provision for avoiding inductive interference between any project transmission line or other project facility constructed, operated, or maintained under the license, and any radio installation, telephone line, or other communication facility installed or constructed before or after construction of such project transmission line or other project facility and owned, operated, or used by such agency of the United States in administering the lands under its jurisdiction.

Article 28. The Licensee shall make use of the Commission's guidelines and other recognized guidelines for treatment of transmission line rights-of-way, and shall clear such portions of transmission line rights-of-way across lands of the United States as are designated by the officer of the United States in charge of the lands; shall keep the areas so designated clear of new growth, all refuse, and inflammable material to the satisfaction of such officer; shall trim all branches of trees in contact with or liable to contact the transmission lines; shall cut and remove all dead or leaning trees which might fall in contact with the transmission lines; and shall take such other precautions against fire as may be required by such officer. No fires for the burning of waste material shall be set except with the prior written consent of the officer of the United States in charge of the lands as to time and place.

Article 29. The Licensee shall cooperate with the United States in the disposal by the United States, under the Act of July 31, 1947, 61 Stat. 681, as amended (30 U.S.C. sec. 601, et seq.), of mineral and vegetative materials from lands of the United States occupied by the project or any part thereof: Provided, That such disposal has been authorized by the Commission and that it does not unreasonably interfere with the occupancy of such lands by the Licensee for the purposes of the license: Provided further, That in the event of disagreement, any question of unreasonable interference shall be determined by the Commission after notice and opportunity for hearing.

Article 30. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 31. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 32. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

BayBank Boston, N.A.
175 Federal Street
Boston, MA 02110
(617) 482-1040

Jacques P. Fiechter
Senior Vice President

BayBank
Boston

October 30, 1987

RECEIVED
OCT 1987
Department of Water Resources
Northern District Office

Mr. David B. Van Otten
Dominion Hydroelectric Development, Inc.
699 E. South Temple, Suite 220
Salt Lake City, UT 84102

Re: Smith Creek

Dear Dave:

I am very pleased to enclose our commitment for the Smith Creek project financing. I look forward to working with you to make this project a complete success.

Please initial page 9 of the commitment letter.

Sincerely yours,

Jake

JPF:lmh

Enclosure

cc: Timothy D. Jaroch, Esq.
Michael M. Parker

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JUL 29 1988

CONDITIONAL USE PERMIT

Issued to: IDAHO NATURAL ENERGY, INC.

Purpose: To build and operate a Hydroelectric plant on Smith Creek

Property Description: Township 65 North, Range 3 West, Township 65 North, Range 2 West, and 64 North, 2 West, predominatley on Forest Service land. The project would effect an area along Smith Creek upstream of the Falls.

This permit is contingent upon applicant's agreement to abide by the conditions attached as Exhibit A; by applicant's granting of permission to Boundary County to inspect at any reasonable hour the property described above for compliance to the conditions of this permit.

This permit is subject to periodic review and the imposition of additional conditions if deemed necessary by the Director of Planning.

Applicant agrees to abide by all applicable federal, state, county, and city regulations, laws, ordinances, and other statutes not specifically referenced by this permit.

This permit is not transferable except by action of the Boundary County Commissioners. Failure to comply with any or all terms of this permit is grounds for its immediate revocation.

Paul B. Van Otta
Applicant

9-1-87
Date

BOUNDARY COUNTY COMMISSIONER

9/1/87
Date

Notary Public, State of Idaho
Residing at: Bonners Ferry
My Commission expires: 5/2/92

DONNA SIMON NOTARY PUBLIC STATE OF IDAHO

RECORDED

JUL 29 1988

EXHIBIT A

1. This Conditional Use Permit will be called for review if the 27 cfs minimum flow is reconsidered for reduction or, after 6 months of operation the project is re-engineered.

2. The stoppage of traffic during construction be kept to less than an hour.

3. Adoption of FERC and other government regulations as amended.

4. Review of permit after 6 months operation for safety problems.

5. In the event the head gate should fail to function, the Conditional Use Permit issued by Boundary County shall be temporarily suspended until such time it is fully repaired and demonstrated to operate properly.

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JUL 29 1988

STATE OF IDAHO } SS 0153757
County of Boundary }

Filed for record at the request of
Planning & Zoning
on the 1st day of Sept. 1988 at 12:22
o'clock P M. and recorded in Book 63
of Instruments on page 580

NORMA J. PETER
County Recorder
By C. Thornton
Deputy
Fee $ 6.00 pd
Mail to P & Z

United States Department of the Interior

FISH AND WILDLIFE SERVICE
BOISE FIELD OFFICE
4696 Overland Road, Room 576
Boise, Idaho 83705

Bingham Engineering
RECEIVED
NOV 20 1985
Salt Lake City, Utah

Bingham Engineering
Salt Lake City, Utah
RECEIVED
NOV 20 1985
Salt Lake City, Utah

Clark Mower
Bingham Engineering
100 Lindbergh Plaza 2
5160 Wiley Post Way
Salt Lake City, Utah 84116

Re: Smith Creek Hydro
FERC No. 8436

Dear Mr. Mower:

Thank you for visiting our office on November 5 and explaining to Mr. Nee the amendments to the referenced license application. This letter responds to the amended license application.

Your letter of October 25 satisfied almost all of the concerns we expressed in our letters to Mr. Jeff Burt, dated November 22, 1983, June 3, 1985, and October 10, 1985. We agree with your conclusion that any effects which the project may have on threatened or endangered species would be short-lived and of unimportant significance. We are satisfied with your explanation of the amount of pipeline that would be unburied. We agree that the effect of the unburied portion of the line on fish and wildlife would be insignificant. We are pleased that the applicant would conduct a botanical ground survey along the project corridor to determine the presence of threatened, endangered, candidate, or sensitive plant species. However, we remain concerned that the new and upgraded project powerline may harm birds of prey. We recommend that the powerlines be built using standard raptor-proof design and construction procedures. We understand that you are agreeable to this recommendation.

The project IFIM Report, received with your October 25 letter, determined a minimum fishery flow of 25 cfs through the stream reach that would be affected by the project. According to Ned Horner, Idaho Department of Fish and Game (IDFG) in Coeur d'Alene, the applicant wants to provide a minimum flow much less than 25 cfs. The Fish and Wildlife Service (FWS) will oppose any project minimum flow less than 25 cfs.

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Finally, we will apply the FWS' Mitigation Policy (Fed. Reg., Vol. 46, No. 15, Jan. 23, 1981, pages 7656-7663) when evaluating this project in further licensing procedures. Accordingly, we consider the fish and wildlife resources that would be affected by the project to be in Resource Category 2, where the FWS would recommend no net loss of in-kind habitat value.

Sincerely yours,

Roy Hebenga

For John P. Wolflin
Field Supervisor

cc: FWS, RO, HR, Portland (Sundeen)
FERC, Washington, D.C.
IDFG, Hdqtrs., Boise
IDFG, Region 1, Coeur d'Alene

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STATE OF IDAHO

DEPARTMENT OF HEALTH AND WELFARE
DIVISION OF ENVIRONMENT, STATEHOUSE, BOISE, IDAHO 83720-9990

October 29, 1987

Idaho Natural Energy, Incorporated
5160 Wiley Post Way
Salt Lake City, UT 84116

Re: Department of the Army Proposed Permit
No. 071-OYC-4-003180
(Smith Creek, Boundary County, Idaho)

Gentlemen:

We have considered water quality certification of your proposal to construct an 8-foot-high x 75-foot-wide concrete and rock-faced diversion dam on Smith Creek, Boundary County, Idaho, as described in public notice number 071-OYC-4-003810. To ensure protection of water quality, the following condition should be included in the Department of the Army permit on the project:

1. The construction shall be conducted in such a manner as to minimize turbidity and other water quality impacts.

If construction is completed in accordance with the described work plan and above condition, we certify under Section 401 that this construction will comply with applicable requirements of Sections 301, 302, 303, 306 and 307 of P.L. 92-500, as amended, and will not violate Idaho Water Quality Standards and Wastewater Treatment Requirements.

This certification does not imply approval of the activity by other agencies of the State of Idaho.

Sincerely,

/s/ K. D. Brooks

Kenneth D. Brooks
Administrator

KDB/JLY/kb/f1

cc: IDWR (Northern Region), Haynes
Ed Tulloch
Nickie Arnold, EPA

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JUL 29 1988

BINGHAM ENGINEERING
100 Lindbergh Plaza 2
5160 Wiley Post Way
Salt Lake City, Utah 84116

November 6, 1987

Mr. Robert G. Haynes, P.E.
Regional Supervisor
State of Idaho, DOWR
4055 Government Way
Coeur d' Alene, Idaho 83814

Re: Smith Creek Water Right Filing

Dear Mr. Haynes:

This letter is in response to your June 5, 1987 letter requesting certain information in order to process the above referenced filing. We understand that the majority of this information is contained in our FERC License Application and other various filings. The information which has not been previously provided will be addressed in this response.

We appologize for the delay in our response.

If you have any questions or need further information, please contact us.

Sincerely,

Clark M. Mower

Clark M. Mower
Vice President

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JUL 29 1988

4,5,3,1,3.

The proposed project is located along a stretch of Smith Creek where there are no existing water rights, therefore the project will not impact other water rights.

4,5,3,2,1.

Based upon the summary of mean monthly flows gaged for water years 1931-1960, the proposed project will divert a maximum of 300 cubic feet per second (CFS) during peak uses. A minimum flow of 15 CFS will be needed to operate the powerplant which is over and above the required 27 CFS minimum by-pass flow. The average period of use will be during the months of March through July and October through December. During an average year, sufficient water will not be available during the months of January, February, August and September. The average amount of water to be used each year is approximately 86 CFS which will not be used consumptively. Operation for the powerplant will be year round but will be dependant upon the availability of water flows.

4,5,3, 2, 2.

Based upon U.S.G.S. Station 12321000 for water years 1931-1960, the average annual flow at the point of diversion is 163 CFS. The following narrative and corresponding tables further illustrate the hydrological characteristics of the proposed project .

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B-4(i) SMITH CREEK HYDROLOGY

Smith Creek near Porthill, Idaho has a 30 year continuous streamflow record for the 1931-1960 period gaged by the U.S. Geological Survey Station 1232100. The 30 year average flow for the 70 square mile drainage is 138,487 acre-feet per year or 192 cfs. At the proposed hydropower project point of diversion (POD) the drainage area of Smith Creek is 57.8 square miles. To determine the flow at the POD an area-altitude-precipitation analysis was made using the Smith Creek gage as a base station. The elevation-precipitation data was obtained from "The Meteorological Map of Panhandle Basins" published by the Idaho Water Resource Board in 1968.

The area-altitude-precipitation analysis estimated the 30 year annual flow at the POD to be 117,238 acre-feet or 163 cfs. The area-altitude-precipitation computations are shown in the accompanying table. The monthly distribution of the flow at the POD was assumed to be the same as at the gaged site. The accompanying tables also show the flow at the gaged site and the POD in acre-feet and cfs. A flow duration table and curve were also computed for the streamflow at the Smith Creek POD.

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AREA-ALTITUDE-PRECIPITATION PROGRAM RESULTS

BASED ON USGS 12321000 SMITH CREEK RUNOFF= 138487

ELEVATION	AREA (MI^2)	PRECIP (INCHES)	RUNOFF (INCHES)	RUNOFF FACTOR	EQUIV AREA	UNIT RUNOFF (AC FT/MI^2)	RUNOFF (AC FT)
7500	.15	57.57	57.57	1.0000	.15	2609.58	391.43
6500	9.16	52.20	52.20	.9067	8.30	2366.31	21675.44
5500	28.82	46.56	46.56	.8088	23.31	2110.86	60835.08
4500	23.25	40.59	40.59	.7051	16.39	1840.19	42784.55
3500	6.95	34.18	34.18	.5938	4.12	1549.62	10769.91
2500	1.60	27.16	27.16	.4717	.75	1231.12	1969.79
1500	.07	19.15	19.15	.3326	.02	868.14	60.77
TOTAL	69.99				53.06		138487.00

PRECIP-ELEV CURVE A= 1.289E-01 B= 6.838E-01 R= .99641

RUNOFF-PRECIP CURVE A= 1.000E+00 B= 1.000E+00 R= 0.00000

AREA-ALTITUDE-PRECIPITATION PROGRAM RESULTS

BASED ON USGS 12321000 SMITH CREEK RUNOFF= 138487

RESULTS FROM AREA-ALTITUDE-PRECIPITATION PROGRAM

RUNOFF FROM UNGAGED AREA SMITH CREEK AT POD

ELEVATION	AREA (MI^2)	UNIT RUNOFF (AC FT/MI^2)	RUNOFF (AC FT)
7500	.15	2609.33	391.39
6500	8.95	2366.08	21176.48
5500	25.95	2110.66	54771.64
4500	19.44	1840.01	35769.98
3500	3.31	1549.48	5128.78
2500	0.00	1231.00	0.00
1500	0.00	868.06	0.00
TOTAL	57.80		117238.29

JUL 29 1988

SMITH CREEK AT POD (CFS)

YEAR	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	ANN
1931	15.	16.	13.	22.	28.	46.	141.	635.	189.	43.	9.	10.	97.
1932	14.	30.	21.	16.	113.	117.	242.	764.	592.	94.	17.	9.	169.
1933	31.	104.	109.	51.	27.	31.	140.	559.	935.	250.	28.	29.	191.
1934	102.	137.	157.	117.	68.	94.	626.	782.	235.	38.	10.	8.	198.
1935	19.	185.	65.	66.	63.	53.	99.	631.	573.	139.	22.	10.	160.
1936	16.	12.	10.	11.	7.	16.	280.	697.	154.	26.	7.	9.	104.
1937	7.	7.	9.	7.	6.	12.	52.	540.	525.	75.	24.	18.	107.
1938	48.	121.	72.	63.	32.	56.	309.	786.	680.	102.	17.	9.	191.
1939	37.	31.	31.	38.	20.	55.	294.	645.	262.	76.	13.	11.	126.
1940	20.	33.	105.	40.	28.	61.	240.	571.	176.	21.	9.	11.	110.
1941	29.	21.	35.	23.	21.	90.	329.	535.	212.	65.	15.	123.	125.
1942	184.	146.	287.	56.	35.	33.	198.	504.	419.	136.	36.	15.	171.
1943	15.	26.	25.	16.	17.	34.	359.	576.	638.	212.	32.	13.	164.
1944	26.	24.	34.	21.	17.	20.	109.	428.	167.	32.	11.	16.	75.
1945	25.	49.	34.	31.	30.	34.	57.	691.	552.	84.	13.	19.	135.
1946	23.	64.	38.	31.	26.	41.	226.	890.	674.	159.	24.	25.	185.
1947	51.	40.	52.	35.	56.	75.	278.	824.	434.	81.	23.	46.	166.
1948	310.	157.	51.	35.	29.	31.	131.	730.	783.	113.	41.	21.	203.
1949	47.	27.	23.	20.	19.	31.	246.	955.	336.	51.	17.	22.	150.
1950	44.	155.	110.	36.	34.	53.	101.	549.	998.	324.	51.	23.	207.
1951	243.	190.	178.	102.	145.	70.	198.	794.	575.	155.	37.	43.	228.
1952	150.	69.	108.	42.	29.	31.	279.	743.	441.	83.	18.	9.	167.
1953	7.	6.	7.	33.	46.	39.	133.	711.	792.	214.	36.	19.	170.
1954	27.	75.	44.	34.	31.	49.	124.	817.	834.	457.	57.	44.	216.
1955	69.	128.	68.	34.	23.	21.	67.	412.	1025.	314.	47.	22.	186.
1956	207.	178.	78.	46.	26.	36.	234.	947.	743.	149.	22.	12.	223.
1957	64.	43.	39.	26.	24.	58.	137.	1024.	419.	57.	21.	11.	160.
1958	34.	34.	24.	21.	44.	69.	139.	934.	280.	47.	12.	16.	138.
1959	33.	60.	72.	89.	42.	39.	203.	629.	790.	129.	26.	146.	188.
1960	190.	104.	96.	55.	36.	67.	196.	551.	649.	113.	29.	31.	176.
MEAN	70.	76.	67.	41.	37.	49.	206.	695.	536.	128.	24.	27.	163.
PCT	3.56%	3.88%	3.40%	2.08%	1.91%	2.49%	10.52%	35.57%	27.43%	6.55%	1.24%	1.36%	100.00%
SD	80.	59.	60.	26.	29.	24.	116.	160.	260.	101.	13.	31.	39.
CV	1.14	0.78	0.90	0.64	0.77	0.50	0.56	0.23	0.48	0.79	0.54	1.17	0.24

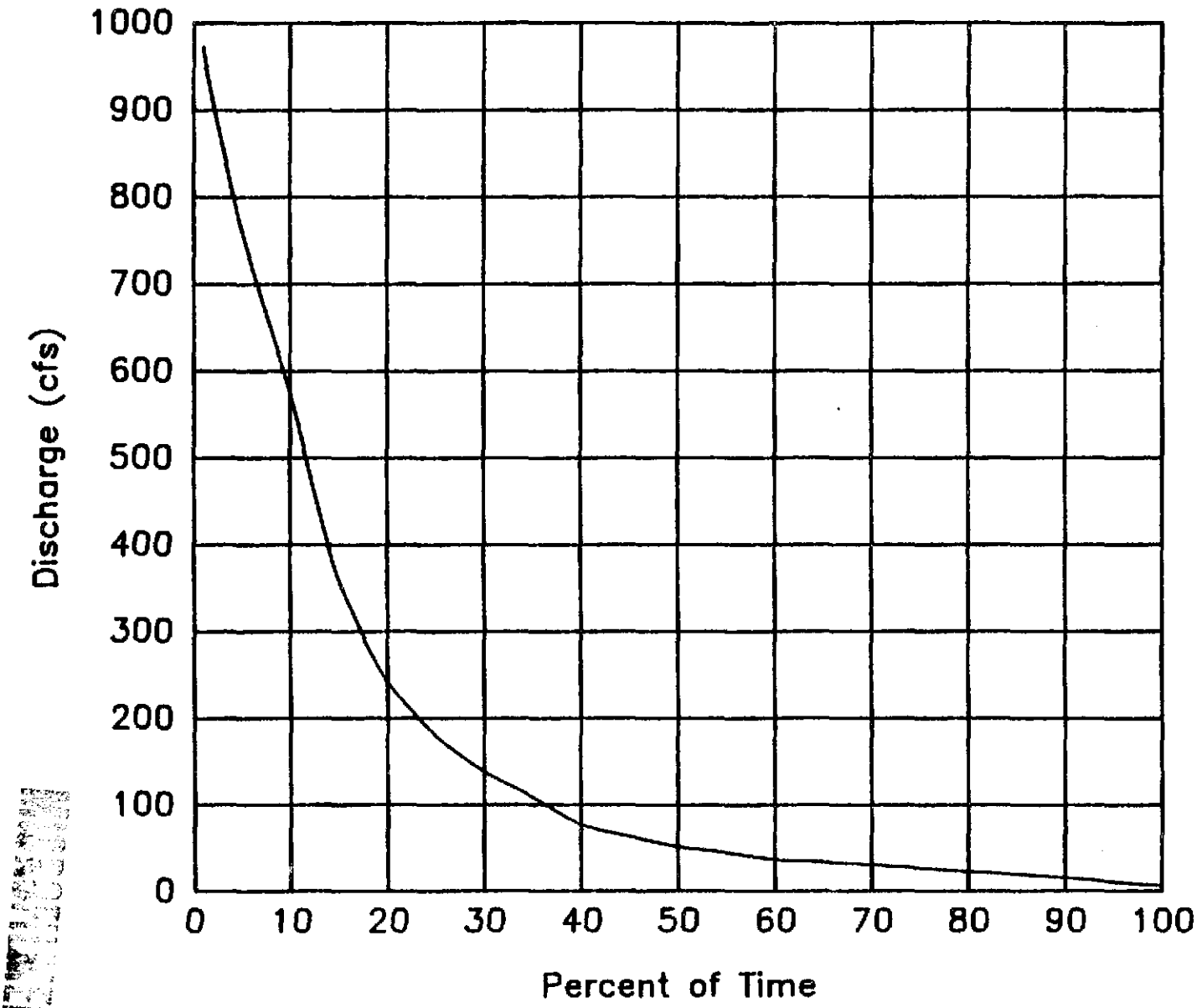
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FLOW DURATION TABLE (1931-1960) FOR
SMITH CREEK AT POD

PER CENT TIME	DISCHARGE (CFS)	PER CENT TIME	DISCHARGE (CFS)	PER CENT TIME	DISCHARGE (CFS)	PER CENT TIME	DISCHARGE (CFS)
1.	972.	26.	158.	51.	51.	76.	25.
2.	925.	27.	155.	52.	48.	77.	24.
3.	818.	28.	147.	53.	46.	78.	23.
4.	738.	29.	141.	54.	45.	79.	23.
5.	764.	30.	137.	55.	44.	80.	22.
6.	719.	31.	132.	56.	42.	81.	21.
7.	679.	32.	124.	57.	40.	82.	21.
8.	640.	33.	117.	58.	39.	83.	21.
9.	628.	34.	112.	59.	38.	84.	20.
10.	575.	35.	108.	60.	36.	85.	19.
11.	555.	36.	103.	61.	36.	86.	17.
12.	539.	37.	101.	62.	35.	87.	17.
13.	467.	38.	94.	63.	34.	88.	16.
14.	425.	39.	84.	64.	34.	89.	16.
15.	359.	40.	76.	65.	33.	90.	15.
16.	318.	41.	73.	66.	33.	91.	13.
17.	292.	42.	69.	67.	31.	92.	12.
18.	279.	43.	68.	68.	31.	93.	11.
19.	248.	44.	66.	69.	31.	94.	11.
20.	240.	45.	63.	70.	30.	95.	10.
21.	219.	46.	61.	71.	29.	96.	9.
22.	206.	47.	57.	72.	28.	97.	9.
23.	197.	48.	56.	73.	27.	98.	7.
24.	187.	49.	53.	74.	26.	99.	7.
25.	178.	50.	51.	75.	26.	100.	6.

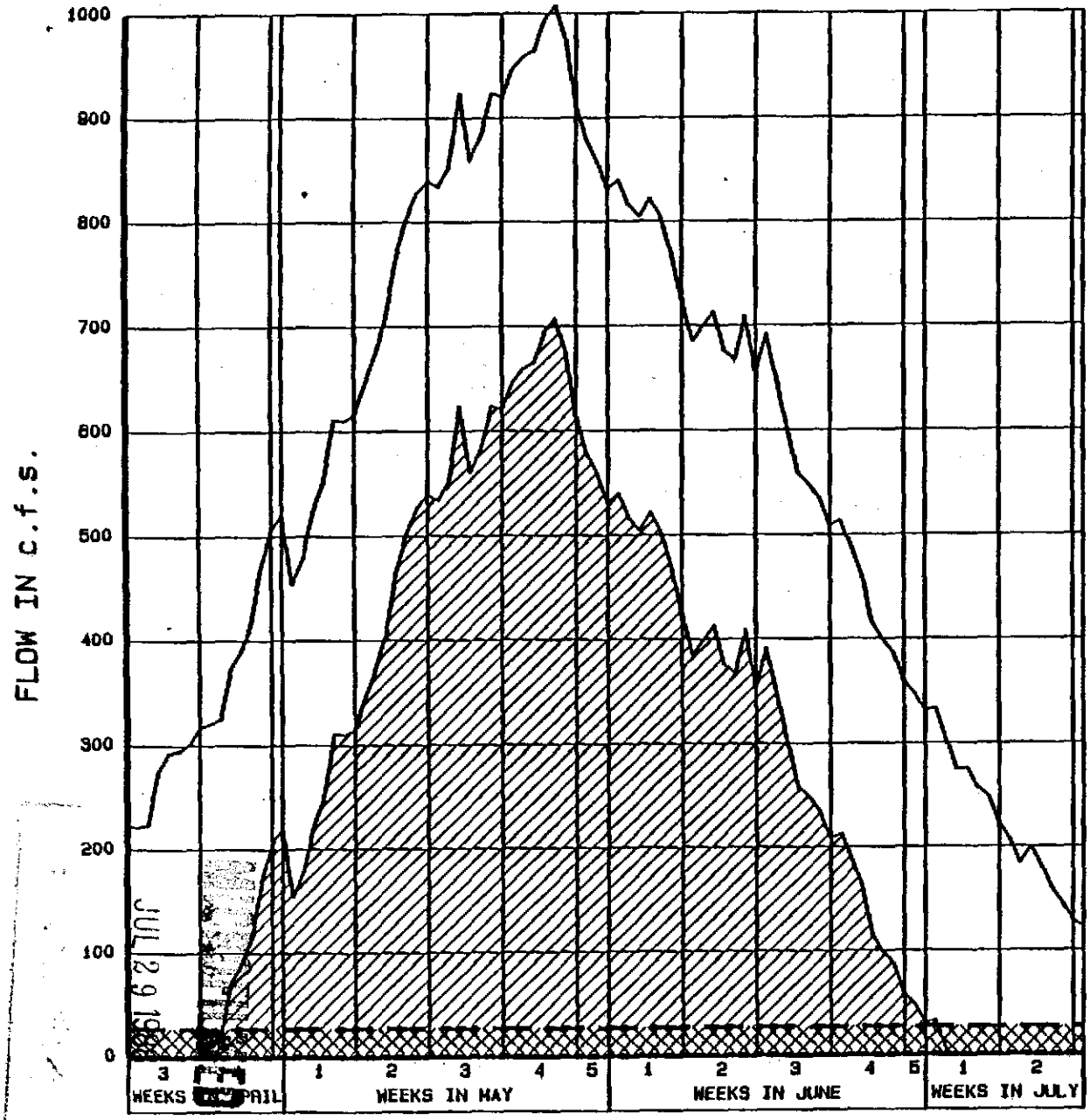
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FLOW DURATION CURVE FOR SMITH CREEK AT POD



JUL 29 1988

TABLE 2



HIGH FLOW PERIOD - APRIL 16 TO JULY 15

LEGEND

PROJECT FLOW (300 c.f.s. MAX.)

FLOWS REMAINING IN THE STREAM (INCLUDES BASE FLOW)

BASE FLOW (27 c.f.s.)

NOTE: FLOW REMAINING IS A COMBINATION OF BYPASS FLOWS (27 c.f.s.) AND EXCESS FLOWS

SMITH CREEK HYDROELECTRIC PROJECT

AVERAGE DAILY FLOWS
32 YEAR AVERAGE 1922-1960

TABLE 1

SMITH CREEK HYDROELECTRIC
AVERAGE DAILY FLOWS
32 Year Average (1927-1960)
(1945 Missing)

Day	April Ave.	May Ave.	June Ave.	July Ave.
1	95	455	840	333
2	100	478	816	303
3	99	524	805	275
4	101	551	822	276
5	105	611	804	257
6	114	610	770	249
7	122	615	725	224
8	135	646	685	207
9	141	674	699	184
10	141	708	713	200
11	149	767	676	182
12	167	804	667	160
13	192	828	709	146
14	223	839	655	128
15	223	834	691	123
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29	507	879	348	53
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31	--	831	--	44

CMM/jm
609-004
9/17/87

JUL 29 1988

STATE OF IDAHO

DEPARTMENT OF LANDS

STATEHOUSE, BOISE, IDAHO 83720

STANLEY F. HAMILTON
DIRECTOR

March 18, 1986

STATE BOARD OF LAND COMMISSIONERS

JOHN V. EVANS
GOVERNOR AND PRESIDENT
PETE T. CENARRUSA
SECRETARY OF STATE
JIM JONES
ATTORNEY GENERAL
JOE R. WILLIAMS
STATE AUDITOR
JERRY L. EVANS
SUP'T OF PUBLIC INSTRUCTION

Jeff Burt
% Bingham Engineering
100 Lindberg Plaza II
5160 Wiley Post Way
Salt Lake City, UT 84116

RE: Smith Creek Hydroelectric Project - FERC No. 8436.

Dear Mr. Burt:

We have received your license application for the above mentioned project.

Since there is no State endowment or State-owned submerged lands involved, we do not have any comments.

Thank you for the opportunity to comment.

Sincerely yours,

DON F. McNARIE
Land Records Specialist
Bureau of Lands

DFM:ab

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ENVIRONMENTAL & TECHNICAL
847 NE 19th AVENUE, SUITE
PORTLAND, OREGON 97232
(503) 230-5400

March 24, 1986 F/NWR5

Jeff Burt
Bingham Engineering
100 Lindberg Plaza II
5160 Wiley Post Way
Salt Lake City, Utah 84116

Re: Smith Creek Hydroelectric Project - FERC #8436-001

Dear Mr. Burt:

The National Marine Fisheries Service has received your letter requesting our views and recommendations concerning the development of the subject project.

Since there are no anadromous fish in the area, we have no comments to offer.

Sincerely,

for Dale R. Evans
Division Chief

cc: Federal Energy Regulatory Commission, Washington, D.C.
Federal Energy Regulatory Commission, Portland, OR
NW Power Planning Council

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JUL 29 1988

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

In Reply Refer To:
ER-86/407

JUL 21 1986

Honorable Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426

Dear Mr. Plumb:

We have reviewed the Application for License, Smith Creek Hydro Project, FERC No. 8436-001, Boundary County, Idaho, and have the following comments.

Fish and Wildlife Resources

The Fish and Wildlife Service (FWS) field staff worked closely with the applicant for over two and one-half years to develop a mitigation plan for this project. The applicant has agreed to several mitigation measures which, if included as special articles of the license, would reduce project-related impacts on fish and wildlife resources. These measures include:

1. Raptor-proofing project poles and wires;

2. Providing a minimum stream flow through the project area of 27 cubic feet/second;

3. Providing appropriate fish passage upstream and downstream through the project. The Idaho Department of Fish and Game has not yet reviewed applicant's plans for passage facilities. Because resident fish are the only species involved, we will accept that agency's future recommendations regarding fish passage facilities at this project; and

4. Avoiding the use of PCB-cooled transformers.

In addition, the applicant has agreed to conduct a botanical survey to determine the presence of threatened, endangered, candidate, or sensitive plant species and to modify the project to avoid conflicts with those plants. We concur with the applicant's biological assessment that the potential impact of the project on threatened and endangered animal species would be minimal, transitory, and only last during the construction period. However, to ensure that all fish and wildlife issues are considered prior to licensing in accordance with the 9th Circuit Court of Appeals' ruling in Yakima et. al. v. Federal Energy Regulatory Commission, we recommend that the agreed-upon botanical survey be conducted before a license is granted. Upon completion of this survey, the FWS will provide additional comments to the Commission on the subject application for major license.

Impacts on the National Park System

On the basis of the material provided, no units of the National Park System will be directly affected by the proposed project.

Recreation Resources

The original Application for License was dated July 1984 and described recreation facility development in the amount of $22,000 (table D-1). An Application for Amendment of License was filed in March 1985 and identified $100,000 for recreation facility development. The applicant should clarify the license application in regard to recreation facility development. As the application now stands, we are unsure what the applicant is proposing. There is substantial need for recreation facility development in Boundary County, according to the Idaho Statewide Comprehensive Outdoor Recreation Plan, to justify an expenditure of $100,000 or more. It is unclear whether opportunities for appropriate development will exist at the project.

We recommend that FERC require the applicant to submit additional information clarifying these matters and issuance of a license for this project should be conditioned upon a satisfactory response.

Thank you for the opportunity to comment on this application.

Sincerely,

Bruce Blanchard, Director
Environmental Project Review

cc: Mr. Fred Springer
Mr. Jeff Burt

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JUL 29 1988

United States Department of the Interior

FISH AND WILDLIFE SERVICE
BOISE FIELD OFFICE
4696 Overland Road, Room 576
Boise, Idaho 83705

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NOV 30 1985
Salt Lake City, Utah

Bingham Engineering
Salt Lake City, Utah
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NOV 30 1985
Salt Lake City, Utah

Clark Mower
Bingham Engineering
100 Lindbergh Plaza 2
5160 Wiley Post Way
Salt Lake City, Utah 84116

Re: Smith Creek Hydro
FERC No. 8436

Dear Mr. Mower:

Thank you for visiting our office on November 5 and explaining to Mr. Nee the amendments to the referenced license application. This letter responds to the amended license application.

Your letter of October 25 satisfied almost all of the concerns we expressed in our letters to Mr. Jeff Burt, dated November 22, 1983, June 3, 1985, and October 10, 1985. We agree with your conclusion that any effects which the project may have on threatened or endangered species would be short-lived and of unimportant significance. We are satisfied with your explanation of the amount of pipeline that would be unburied. We agree that the effect of the unburied portion of the line on fish and wildlife would be insignificant. We are pleased that the applicant would conduct a botanical ground survey along the project corridor to determine the presence of threatened, endangered, candidate, or sensitive plant species. However, we remain concerned that the new and upgraded project powerline may harm birds of prey. We recommend that the powerlines be built using standard raptor-proof design and construction procedures. We understand that you are agreeable to this recommendation.

The project IFIM Report, received with your October 25 letter, determined a minimum fishery flow of 25 cfs through the stream reach that would be affected by the project. According to Ned Horner, Idaho Department of Fish and Game (IDFG) in Coeur d'Alene, the applicant wants to provide a minimum flow much less than 25 cfs. The Fish and Wildlife Service (FWS) will oppose any project minimum flow less than 25 cfs.

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Finally, we will apply the FWS' Mitigation Policy (Fed. Reg., Vol. 46, No. 15, Jan. 23, 1981, pages 7656-7663) when evaluating this project in further licensing procedures. Accordingly, we consider the fish and wildlife resources that would be affected by the project to be in Resource Category 2, where the FWS would recommend no net loss of in-kind habitat value.

Sincerely yours,

Roy Hebenga

For John P. Wolflin
Field Supervisor

cc: FWS, RO, HR, Portland (Sundeen)
FERC, Washington, D.C.
IDFG, Hdqtrs., Boise
IDFG, Region 1, Coeur d'Alene

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JUL 29 1988

STATE OF IDAHO

DEPARTMENT OF HEALTH
AND WELFARE

DIVISION OF ENVIRONMENT
Statehouse
Boise, Idaho 83720

December 18, 1985

Mr. Jeff Burt, President
Idaho Natural Energy, Inc.
165 Wright Brothers Drive
Salt Lake City, Utah 84116

REFERENCE TO: FERC #8436, Smith Creek Hydroelectric Project,
Smith Creek, Boundary County, Idaho

Dear Mr. Burt:

We have reviewed the "Exhibit E" portion of the Federal Energy Regulatory Commission Application for License for the Smith Creek Hydroelectric Project. We would point out that Smith Creek is to be protected for the beneficial uses for salmonid spawning, cold water biota, and primary contact recreation under Idaho Water Quality Standards and Wastewater Treatment Requirements, Sections 1.2102 and 1.2300.01. This is contrary to the statement on page E-2-45 of the Application for License (July 1984) which states that "there are no beneficial uses of water in the affected project reach".

To ensure protection of water quality, the following conditions should be included in the license of this project:

1) Where potentially serious slope stabilization problems are identified, the appropriate method discussed in the application document shall be used to control soil movement and prevent resultant water quality degradation from erosion and siltation.

2) Flushing of sediment from behind instream structures shall be done in a way so as to not cause water quality degradation.

3) The Coeur d'Alene Field Office of the Division of Environment, phone 208/667-3524, shall be contacted prior to commencement of construction in order that any final concerns may be addressed.

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If construction is completed in a manner so as to minimize turbidity to Smith Creek and in accordance with the above conditions, we certify under Section 401 that this construction will comply with applicable requirements of Sections 301, 302, 303, 306 and 307 of PL 92-500 and will not violate Idaho Water Quality Standards and Wastewater Treatment Requirements.

This certification does not imply approval of the activity by other agencies of the State of Idaho.

Sincerely,

Al E Murrey

for Lee W. Stokes, Ph.D.
Administrator

LWS:lab

cc: Fred Springer, FERC
Al Murrey/Larry Koenig, IDHW
Ed Tulloch, IDHW
Nickie Arnold, EPA

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JUL 29 1988

BINGHAM ENGINEERING

5160 Wiley Post Way, 100 Lindbergh Plaza 2, Salt Lake City, Utah 84116
820 Mililani Street, Suite 701, Honolulu, Hawaii 96813-2972
RCI Plaza #47, Afton, Wyoming 83110

October 20, 1987

Mr. Robert Haynes
State of Idaho
Department of Water Resources
Northern Region
Suite No. 9
4055 Government Way
Coeur d'Alene, ID 83814

Dear Bob:

I am enclosing with this letter a copy of a transmittal letter to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission regarding license articles for the Smith Creek Hydroelectric Project #8436.

In a recent discussion with Mr. Jim Fellows of the Corps of Engineers, Mr. Fellows indicated that he received a letter from your office stating the coordination of several of the articles had not been initiated and needs to be completed prior to issuance of a 404 Permit for the Smith Creek Project. As you can see from the attached correspondence, copies of design plans have been forwarded to the Idaho Department of Fish and Game and U.S. Fish and Wildlife Service in Boise. Comments have been received and incorporated into the designs and the drawings have been resubmitted.

I would be happy to provide you with a copy of any of the drawings that you require. I have appreciated working with you in the past and look forward to working with you in the future.

Sincerely,

BINGHAM ENGINEERING

Clark M. Mower
Executive Vice President

CMM/jm
609-004

Enclosure

cc: David Van Otten

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OCT 22 1987
Department of Water Resources
Northern District Office

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JUL 29 1988

Bingham Engineering
100 Lindberg Plaza / 5160 Wiley Post Way / Salt Lake City, Utah 16 / 801-532-2520

TRANSMITTAL

To: Mr. Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
825 North Capital Street, N.E.
Washington, D.C. 20426

Date: October 8, 1987

Project: Smith Creek Hydroelectric Project

No.

Subject: License Article 101, 402, 403, 407, 408, 409, 410

We are sending you ☒ attached ☐ under separate cover via
the following items:

1 original and 14 copies of previous letter with attachments dated 10/6/87

These are transmitted as checked below:

☐ For Approval
☐ As Requested
☒ For Your Records
☐ Distribution
☐ For Review and Comment
☒ For Your Information

Enclosed please find the corrected letter dated October 6, regarding the Smith Creek Hydroelectric Project - FERC No. 8436. We apologize for any inconvenience this may have been.

cc:

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BINGHAM ENGINEERING

By: Clark M. Mower
Clark M. Mower

BINGHAM ENGINEERING
100 Lindbergh Plaza 2, 5160 Wiley Post Way, Salt Lake City, Utah 84116, 801-532-2520

October 6, 1987

Mr. Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
825 North Capital Street, N.E.
Washington, D.C. 20426

RE: Smith Creek Hydroelectric Project - FERC No. 8436
License Articles 101, 402, 403, 407, 408, 409, 410

Dear Mr. Plumb:

In accordance with articles 101, 402, 403, 407, 408, 409, 410 of the order issuing major licence I hereby submit the following information and request a 90 day extension of time in which to satisfy the above conditions. This extension is required due to the fact that some questions were raised concerning the diversion structure and it has taken additional time to provide more information to the appropriate agencies for comment.

Inasmuch as seven articles are involved I will include a separate discussion of each article in numerical order along with applicable references to the attached materials showing attempts to comply with licence articles.

Copies of the submittal material have been forwarded to the appropriate agencies as required. Each of these agencies have been consulted during the preparation of this submittal.

Copies of the applicable articles from the license are attached for reference.

Article 101 - Special Use Permits from the Forest Service

We have had several coordination meetings with the U.S. Forest Service on the Special Use Permit. An application for a Special Use Permit was submitted by the Forest Service several months ago. Public information and scoping meetings were held in Bonners Ferry the 1st of June and public comments were forwarded to the Forest Service for inclusion in their environment assessment. At the request of the Forest Service additional information has been submitted by the applicant. The environmental assessment that accompanies the Special Use Permit is now being completed. Due to manning shortages and the diversion of personnel to other forests for fire fighting requirements their review has not been completed. Based on discussions with the Forest Service it is anticipated that the Smith Creek Special Use authorization will be forthcoming.

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Article 402 Plan to Remove Sedimentation

Coordination with the agencies has been completed. Following coordination a draft plan has been submitted to the appropriate agencies and the Idaho Department of

Health and Welfare for the review and approval. We are waiting to receive agency comments to finalize the plan.

Article 403 Functional Design Drawings to be filed with agency comments

We have provided the US Fish and Wildlife Service, Idaho Fish and Game and the State Forest Service with design drawings of the diversion dam and requested their comments as required.

We received comments and questions from Idaho Fish and Game and the US Fish and Wildlife service. Through some modifications and additional detail drawings we believe their concerns are satisfied. However, we have not received their comments. We have not received any comment from the Forest Service (see enclosed correspondence).

Article 407 Ramping Rates

Both the U.S. Fish and Wildlife Service and Idaho Fish and Game have been contacted concerning ramping rates. Both Roy Heberger of U.S. Fish and Game and Ned Horner of Idaho Fish and Game have verbally recommended a ramping rate of 1 ft. per hour. This will fit well within our parameters in that even if the river flow measures 60 cfs, the river elevation would only be affected about .2 of a foot per hour. I am still waiting correspondence to document this.

Article 408 Design Drawings of Fish Passage Facilities

Drawings of fish passages were sent to appropriate agencies as required on August 4, 1987. We have received comments from Idaho Fish and Game and the US Fish and Wildlife Service. The Fish and Game had questions concerning the fish passage and additional information was sent Sept. 16 (see correspondence). To this point we have received no additional comments.

Article 409 Wildlife Mitigative Plan

Coordination with the agencies has been completed. Following coordination a draft plan has been submitted to the agencies for their review and approval. We are waiting to receive agency comments to finalize the plan.

Article 410 Transmission Line Design

Drawings of several transmission line design plans were sent to the appropriate agencies. The line designs were found acceptable by Idaho Fish and Game and The US Fish and Wildlife Service. We have received no comment from the Forrest Service.

If I can be of further help or should you have any questions, please call.

Sincerely,

BINGHAM ENGINEERING

Michael H. Johnston

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JUL 29 1988

ARTICLE 402 - PLAN TO REMOVE SEDIMENTATION

ARTICLE 409 - WILDLIFE MITIGATIVE PLAN

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BINGHAM ENGINEERING

100 Lindbergh Plaza 2, 5160 Wiley Post Way, Salt Lake City, Utah 84116, 801-532-2520

September 25, 1987

Mr. Michael Beckwith
State of Idaho
Division of Environment
2110 Ironwood Parkway
Couer d'Alene, ID 83814

RE: Smith Creek Hydroelectric Project - FERC No. 8436
License Conditions - Agency Coordination

Dear Mr. Beckwith:

This letter is written as a follow up to our earlier conversations concerning Articles 402 and 409 of the license for the Smith Creek Hydroelectric Project.

Article 402 requires that the licensee, after consultation with the U.S. Fish and Wildlife Service (FWS), the Idaho Department of Fish and Game (IDFG), and the Forest Service (FS), shall develop a plan to remove accumulated sediment from the project intake and diversion dam. The plan shall include an implementation schedule that provides for the following: (1) initial and normal maintenance sediment flushing periods, designed to minimize adverse impacts on fish spawning and rearing; (2) minimum flow releases from the project dam during flushing operations; and (3) cooperation with and notification of agencies before sediment flushing operations. The plan shall be consistent with the conditions of the water quality certificate issued to the licensee by the Idaho Department of Health and Welfare on December 18, 1985. Within 6 months from the date of issuance of this license and before any sediment flushing at the project, the licensee shall file the plan with the Commission for approval, along with comments from FWS, IDFG, and FS on the adequacy of the plan. At the same time, copies of the filing shall be serviced upon the agencies consulted. The Commission reserves the right to require modifications to the plan.

In accordance with the requirements of this article the following plan has been developed. The accompanying table 1 shows the average daily flows for a 32 year period (1927-1960) on Smith Creek near the point of diversion. The table shows flows during the high flow period of April to the end of July. The Smith Creek Hydroelectric Project can take flows up to and including 300 cfs. The project has been approved with a minimum flow of 27 cfs or natural stream flow, whichever is less, which will remain in the stream at all times. During the high flow periods all flows above

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NGHAM ENGINEERING

100 Lindbergh Plaza 2, 5160 Wiley Post Way, Salt Lake City, Utah 84116, 801-532-2520

September 18, 1987

Ms. Linda Saunders
U.S. Dept. of Agriculture
Bonners Ferry Ranger District
Rte. #1 Box 390
Bonners Ferry, ID 83805

RE: Final Biological Assessment for Endangered Species
Smith Creek Hydroelectric Project

Dear Linda:

Enclosed please find two copies of the Final Biological Assessment for endangered species in the area for the Smith Creek Hydroelectric Project.

These copies incorporate your comments. Your comments were most helpful. I have appreciated working with you and look forward to working with you in the future.

Sincerely,

BINGHAM ENGINEERING

Clark M. Mower
Executive Vice President

CMM/jm
609-004

Enclosures

cc: Mike Collette

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JUL 29 1988

NGHAM ENGINEERING

100 Lindbergh Plaza 2, 5160 Wiley Post Way, Salt Lake City, Utah 84116, 801-532-2520

September 25, 1987

Mr. Michael Collette
U.S. Dept. of Agriculture
Bonners Ferry Ranger District
Rte #1 Box 390
Bonners Ferry, ID 83805

RE: Smith Creek Hydroelectric Project - FERC No. 8436
License Conditions - Agency Coordination

Dear Mike:

This letter is written as a follow up to our earlier conversations concerning Articles 402 and 409 of the license for the Smith Creek Hydroelectric Project.

Article 402 requires that the licensee, after consultation with the U S. Fish and Wildlife Service (FWS), the Idaho Department of Fish and Game (IDFG), and the Forest Service (FS), shall develop a plan to remove accumulated sediment from the project intake and diversion dam. The plan shall include an implementation schedule that provides for the following: (1) initial and normal maintenance sediment flushing periods, designed to minimize adverse impacts on fish spawning and rearing; (2) minimum flow releases from the project dam during flushing operations; and (3) cooperation with and notification of agencies before sediment flushing operations. The plan shall be consistent with the conditions of the water quality certificate issued to the licensee by the Idaho Department of Health and Welfare on December 18, 1985. Within 6 months from the date of issuance of this license and before any sediment flushing at the project, the licensee shall file the plan with the Commission for approval, along with comments from FWS, IDFG, and FS on the adequacy of the plan. At the same time, copies of the filing shall be serviced upon the agencies consulted. The Commission reserves the right to require modifications to the plan.

In accordance with the requirements of this artic

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INGHAM ENGINEERING
100 Lindbergh Plaza 2, 5160 Wiley Post Way, Salt Lake City, Utah 84116, 801-532-2520

September 25, 1987

Mr. David Irving
U.S. Fish and Wildlife Service
4696 Overland Road
Boise, ID 83705

RE: Smith Creek Hydroelectric Project - FERC No. 8436
License Conditions - Agency Coordination

Dear Mr. Irving:

This letter is written as a follow up to our earlier conversations concerning Articles 402 and 409 of the license for the Smith Creek Hydroelectric Project.

Article 402 requires that the licensee, after consultation with the U.S. Fish and Wildlife Service (FWS), the Idaho Department of Fish and Game (IDFG), and the Forest Service (FS), shall develop a plan to remove accumulated sediment from the project intake and diversion dam. The plan shall include an implementation schedule that provides for the following: (1) initial and normal maintenance sediment flushing periods, designed to minimize adverse impacts on fish spawning and rearing; (2) minimum flow releases from the project dam during flushing operations; and (3) cooperation with and notification of agencies before sediment flushing operations. The plan shall be consistent with the conditions of the water quality certificate issued to the licensee by the Idaho Department of Health and Welfare on December 18, 1985. Within 6 months from the date of issuance of this license and before any sediment flushing at the project, the licensee shall file the plan with the Commission for approval, along with comments from FWS, IDFG, and FS on the adequacy of the plan. At the same time, copies of the filing shall be serviced upon the agencies consulted. The Commission reserves the right to require modifications to the plan.

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BINGHAM ENGINEERING

100 Lindbergh Plaza 2, 5160 Wiley Post Way, Salt Lake City, Utah 84116, 801-532-2520

September 25, 1987

Mr. Ned Horner
Idaho Dept. of Fish & Game
2320 Government Way
Coeur d'Alene, ID 83814

RE: Smith Creek Hydroelectric Project - FERC No. 8436
License Conditions - Agency Coordination

Dear Mr. Horner:

This letter is written as a follow up to our earlier conversations concerning Articles 402 and 409 of the license for the Smith Creek Hydroelectric Project.

Article 402 requires that the licensee, after consultation with the U.S. Fish and Wildlife Service (FWS), the Idaho Department of Fish and Game (IDFG), and the Forest Service (FS), shall develop a plan to remove accumulated sediment from the project intake and diversion dam. The plan shall include an implementation schedule that provides for the following: (1) initial and normal maintenance sediment flushing periods, designed to minimize adverse impacts on fish spawning and rearing; (2) minimum flow releases from the project dam during flushing operations; and (3) cooperation with and notification of agencies before sediment flushing operations. The plan shall be consistent with the conditions of the water quality certificate issued to the licensee by the Idaho Department of Health and Welfare on December 18, 1985. Within 6 months from the date of issuance of this license and before any sediment flushing at the project, the licensee shall file the plan with the Commission for approval, along with comments from FWS, IDFG, and FS on the adequacy of the plan. At the same time, copies of the filing shall be serviced upon the agencies consulted. The Commission reserves the right to require modifications to the plan.

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OCT 29 1988

TABLE 1

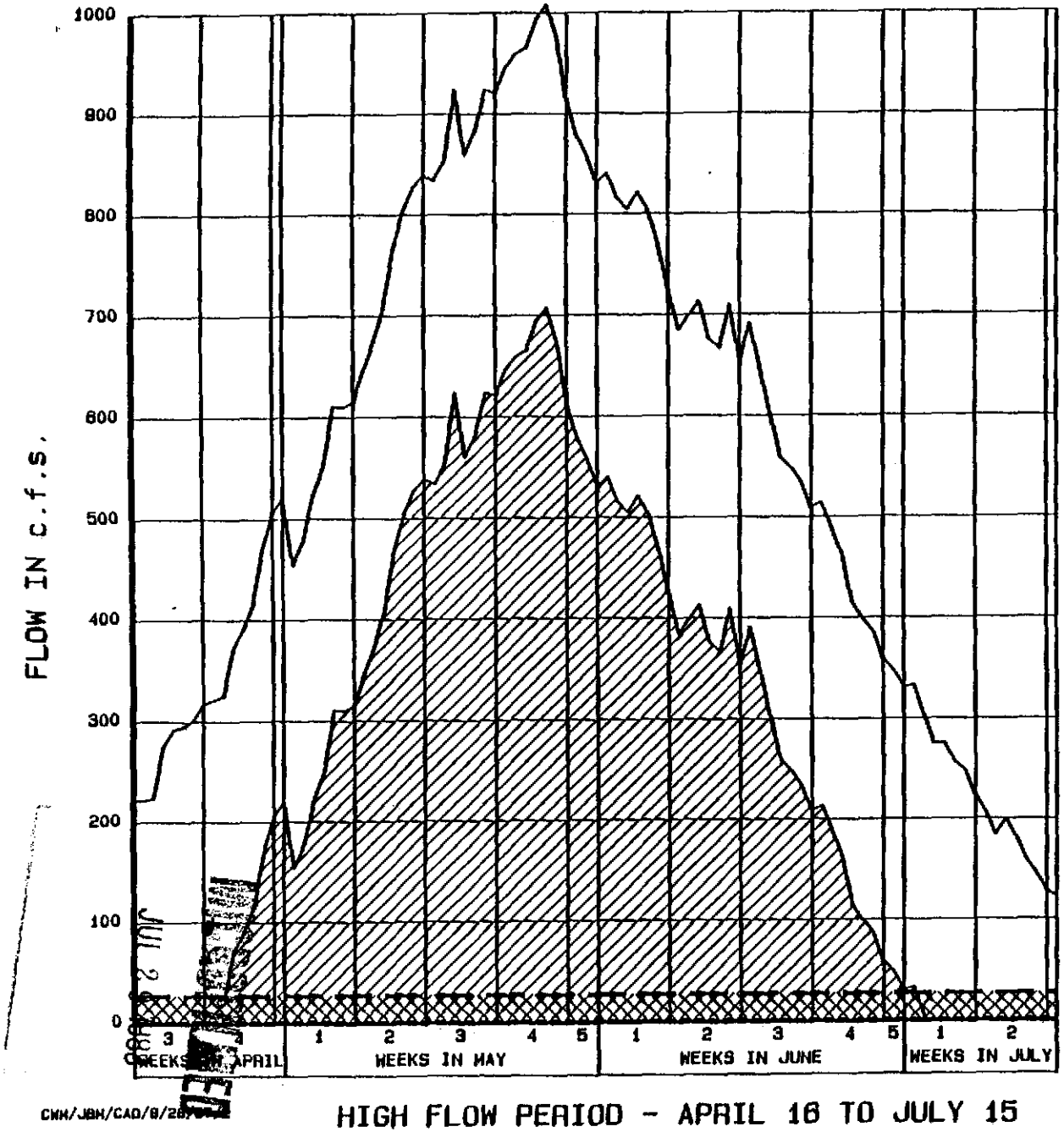
SMITH CREEK HYDROELECTRIC
AVERAGE DAILY FLOWS
32 Year Average (1927-1960)
(1945 Missing)

Day	April Ave.	May Ave.	June Ave.	July Ave.
1	95	455	840	333
2	100	478	816	303
3	99	524	805	275
4	101	551	822	276
5	105	611	804	257
6	114	610	770	249
7	122	615	725	224
8	135	646	685	207
9	141	674	699	184
10	141	708	713	200
11	149	767	676	182
12	167	804	667	160
13	192	828	709	146
14	223	839	655	128
15	223	834	691	123
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26	390	1008	399	54
27	416	976	387	53
28	471	913	359	54
29	507	879	348	53
30	520	859	331	49
31	--	831	--	

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9/17/87

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TABLE 2



HIGH FLOW PERIOD - APRIL 16 TO JULY 15

CWH/JBH/CAD/8/28

LEGEND

PROJECT FLOW (300 c.f.s. MAX.)

FLOWS REMAINING IN THE STREAM (INCLUDES BASE FLOW)

BASE FLOW (27 c.f.s.)

NOTE: FLOW REMAINING IS A COMBINATION OF BYPASS FLOWS (27 c.f.s.) AND EXCESS FLOWS

SMITH CREEK HYDROELECTRIC PROJECT

AVERAGE DAILY FLOWS

32 YEAR AVERAGE 1922-1960

300 cfs would remain in the river. During an average year from the 25th of April to the 1st of July there would be excess flows over and above 327 cfs. (The 327 cfs flow includes the 27 cfs minimum release and the 300 cfs utilized in the project.) The flows increase to an annual average high of 1,008 cfs on the 26th of May and then decrease to 333 cfs on the 1st of July.

Based on this information and discussions with the affected agencies the licensee proposes the following plan to remove accumulated sediment from the project intake and diversion dam.

1. Initial and normal sedimentation flushing periods. The initial and normal sedimentation flushing periods are specified to occur during the annual period of high runoff. Opening of the sluice gate structure would occur the first time prior to March 16th or after May 15th that flows in the river reach a minimum of 400 cfs. This would allow a bypass of at least 100 cfs for sedimentation transportation in the river. Based on yearly averages, the first day of flows in excess of 400 cfs occurs on the 27th day of April, however, because of impacts to spawning, the flushing would not commence until after May 16th.

   The IFIM report completed in conjunction with the hydroelectric project indicates that cutthroat and rainbow trout occupy the reaches of the river affected by the project. The period of spawning for cutthroat trout is April to mid-May and the period of spawning for rainbow trout is mid-March to the 1st of May. For this reason sediment flushing will not occur from the 16th of March until after the 15th of May. Prior to the 16th of March or following the 15th of May when flows in the river exceed 400 cfs flushing will continue until flows drop below 400 cfs.

   During flushing the gate the sluice gate will be opened gradually by the operator. The river will be monitored downstream of the diversion so that turbidity in the river does not exceed specifications of the Idaho Department of Health and Welfare. If turbidity levels exceed acceptable levels the sluice gate will be closed until the river clears. The sluice gate will be opened at least weekly during periods of high flow to allow flushing of the sediments from the intake and diversion dam.

   The river may also be subject to earlier flushing during periods of rain on snow events when periods of high runoff are experienced. This is an especially good time for flushing of sediments because during these rain on snow events sedimentation occurring in the stream is very low.

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2. Minimum flow releases from the project during flushing operations will be 100 cfs. At no time during the flushing period will flows of less than 100 cfs be released in the river while the sluice gate is opened, and flows of up to 708 cfs could be experienced. (Based on historical average daily flows.)

3. Two days prior to expected flushing operations during periods of high flow the operator will notify the Forest Service and affected agencies that flushing is to commence. If the agencies do not respond, the operator will proceed to open the sluice gate as specified. The sluice gate will be opened gradually over a period of four hours. The operator will continue to monitor sediment loads and turbidity below the diversion so that turbidity in the river does not at any time during flushing exceed recommended standards for Smith Creek.

Article 409. The licensee after consulting with the U.S. Fish and Wildlife Service (FWS) and the Idaho Department of Fish and Game (IDFG), and within 6 months after the date of issuance of the license, shall file a wildlife mitigative plan for Commission approval. The plan shall include the following: (1) specific measures for revegetating the disturbed areas with plant species beneficial to wildlife, as soon as practicable; (2) a provision for the replacement of lost riparian vegetation on a replacement-to-loss ratio of 1.25 to 1; and (3) construction procedures that ensure that the removal of riparian vegetation is minimized. The licensee shall include in the filing an implementation schedule and the comments of FWS and IDFG on the plan.

In accordance with the requirements of Article 409 and following coordination with the appropriate agencies the following wildlife mitigative plan has been developed.

1. Revegetation

   Immediately following completion of construction and in no event later than within the same year the disturbance occurs, disturbed areas will be reseeded with plant species and densities specified in Table 3. This seeding is in accordance with specifications developed by the U.S. Forest Service. Seeding will take place from May 1 to June 15 and September 1 to September 30 of each year to allow the seed the best possible chance for germination.

2. Any riparian habitat along the river will be replaced with like vegetation in accordance with specifications of the U.S. Forest Service.

3. Best management practices in stream areas will be followed. Removal of vegetation in the stream areas will be limited to the

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TABLE 3

RECOMMENDED SEED MIXTURE
SMITH CREEK HYDROELECTRIC PROJECT

Areas disturbed for construction and temporary roads shall be grass seeded with 20 pounds per acre of the seed mix listed below, and fertilized with 250 lbs/acre of 20-10-0 or 16-20-0 feet fertilizer.

Seeding shall be done May 1 to June 15 and September 1 to September 30.

Species	Lbs./Acre
Bluegrass Reubens Canada	3
Clover, Alsike	2
Clover, White Dutch	2
Durar Hard Fescue	4
Tall Fescue	2
Red Top	1
Timothy	1
	15

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609-004
9/29/87

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JUL 29 1988

areas actually needed for construction of the project facilities. The project has been designed so that project features are angled away from and leave the river bed as soon as possible so that disturbance of riparian vegetation will be minimized. Implementation of this program will be as specified in the seeding program. Reseeding will continue from May 1 to June 15 and September 1 to September 30 of the year in which construction occurs. In no event will areas be left unseeded during the winter period. Care will also be taken that temporary sedimentation barriers such as straw bales are constructed to divert any sedimentation from the river or from the newly reseeded areas and all temporary roads will be water barred after use and before each spring runoff period.

Would you please review the above plans and respond with any comments to me as soon as possible.

Thank you for your help in this matter.

Sincerely,

BINGHAM ENGINEERING

Clark M. Mower

Clark M. Mower
Executive Vice President

CMM/jm
609-004

Enclosures

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ARTICLE 403 - FUNCTIONAL DESIGN DRAWINGS TO BE FILED WITH AGENCY COMMENTS

ARTICLE 408 - DESIGN DRAWINGS OF FISH PASSAGE FACILITIES

ARTICLE 410 - TRANSMISSION LINE DESIGN

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JUL 2 9 1988

INGHAM ENGINEERING
0 Lindbergh Plaza 2
60 Wiley Post Way
lt Lake City, Utah 84116

August 4, 1987

Idaho Department of Fish and Game
2320 Government Way
Coeur d'Alene, Idaho 83814

To Whom It May Concern:

In compliance with articles 403, 408 and 410 of the Directors orders of issuance of permit 8436 and 7880 to construct a hydroelectric generation facility on Smith Creek. We submit and request your comments on the proposed functional/design drawing of the diversion structure, fish passage and transmission line design/rapter protection. Additional information concerning the development of this project will be sent to you if applicable.

We would appreciate your input as soon as possible.

Warmest Regards,

IDAHO NATURAL ENERGY, INC.

Michael H. Johnston

MHJ/sl

enclosures

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JUL 29 1988

NGHAM ENGINEERING
) Lindbergh Plaza 2
50 Wiley Post Way
t Lake City, Utah 84116

August 4, 1987

Forest Service
Route 4 Box 4860
Bonners Ferry, Idaho 83805

To Whom It May Concern:

In compliance with articles 403, 408 and 410 of the Directors orders of issuance of permit 8436 and 7880 to construct a hydroelectric generation facility on Smith Creek. We submit and request your comments on the proposed functional/design drawing of the diversion structure, fish passage and transmission line design/rapter protection. Additional information concerning the development of this project will be sent to you if applicable.

We would appreciate your input as soon as possible.

Warmest Regards,

IDAHO NATURAL ENERGY, INC.

Michael H. Johnston

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enclosures

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JUL 29 1988

NGHAM ENGINEERING
Lindbergh Plaza 2
0 Wiley Post Way
Lake City, Utah 84116

August 4, 1987

U.S. Fish and Wildlife Service
4696 Overland Road, Room 576
Boise, Idaho 83705

To Whom It May Concern:

In compliance with articles 403, 408 and 410 of the Directors orders of issuance of permit 8436 and 7880 to construct a hydroelectric generation facility on Smith Creek. We submit and request your comments on the proposed functional/design drawing of the diversion structure, fish passage and transmission line design/rapter protection. Additional information concerning the development of this project will be sent to you if applicable.

We would appreciate your input as soon as possible.

Warmest Regards,

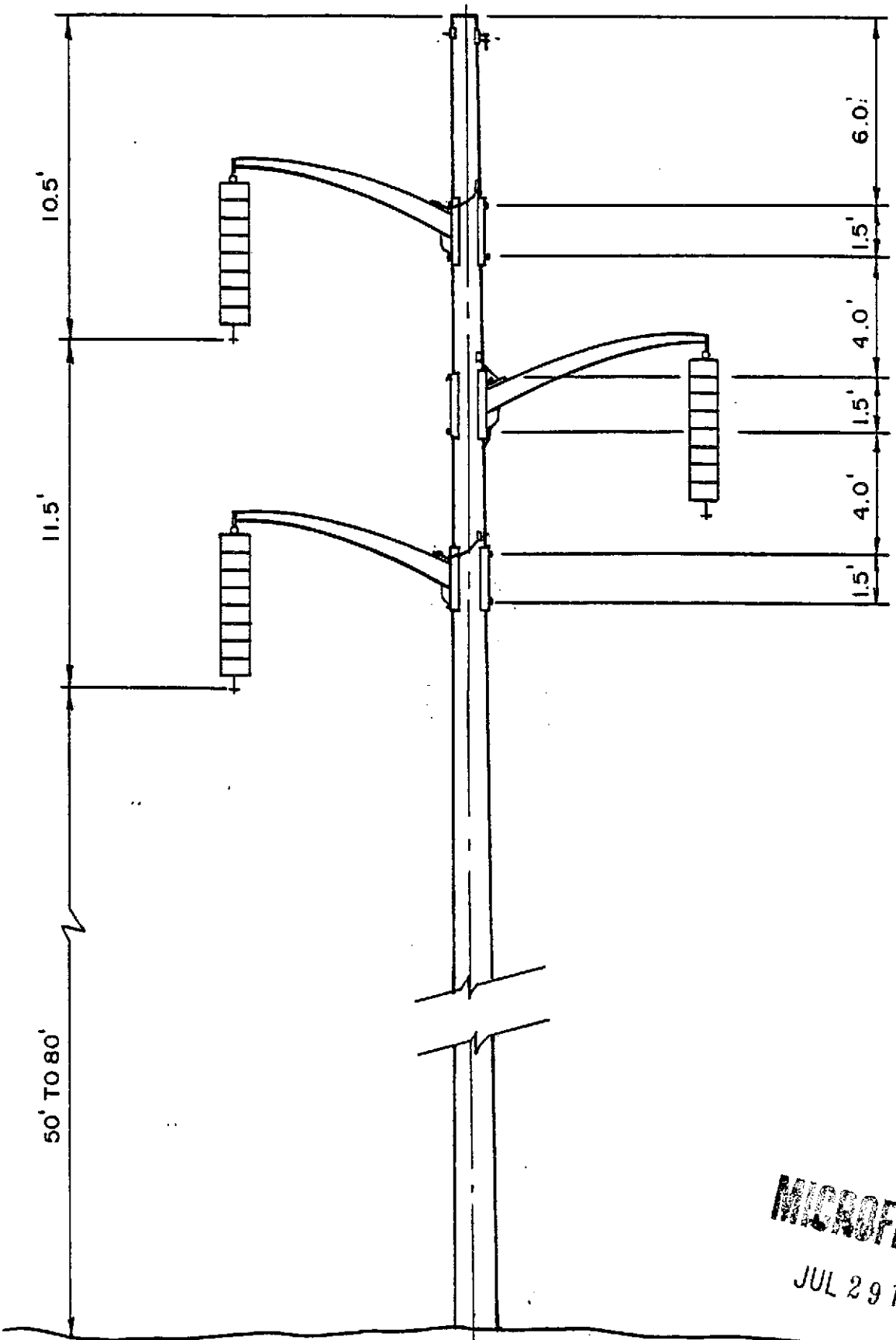
IDAHO NATURAL ENERGY, INC.

Michael H. Johnston

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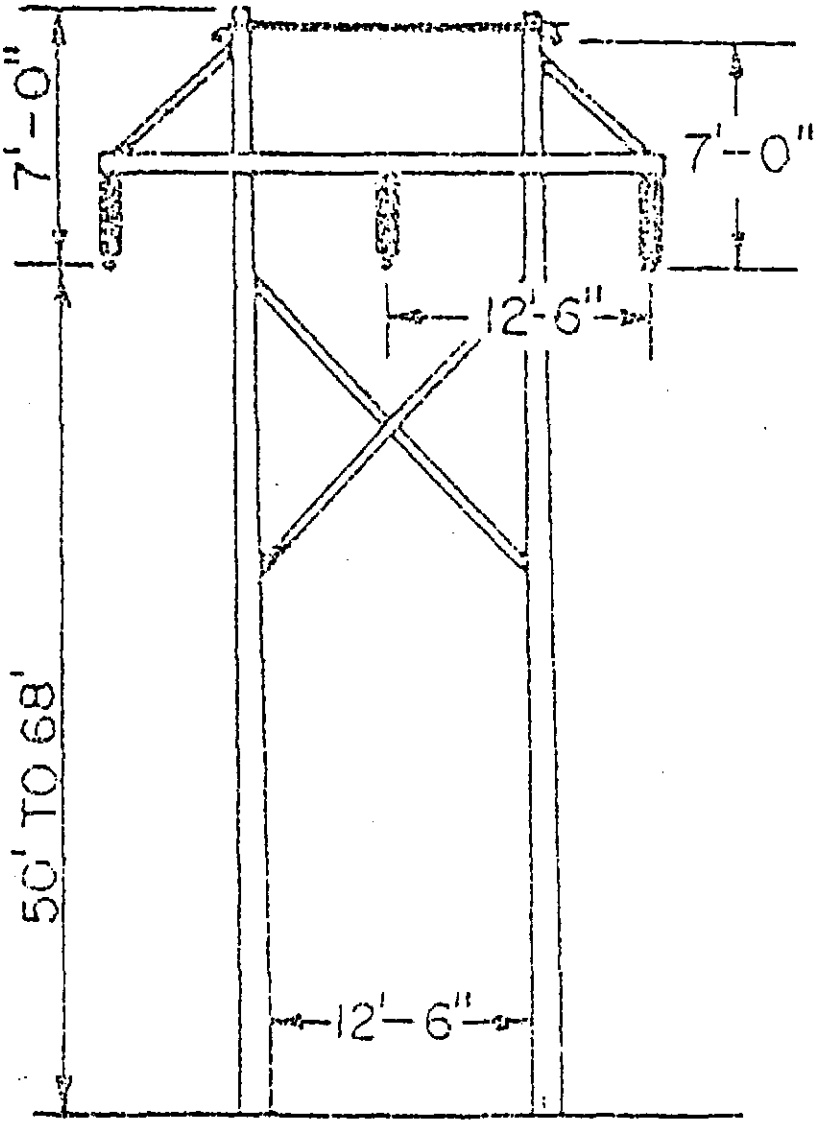
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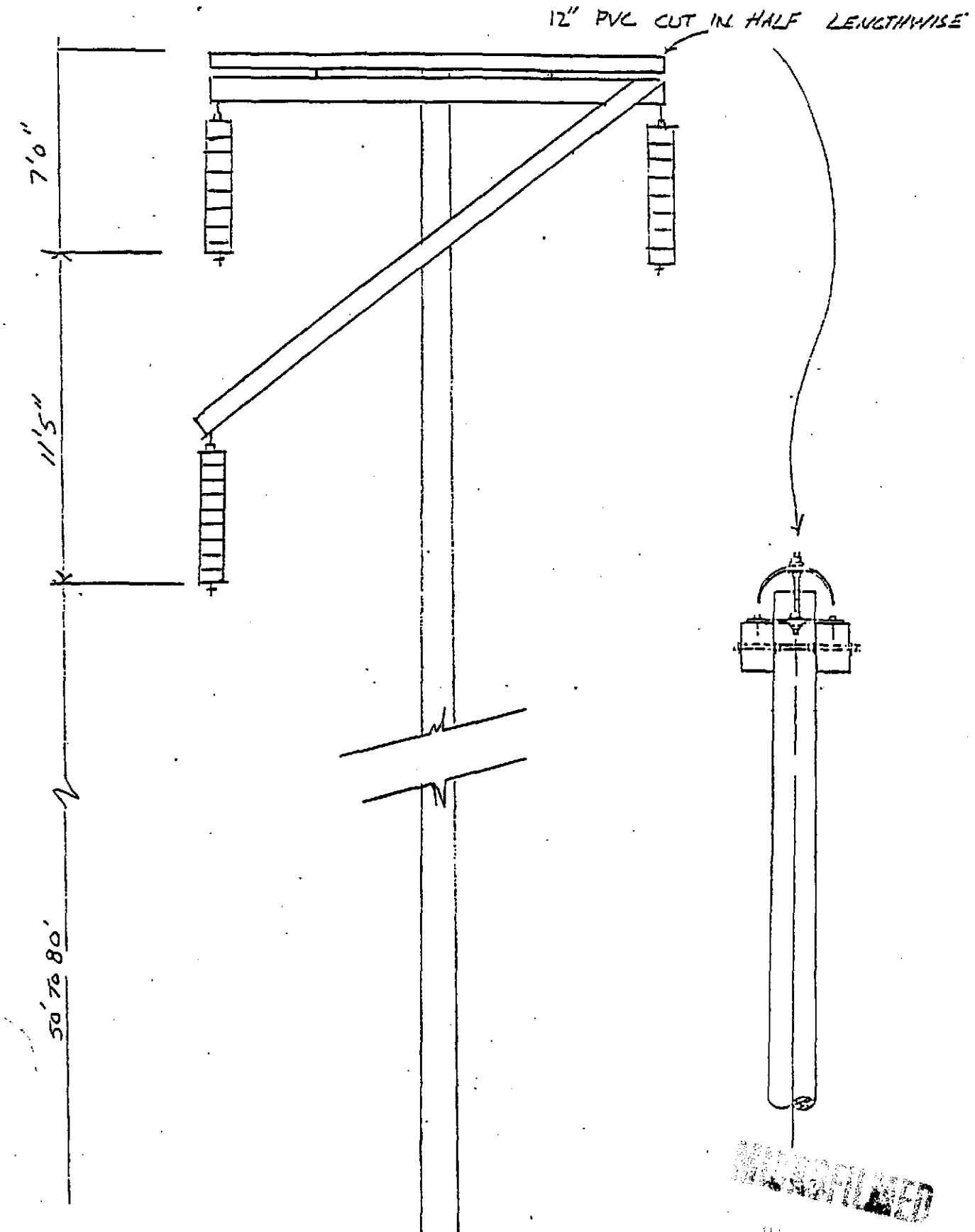
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TYPICAL 115 KV WOOD SINGLE POLE



TYPICAL 115KV WOOD H-FRAME

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FILED
JUL 29 1988

TYPICAL 115 KV WOOD SINGLE POLE

600 South Walnut • Box 25
Boise, Idaho 83707

September 1, 1987

Mr. Michael Johnston
Bingham Engineering
100 Lindbergh Plaza 2
5160 Wiley Post Way
Salt Lake City, UT 84116

RE: Smith Creek Hydro Facility, FERC NO. 8436

Dear Mr. Johnston:

We have reviewed the material submitted in compliance with Articles 403, 408 and 410 for the Smith Creek Hydro and offer the following comments:

1. The Alaska steep-pass fishway is a satisfactory unit depending upon how it is installed. The sketches do not give enough information on elevation and location to adequately assess the fish passage potential of the schematic design.

2. The preferred power line concept would be the 115 KV wood single pole design marked "preferred."

3. The spacing between the bars of the fish screen (trash screen) is shown as 1/2-inch. This spacing should be 1/4-inch maximum.

Please provide further information on the fish passage system and fish screening.

Sincerely,

Al Van Vooren
Resident Fisheries Manager

cc: Region 1
USFWS
FERC (Portland)

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EQUAL OPPORTUNITY EMPLOYER

United States Department of the Interior

FISH AND WILDLIFE SERVICE

BOISE FIELD OFFICE
4696 Overland Road, Room 576
Boise, Idaho 83705

September 16, 1987

Mr. Michael H. Johnston
Bingham Engineering
100 Lindbergh Plaza 2
5160 Wiley Post Way
Salt Lake City, Utah 84116

Re: Smith Creek Hydroelectric Generation Facility
FERC #8436 (Consultation Incomplete)

Dear Mr. Johnston:

The U.S. Fish and Wildlife Service (Service) received your letter dated August 4, regarding the above referenced FERC permit. We appreciate the opportunity to review the proposed functional design drawings of the diversion structure, fish passage, and transmission line design, raptor protection.

The transmission line design is within acceptable raptor protection design criteria. We are concerned, however, with structure design that provides the least impact to fish and wildlife resources including adequate fish passage facilities. The Service requests the following detailed information regarding the plan and drawings of the proposed development.

- Water surface elevation for all flow regime ranges above, within, and below the diversion structure.
- Self-cleaning screens to prevent fish from entering the penstock.
- Both upstream and downstream fish passage facilities (downstream fish passage facilities are not apparent in the drawings sent in the August 4th letter).
- Diversion and inlet design to prevent air entrainment in the penstock.
- Continuous flow monitoring equipment.

This information must be provided to the Service before completion of the initial stage of consultation (pursuant to Federal Energy Regulatory Commission Regulation as described in FR 50 (67); March 20, 1985). The Service will request Secretarial prescription for fish passage pursuant to Section 18 of the Federal Power Act.

JUL 29 1987

If you have any questions please contact David Irving of my staff at (208) 334-1931.

Sincerely yours,

John P. Wolflin
Field Supervisor

cc: FWS, RO, Portland
IDFG, Hdqrts., Boise
IDFG, Coeur d'Alene (Ned Horner)
EPA, Boise (Michelle Stevens)

JUL 29 1988

September 24, 1986

Mr. John P. Wolflin
U.S. Fish and Wildlife Service
4696 Overland Road, Room 576
Boise, ID 83705

RE: Smith Creek Hydroelectric

Dear Mr. Wolflin,

Enclosed are tables that show stream flow records on an monthly average for the years 1931-1960. This record was taken by the U.S. Geological survey station 12321000. It is important to note that no water will not be diverted for the purpose of Hydro generation until a minimum of 42 lfs is realized at the point of diversion.

27 cfs to be left in the stream
15 cfs to operate hydro turbines
42 cfs minimum operational flow

Based on the attached stream flow record this hydro plant will not be in operation for part of January, February, August and September. During these times or any time when flow is below 42 cfs water depth below the diversion structure will be dependant upon the run of the river.

Also attached is a chart showing estimated depths above and below the diversion structure, and drawings show the fish bypass ladders and trash racks.

Flow monitoring equipment is scheduled for this project however, it has nothing to do with the point of diversion. The equipment will be located in two different places.

1. As close as possible to the switch gear near the power house.
2. Immediately downstream from the diversion structure.

Neither of these monitoring stations are attached to the diversion structure therefore they are not shown.

If you have any questions, or if I can be of further help, please let me know.

Sincerely,

BINGHAM ENGINEERING

Michael H. Johnston

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JUL 29 1988

September 16, 1987

Al Van Vooren
Idaho Fish and Game
Box 25
Boise, Idaho 83707

Dear Al,

Attached is a copy of our latest rendering of the diversion dam to be built on Smithcreek. Included in this is an update of the trash racks shows a 1/4" spacing between the bars. This drawing also shows a side view of the fishway with a maximum slope of 36.4%.

Hopefully this will resolve the concerns that were expressed in your letter dated September 1, 1987.

I will look forward to your comments as soon as possible.

Warmest Regards,

BINGHAM ENGINEERING

Michael Johnston

enclosure

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JUL 29 1988

BINGHAM ENGINEERING
100 Lindbergh Plaza 2
5160 Wiley Post Way
Salt Lake City, Utah 84116

July 16, 1987

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JUL - 1987
Department of Water Resources
Northern District Office

Mr. Robert Haynes
State of Idaho
Department of Water Resources
Northern Region
Suite No. 9
4055 Government Way
Coeur d'Alene, ID 83814

Dear Bob:

I want to extend my appreciation for the hearing held on the Smith Creek Hydroelectric Project yesterday in Bonners Ferry, Idaho. It was helpful to those there to have the opportunity of informally discussing the project.

In accordance with our discussion, I am mailing you a copy of the license issued by the Federal Energy Regulatory Commission on the Smith Creek Hydroelectric Project. I have talked to Jeff about the additional information that you need before the license can be processed. This information includes a position statement from the various agencies on the water rights application and confirmation that the point of diversion is still located on the 40 acre tract listed on the license.

If you need any additional information, please call.

Sincerely,

BINGHAM ENGINEERING

Clark M. Mower

Clark M. Mower
Executive Vice President

CMM/jm
609-004

Enclosure

cc: Jeff Burt

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JUL 29 1988

BINGHAM ENGINEERING
100 Lindbergh Plaza 2
5160 Wiley Post Way
Salt Lake City, Utah 84116

July 16, 1987

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Department of Water Resources
Northern District Office

Ms. Jan Rose
HRC 62, Box 140
Moyie Springs, ID 83845

Dear Jan:

I appreciated your attendence and interest at the Smith Creek water hearings.

Enclosed for your information is a copy of the license for the Smith Creek Hydroelectric Project issued by the Federal Energy Regulatory Commission. As you can see, most of your concerns are covered in license conditions specified by the Federal Energy Regulatory Commission.

If you have any additional questions, please call.

Thanks again.

Sincerely,

BINGHAM ENGINEERING

Clark M. Mower

Clark M. Mower
Executive Vice President

CMM/jm
609-004

Enclosure

cc: Jeff Burt
Robert Haynes - Idaho Dept. of Water Resources

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JUL 29 1988

98-7612

July 15, 1987

Idaho Natural Energy, Inc.
- Peter Wilson - Temp Counsel -
- Clark Mower - VP Bingham Engineer -

Protestant
Jan Rose -
US Forest Service - Withdrawn prior to conference

Conference -
- Smith Creek - 30 MW -
- Abaut 500 ft of Acess Rd will be constructe
- Power Plant 40 feet about

- Power House not visible from falls overlook
- Low Range 15 cfs
- High " 300 cfs
- Minimum flow 27 cfs plus flushing flows during the spring -
- Power line connected to Northern Lights Bonners Ferry Substation
- Power sales contract not completed at the present time
- Bingham Engineers has completed about 22 hydro projects.
- No Legal actions are pending
- Benefits - the power will be used locally as replacement
- There will be some income to Northern Lights -
- Construction Schedule
  Completed prior to the end of 1988
  Construction to begin this year -
- Some mitigation funds will be used for recreation
- Erosion Control will be maintained -

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FEB 22 1989

-Plant me employ
1 full time operator
Local contractor will be used cost 21 to 27 million —
-Mitigation will upgrade two campgrounds —
-Pipeline will be buried except for 200 feet —
-No temperature change in the water caused by the project —
—
—

Following discussion of the project the protestant withdrew her protest.

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FEB 22 1989

Application No. 98-7612

SPECIAL NOTE: _____

_____

PROTEST INFORMATION SHEET

Protestant(s)

	NAME		ADDRESS
1	Mr. Jan Rose	5/6/85	HCR 62, Box 140, Mosie Springs, Id. 83845
2	USFS	5/12/85	Panhandle Nat'l. Forests, 1201 Ironwood Dr., CDA, Id.83814
3			
4			
5			
6			
7			
8			
9			
10			

ATTORNEY NAME	ADDRESS

protest
Date Filed: 5/6/85 Protest Due Date: 5/13/85

Issues: Application would destroy one of the last suitable and available spawning areas for Kokanee. Would injure National Forest purposes of maintaining favorable conditions for water flow, recreational and aesthetic values and fish habitat. It would also interfere with the Federal Reserved Water Right. Quantification for the national forest reserve rights and needs must be established before issuance of this permit.

Applicant

ATTORNEY NAME	ADDRESS

	DATE	
Protest Date Entered on Computer	Unknown	
Acknowledgement Letters Sent	5/14/85	
Hearing Date	7/15/87	
		(Other Dates)

Other Information: Protest withdrawn USFS 7/6/87
Jan Rose 7/15/87

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JUL 29 1988

Protest information submitted to computer (following hearing): _____

In the matter of application for)
permit No 98-7612 in the) Withdrawal of Protest
name of Natural Energy, Inc.)

I hereby withdraw my protest against this application for permit following the conference held in Bonners Ferry, Idaho on July 15, 1987 based on the information and assurances, and the discussion of the project by the applicant.

Signed at Bonners Ferry on July 15, 1987

Jon M. Rose

MICROFILMED

JUL 29 1988

Name: Idaho Natural Energy, Inc.
File: 98-7612
Place: Coop. Ext. Service (Cthse. Annex), Bonners Ferry, Id.
Date: Wednesday, July 15, 1987, at 9:00 am

ROSTER OF ATTENDANCE

Name	Address	Representing
CLARK M. Mower	Bingham Engineering 5160 Wiley Post Way Salt Lake City Utah 84116	Idaho Natural Energy
Peter B. Wilson	Box 749 Bonners Ferry Idaho 83805	" " "
Jan Rose	HCR 62 Box 140 Moyie Springs, ID 83845	self, Boundary Backpackers

MICROFILMED
JUL 29 1988

United States Department of Agriculture
Forest Service
Idaho Panhandle National Forests
1201 Ironwood Drive
Coeur d'Alene, ID 83814

REPLY TO: 2540

DATE: July 6, 1987

Mr. Robert G. Haynes
State of Idaho
Department of Water Resources
4055 Government Way
Coeur d'Alene, ID 83814

Dear Mr Haynes;

The Forest Service wishes to withdraw the protest dated May 12, 1985 against approval of Application for Permit No. 98-7612 in the name of Idaho Natural Energy, Inc.

This withdrawal is based on the Federal Energy Regulatory Commission Order Issuing License for Project 8436-001 dated April 10, 1987. The maintainence and minimum stream flows the Forest Service was seeking are included in Article 103 of the FERC license. Since the terms of the license are binding upon the licensee there is no need for the Forest Service to continue in protest.

The flow duration schedule in Article 103 of the license for Project 8436-001 should be stipulated in the Water Right when issued to Idaho Natural Energy, Inc. at the time the water is put to beneficial use.

Sincerely,

/s/ WILLIAM E. MORDEN
Forest Supervisor

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JUL 13 1987
Department of Water Resources
Northern District Office

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JUL 29 1988

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Idaho Natural Energy Inc.
c/o Mr. Jeff Burt
Bingham Engineering
5160 Wiley Post Way
Salt Lake City, Ut. 84116

RETURNED JUL 29 1986

98-7612

4. Article Number
14715

Type of Service:
☐ Registered ☒ Certified ☐ Express Mail
☐ Insured ☐ COD

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5. Signature — Addressee
X Jeff Burt

RECEIVED JUL 1987

6. Signature — Agent
X

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

7. Date of Delivery

Department of Water Resources
Northern District Office

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1 JUL
1981

U.S.MAIL

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JUL 29 1988

IDAHO DEPARTMENT OF WATER RESOURCES
NORTHERN DISTRICT OFFICE
4055 GOVERNMENT WAY, SUITE #9
COEUR D' ALENE, ID 83814

ACCEPTANCE OF REGISTERED, INSURED, C.O.D. AND CERTIFIED MAIL

PS Form 3877, July 1978

NAME AND ADDRESS OF SENDER

IDAHO DEPARTMENT OF WATER RESOURCES
NORTHERN DISTRICT OFFICE
4055 GOVERNMENT WAY, SUITE #9
COEUR D' ALENE, ID 83814

Indicate type of mail
- ☐ Registered
- ☐ Insured
- ☐ COD
- ☒ Certified

I certify that we have
- ☐ Commercial Insurance
- ☐ A deductible clause of $

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.
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1	14715	Id. Natural Energy, Inc., c/o Mr. Jeff Burt,	22¢	75¢				70¢			98-7612
2		Bingham Engineering, 5160 Wiley Post Way, Salt Lake City, Ut. 84116							1/4/87		Not. of Hearing
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COEUR D'ALENE, IDAHO JUN 23 1987

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3. Article Addressed to:

Mr. William E. Mordell
Idaho Panhandle Nat'l. Forests
1201 Ironwood Dr.
Ceour d'Alene, Id. 83814

98-7612

Article Number
14712

Type of Service:

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- ☐ COD

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5. Signature — Addressee
X

6. Signature — Agent
X William M. Mordell

7. Date of Delivery
6-15-87

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

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Department of Water Resources
Northern District Office



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IDAHO DEPARTMENT OF WATER RESOURCES
NORTHERN DISTRICT OFFICE
2055 CORPORATE WAY, SUITE #9
COEUR D' ALENE, ID 83814

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Mr. Jan Rose
HCR 62 Box 140
Moyie Springs, Id.83845

JUL 29 1986

98-7612

4. Article Number
14711

Type of Service:
☐ Registered ☐ Insured
☐ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

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5. Signature — Addressee
X Allen H. Rose

6. Signature — Agent
X

7. Date of Delivery
JUN 16 1987

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

JUN 18 1987

Department of Water Resources
Northern District Office

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- **Endorse article "Return Receipt Requested" adjacent to number.**



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Print Sender's name, address, and ZIP Code in the space below.

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JUL 29 1988

IDAHO DEPARTMENT OF WATER RESOURCES
[illegible] OFFICE
4085 [illegible] SUITE #9
[illegible], ID 8[illegible]

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Northern Region office
4055 Government Way - Suite 9 • Coeur d'Alene, Idaho
83814

Attempted
not known
6-18-87
6-15-87

CERTIFIED MAIL NO. 4715
RETURN RECEIPT REQUESTED

RETURNED TO SENDER
ATTEMPTED
NOT-KNOWN

SPOKANE WA 992
PM
12 JUN
1987

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JUL 29 1988

Idaho Natural Energy, Inc.

834 Falls Ave.

Twin Falls, Id. 83301

DEFEAT
MUSCULAR DYSTROPHY
SUPPORT

Claim Check
No. 79710
Hold
Date 6-22-87
1ST Notice
2ND Notice
Return

Detached from
FS Form 3849
Oct. 1988

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:	4. Article Number
Idaho Natural Energy, Inc. 834 Falls Ave. Twin FAlls, Id. 83301	14710
	Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail
98-7612	Always obtain signature of addressee or agent and DATE DELIVERED.
5. Signature — Addressee X	8. Addressee's Address *(ONLY if requested and fee paid)*
6. Signature — Agent X	
7. Date of Delivery	

ATTEMPTED NOT-KNOWN

PS Form 3811, Feb. 1986 **DOMESTIC RETURN RECEIPT**

NAME AND ADDRESS OF SENDER

IDAHO DEPARTMENT OF WATER RESOURCES
NORTHERN DISTRICT OFFICE
4055 GOVERNMENT WAY, SUITE #9
COEUR D' ALENE, ID 83814

Indicate type of mail
- ☐ Registered
- ☐ Insured
- ☐ COD
- ☒ Certified

I certify that we have
- ☐ Commercial Insurance
- ☐ A deductible clause of $

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.
POSTMARK AND DATE OF RECEIPT

ACCEPTANCE OF REGISTERED, INSURED, C.O.D. AND CERTIFIED MAIL

LINE	NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	Handling Charge	Actual Value (If Registered)	DUE SENDER IF C.O.D.	R. R. FEE	S.D. FEE	S. H. FEE	REST. DEL. FEE	REMARKS
1	14710	Idaho Natrual Energy, Inc. 834 Falls Ave., Twin Falls, Id. 83301	22¢	75¢				70¢				Protest Hr 98-7612
2	14711	Mr. Jan Rose, HCR 62 Box 140, Moyie Springs, Id. 83845	"	"				"				
3	14712	Mr. William E. Morden, Id. Panhandle Natl. Forests 1201 Ironwood Dr., CDA, Id. 83814	"	"				"				
4												
5												
6												
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9												
10												
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13												
14												
15												

COEUR D'ALENE, IDAHO JUN 12 1987 USPS

PAID JUL 29 1987

TOTAL NUMBER OF PIECES LISTED BY SENDER	TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE	*POSTMASTER, PER (Name of receiving employee)*
3		

The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full registry fee is required on articles valued up to $1,000 or the full amount of the deductible if the deductible exceeds $1,000. The maximum indemnity payable is $25,000 for registered mail, $400 for COD and $400 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

PS Form 3877, July 1978

* U.S. GOVERNMENT PRINTING OFFICE: 1978 270-037

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF	)	
APPLICATION FOR PERMIT NO. 98-7612 IN THE	)	NOTICE OF HEARING
NAME OF IDAHO NATURAL ENERGY, INC.	)	AND/OR CONFERENCE

On April 12, 1985, Idaho Natural Energy, Inc. of Twin Falls, Idaho, filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. The Department received protests against approval of said application from Mr. Jan Rose on May 6, 1985 and from the U. S. Forest Service on May 12, 1985.

The Department has set the matter of protest for conference and/or hearing for Wednesday, July 15, 1987 , at 9:00 am, in the Cooperative Extension Service Bldg. in the Bonners Ferry Courthouse Annex, (directly behind the courthouse), Bonners Ferry, Idaho 83805. The hearing will be held in accordance with Chapter 2, Title 42 of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Dated this 9 day of June, 1987.

Robert G. Haynes

ROBERT G. HAYNES, P.E.
Regional Supervisor

MICROFILMED
JUL 29 1988

June 9, 1987

Cooperative Extension Service
Courthouse Annex
Bonners Ferry, Id. 83805

Gentlemen:

This is to confirm reservations for a conference and/or hearing to be held by this Department on July 15, 1987, at 9:00 am in your conference room.

If this is not the case, please advise immediately.

Sincerely,

Patricia M. Stypa
Secretary/Office Coordinator

COPY

MICROFILMED

JUL 2 9 1988

BINGHAM ENGINEERING
100 Lindbergh Plaza 2
5160 Wiley Post Way
Salt Lake City, Utah 84116

98-7612

June 4, 1987

Mr. Robert Hayes
Northern District
Idaho Department of Water Resources
4055 Government Way
Couer d'Alene, ID 83814

Dear Bob:

I appreciated the opportunity of meeting with you yesterday to discuss the water rights for the Smith Creek Hydroelectric Project.

As I told you at our meeting, we are anxious to begin construction on the project by fall of this year. It is important to have the water rights processed as soon as we can. I look forward to receiving your letter on the recent changes in the water rights procedures for the State of Idaho that we discussed.

Please let us know possible when the public hearing on the water rights has been scheduled. I look forward to working with you in the future. Again would you send copies of all correpondence on this matter to me as well as to the applicants.

Sincerely,

BINGHAM ENGINEERING

Clark M. Mower
Executive Vice President

CMM/jm
609-004

MICROFILMED
JUL 29 1988

RECEIVED
JUN 8 1987
Department of Water Resources
Northern District Office

June 5, 1987

Idaho Natural Energy, Inc.
834 Falls Ave.
Twin Falls, Id. 83301

Re: 98-7612

Gentlemen:

In October of 1986, the Director of the Department adopted new rules and regulations relating to water appropriation. I have excerpted from those rules and regulations the sections which are pertinent to your application. Your attention is directed to Rule 4,5 on page two relating to information which you will required to submit. Special note should be made of the fact that this additional information must be submitted within 30 days.

It is my understanding that you desire to commence construction sometime this fall. I have tentatively set July 15 as a date for the hearing on the protest against the issuance of the water right permit. I anticipate confirming that date and sending out hearing notices shortly.

If you have any questions, please do not hesitate to contact me.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Supervisor

RGH/pms
Enc. - Rules and Regulations

cc: Mr. Clark M. Mower, Bingham Engineering - w/enc.

MICROFILMED
JUL 2 9 1988
COPY

Bingham Engineering
100 Lindberg Plaza II / 5160 Wiley Post Way / Salt Lake City, Utah 84116 / 801-532-2520

98-761²

TRANSMITTAL

To: State of Idaho
Dept. of Water Resources
State House
Boise, Idaho 83720

Date: 3/3/86

Project: Smith Creek

No. 609-004

Subject:

RECEIVED
MAR 17 1986
Department of Water Resources

We are sending you ☒ attached ☐ under separate cover via
the following items:

These are transmitted as checked below: 1 copy

☐ For Approval
☐ As Requested
☐ For Your Records
☐ Distribution
☒ For Review and Comment
☐ For Your Information

The Federal Energy Regulatory Commission has directed us to send copies of our accepted application to your agency for review. Please submit your comment and recommendations to the Commission's Secretary with 60 days from the date of this letter, and a copy of those comments and recommendations directly to us. If you do not submit comments or request for an extension of time with 60 days, the Commission will assume that you do not wish to comment on this application.

MICROFILMED
FEB 22 1989

cc:

BINGHAM ENGINEERING

By: Jeff Burt
Jeff Burt

IDAHO NATURAL ENERGY, INC.
5160 Wiley Post Way
Salt Lake City, UT 84116

June 27, 1985

RECEIVED
SEP 11 1985
Department of Water Resources
Northern District Office

Mr. Jan Rose
MCR 62, Box 140
Moyie Springs, ID 83845

Dear Mr. Rose:

Idaho Natural Energy, Inc. has received a copy of your protest letter dated May 3, 1985 with respect to the Smith Creek Hydroelectric Project and offers the following comments.

The Smith Creek Project is located above Smith Falls which is a natural barrier to upstream migrating fish from the Kootenai River. The project will divert water from Smith Creek at an elevation of 3450 and will be piped to a powerhouse located above Smith Falls. The powerhouse will then discharge the same amount of water into the creek that was diverted. Thus, the project will have no effect upon water quantity or quality in Smith Creek at or below Smith Falls.

The Idaho Fish & Game and the U.S. Forest Service have required Idaho Natural Energy, Inc. to perform extensive fish and wildlife habitat studies in order to determine the effects of implementing a hydroelectric project on Smith Creek and what minimum instream flow would be required. We assure you that the first priority of these agenices is to meet their requirements and recommendations for the fish and wildlife resources of the area before any other uses of the resources will be allowed.

Furthermore, Idaho Natural Energy, Inc. is proposing to provide in excess of $5 million toward improving and enhancing the fishery resources in the immediate area. We suggest that your comments be directed to the Idaho Fish & Game towards possible use from these funds for improvement of Kokanee spawning habitat and population in the area.

We respectfully ask that you write us at your earliest possible convenience and we will see that your concerns are fully addressed and resolved.

Sincerly,

IDAHO NATURAL ENERGY, INC.

Jeff Burt

Jeff Burt, President

ah

MICROFILMED
JUL 29 1986

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 765-4639

May 14, 1985

Idaho Natural Energy, Inc.
834 Falls Ave.
Twin Falls, Id. 83301

Re: 98-7612

Gentlemen:

Enclosed are copies of protests filed against the approval of a permit pursuant to the above-referenced application. The Department suggests you contact the protestants directly in an effort to determine the nature of the protests and attempt to resolve the protests.

If you do not advise us within twenty (20) days that the protests have been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

5. Will the proposed use conflict with the local public interest?

You will be notified at a later date of the time and place of the conference and/or hearing. If we can be of any assistance, please contact us.

Sincerely,

MICROFILMED
JUL 29 1988

ROBERT G. HAYNES, P.E.
Regional Supervisor

RGH/pms

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 765-4639

May 14, 1985

U. S. Forest Service
1201 Ironwood Dr.
Coeur d'Alene, Id. 83814

Re: 98-7612

Gentlemen:

Your protest against the approval of the above-referenced application has been received and a copy has been sent to the applicant. The Department suggests that you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purpose intended?

3. Is the application made in good faith or for delay or speculation?

4. Has the applicant sufficient financial resources with which to complete the project?

5. Will the proposed use conflict with the local public interest?

You will be notified at a later date of the time and place of the conference and/or hearing. If we can be of any assistance, please contact us.

Sincerely,

MICROFILMED
JUL 29 1988

ROBERT G. HAYNES, P.E.
Regional Supervisor

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 765-4639

May 14, 1985

Mr. Jan Rose
NCR 62, Box 140
Moyie Springs, Id. 83845

Re: 98-7612

Dear Mr. Rose:

Your protest against the approval of the above-referenced application has been received and a copy has been sent to the applicant. The Department suggests that you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purpose intended?

3. Is the application made in good faith or for delay or speculation?

4. Has the applicant sufficient financial resources with which to complete the project?

5. Will the proposed use conflict with the local public interest?

You will be notified at a later date of the time and place of the conference and/or hearing. If we can be of any assistance, please contact us.

Sincerely,

MICROFILMED
JUL 29 1985

ROBERT G. HAYNES, P.E.
Regional Supervisor

United States Department of Agriculture | Forest Service | Idaho Panhandle National Forests | 1201 Ironwood Drive Coeur d'Alene, ID 83814

REPLY TO: 2540

DATE: May 13, 1985

A. Kenneth Dunn, Director
Idaho Department of Water Resources
4055 Government Way
Coeur d'Alene, ID 83814

Dear Mr. Dunn:

This letter is to protest the granting of application number 98-7612 to appropriate water from Smith Creek at the point of diversion located on National Forest System (NFS) lands, SE1/4, NE1/4, section 1, T. 64 N., R. 3 W., as noted in the legal notice. The removal of 300 c.f.s. from January 1 to December 31 would seriously reduce flows from the point of diversion to the point of use. The flow reduction could injure National Forest purposes of maintaining favorable conditions of water flow, recreational and aesthetic values, and fish habitat.

Granting this application will interfere with the Federal Reserved Water Right on this stream. Federal Reserved rights are defined under the Organic Administration Act of 1897 (30 stat. 34, as amended) and the Multiple Use Sustained Yield Act (74 stat. 215). These rights, currently unquantified on their river, constitute a prior right on this application.

We seek maintenance flows in Smith Creek to maintain stream bank stability, to protect the riparian communities, to maintain the recreational and aesthetic values, and to maintain and enhance the fish habitat. Quantification for the National Forest Reserve Rights and needs must be established prior to the issuance of this permit.

Sincerely,

Ronald C. Lineberry
for WILLIAM E. MORDEN
Forest Supervisor

RECEIVED
MAY 1985
Department of Water Resources
Northern District Office

MICROFILMED
JUL 29 1988

May 3, 1985

To Director,
Dept. of Water Resources
4055 Gov't Way
Coeur d'Alene, ID 83814

RECEIVED
MAY 6 1985
Department of Water Resources
Northern District Office

I protest the Idaho Natural Energy, Inc. application for water rights on Smith Creek tributary to the Kootenai River.

Any power plant and/or diversion system will destroy the spawning of the Kokanee salmon in Smith Creek. Smith Creek is one of the last few suitable and available water systems for Kokanee spawning grounds. Do not give this water right to the Idaho Natural Energy, Inc.

Thank you.

Jan Rose
JAN ROSE
HCR 62 Box 140
Moyie Springs, ID

MICROFILMED
JUL 29 1988

21P/83845

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6484

April 29, 1985

Idaho Dept. of Fish & Game
2320 Government Way
Coeur d'Alene, Id. 83614

Re: 98-7612

Gentlemen:

Enclosed is information which may be of interest to your Agency relating to an application recently filed with the Department of Water Resources.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Supervisor

RGH/pms

Enclosure

MICROFILMED
JUL 29 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION

A. Kenneth Dunn
Director

Suite No. 9
4055 Government Way
Coeur d'Alene, Idaho 83814
(208) 667-6484

April 29, 1985

U. S. Forest Service
1201 Ironwood Drive
Coeur d'Alene, Id. 83814

Re: 98-7612

Gentlemen:

Enclosed is information which may be of interest to your Agency relating to an application recently filed with the Department of Water Resources.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Supervisor

RGH/pms

Enclosure

MICROFILMED
JUL 2 9 1988

98-2612

IDAHO NATURAL ENERGY, INC.

834 FALLS AVE., TWIN FALLS, ID 83301

Source: SMITH CREEK trib. to KOOTENAI RIVER

Date Filed: 04/12/1985

Diversion Pt: SENE Sec 01 T 64N R 03W

Use: POWER (300.00 CFS)

In: NWNE Sec 26 T 65N R 02W

MICROFILMED
JUL 29 1988

3/83

IDENT. NO. 98-7612

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT DATA ENTRY LOG

Initials	Date	Item
KK	4/18/85	Original form entered
		Edit Report Correct
		Date Protested
		Date of Hearing
		Date Approved/Denied (Proof due date, stage and/or status, conditions of approval, water district)
		Record Verified
		Amendment Approved
		Extension Approved
		Partial Proof
		Proof Complete
		Field Exam Received
		Field Exam Accepted and changes entered
		License Updated
		Transfer Updated
		Keypunched by State Office

SEE MICROFILM JACKET FOR ADDITIONAL INFORMATION. REPORTS ARE LOCATED ON MICROFILM.

PRINCE, YEATES & GELDZAHLER
LAWYERS
CITY CENTRE I, SUITE 900
175 EAST FOURTH SOUTH
SALT LAKE CITY, UTAH 84111
TELEPHONE (801) 524-1000

PARK CITY OFFICE
614 MAIN STREET
P. O. BOX 38
PARK CITY, UTAH 84060
(801) 649-7440

OF COUNSEL
LYLE M. WARD

TELECOPIER
(801) 524-1099

F. S. PRINCE (RETIRED)
ROBERT M. YEATES
DAVID S. GELDZAHLER
DENIS R. MORRILL
JON C. HEATON
JOHN P. ASHTON
RONALD F. SYSAK
RICHARD L. BLANCK
JOHN M. BRADLEY
D. JAY GAMBLE
STEVEN L. TAYLOR
GORDON STRACHAN
C. CRAIG LILJENQUIST
ANITA TORTI MOSELEY
J. RANDALL CALL
JOHN S. CHINDLUND
WILLIAM A. MEADERS, JR.
GEOFFREY W. MANGUM
JAMES A. BOEVERS
RONALD E. NEHRING
DAVID K. BROADBENT
J. SCOTT LUNDBERG
THOMAS J. ERBIN
PAUL J. TOSCANO
SAMUEL ALBA
ERIK STRINDBERG
ROBERT G. WING
GAIL S. REICH
BRIAN S. KING
GARY R. THORUP
CARL W. BARTON
THOMAS M. MELTON
GREGORY E. LINDLEY†
M. DAVID ECKERSLEY
DON R. SCHOW
SALLY BUCK McMINIMEE
JOSEPH A. WALKOWSKI‡

† ADMITTED IN TEXAS ONLY
‡ REGISTERED PATENT ATTORNEY

May 30, 1989

RECEIVED
MAY 31 1989
Department of Water Resources

EXPRESS COURIER

Mr. Gary Spackman
Division Chief
Water Rights Allocation Division
State of Idaho
Department of Water Resources
1301 North Orchard
Boise, Idaho 83706

Re: Smith Creek hydroelectric project/request for approval of assignment of water permits

Dear Mr. Spackman:

This firm represents Idaho Natural Energy, Inc., an Idaho corporation, and Smith Falls Hydropower, a Utah general partnership. Enclosed in accordance with Idaho law is a request that certain Idaho water permits be transferred from Idaho Natural Energy, Inc. to Smith Falls Hydropower. Our lender in this matter requires that we obtain the completed transfer in the near future in order to avoid a default under our loan documents. We would appreciate expedited consideration of this application.

We look forward to hearing from you, hopefully before the end of June.

Should you have any questions, do not hesitate to contact me.

Sincerely,

PRINCE, YEATES & GELDZAHLER

Carl W. Barton

Carl W. Barton

MICROFILMED
DEC 03 2009

CWB:cf
Enclosure
2750D

RECEIVED
MAY 31 1989
Department of Water Resources

May 26, 1989

Mr. Gary Spackman, Division Chief
Water Rights Allocation Division
State of Idaho
Department of Water Resources
1301 N. Orchard
Boise, Idaho 83706

Re: Smith Creek Hydroelectric Project - Request for Approval of Assignment of Water Permits

Dear Mr. Spackman:

Pursuant to a financing transaction for the Smith Creek Hydroelectric Project in Boundary County, Idaho (the "Project"), we respectfully request written approval pursuant to Section 42-207 of the Idaho Code by the State of Idaho, Department of Water Resources (the "Department") of the assignment by Idaho Natural Energy, Inc. ("INE") to Smith Falls Hydropower, a Utah general partnership (the "Partnership"), of INE's right, title and interest in the following permits:

(1) Water Permit No. 98-7612, issued on March 15, 1988;

(2) Permit to Alter a Stream, issued in a letter, dated March 22, 1988; and

(3) Any future permits for the appropriation of water for the Project, including that certain Water Permit for appropriation of an additional 70 cfs, the application for which is currently on file with the Department and the Permit for which is to be issued by the Department to INE in April, 1989.

All the foregoing permits are collectively referred to hereinafter as the "Water Permits").

MICROFILMED
DEC 0 3 2003

0773e

The Department is further requested to approve under the above-referenced statutory provision the collateral assignment by the Partnership of its interest in the Water Permits to Westinghouse Credit Corporation, a Delaware corporation ("Westinghouse").

The Financing Transaction

INE proposes an assignment of any and all interest of INE in the Project to the Partnership, including INE 's interest in any permits or approvals for diversion and use of water relating to the Project. Westinghouse proposes to provide construction financing for the Project. Westinghouse will have a security interest in all of the Partnership's rights, title and interest in and to the Project. Following construction of the Project, the Partnership proposes a sale and leaseback of the Project to Westinghouse to finance operation and maintenance of the Project on a permanent basis.

Documentation

The parties to the above-described transaction declare that the assignments of the Water Permits are made in good faith and not for the purposes of speculation or delay. Pursuant to Section 42-207 of the Idaho Code, copies of the following documents are submitted herewith:

1. The assignment from INE and Hydro-Flow, Inc., a Utah corporation to the Partnership (the "Assignment"), submitted herewith as Exhibit A, said exhibit being hereby incorporated herein and made a part hereof.

2. Two Mortgages, Assignment of Lease and Rents, Security Agreement and Fixture Filing by the Partnership in favor of Westinghouse (collectively, the "Mortgage"), submitted herewith as Exhibit B, said exhibit being hereby incorporated herein and made a part hereof.

3. The Mortgage, Assignment of Lease and Rents, Security Agreement and Fixture Filing by Hydro-Flow in favor of Westinghouse (the

DEC 3 2002

"Hydro-Flow Mortgage"), submitted herewith as Exhibit C, said exhibit being hereby incorporated herein and made a part hereof.

4. The Facility Lease between the Partnership and Westinghouse, submitted herewith as Exhibit D, said exhibit being hereby incorporated herein and made a part hereof.

All of the documents listed above are in draft form, but represent the material terms and final form of the documents which will be executed by the parties.

Status of the Parties After Transfer

If and when the Department shall have given its approval to the proposed transfer, assignment and mortgage of the Water Permits, and upon completion of conveyance of the Project from INE to the Partnership, the Partnership will be the Permit holder and Westinghouse will have a security interest in the Water Permits.

Please be advised that Westinghouse, by reason of the foregoing Mortgage, shall not be deemed to be under any liability of any kind to the Department under, pursuant, or in respect of the Water Permits and shall not be deemed to have assumed any of the obligations of the Partnership under the Water Permits until and unless Westinghouse assumes in writing the obligations of the Partnership under the Water Permits.

Contingent upon the final written approval by the Department of the transfer of the Water Permits, the Partnership accepts all the terms and conditions of the said Water Permits and agree to be bound thereby to the same extent as though it was the original Permit applicant and holder thereunder.

Request for Notice

Westinghouse requests that the Department furnish to Westinghouse copies of all written notices given to the Partnership with respect to any default of the Partnership thereunder simultaneously with the giving of such notice to the Partnership. Westinghouse further requests that it shall have no less than the amount of time granted to the Partnership to cure under the Water Permits within which to

DEC 0 3 2003

cure any such default, and so long as Westinghouse commences to cure or causes to be cured any such default and the elimination of any such default is carried on with due diligence and within a reasonable time, then there shall be no interruption of, interference with, or termination of the Water Permits. The Department further agrees that upon receipt of unqualified written assumption by Westinghouse, or its successors or assigns, of the Partnership's obligations under the Water Permits, Westinhouse will be substituted in the place and stead of the Partnership under the Water Permits.

Please send a copy of all notices to and correspondence with the Partnership, or its successors or assigns, to Westinghouse. The addresses for notices for the Partnership and for Westinghouse are as follows:

Partnership: Smith Falls Hydropower
c/o American Pacific Power Corp.
699 East South Temple, Suite 220
Salt Lake City, Utah 84302
Att'n: David B. Van Otten

Westinghouse: Westinghouse Credit Corporation
One Oxford Centre
Pittsburgh, Pennsylvania 15219
Att'n: Manager, Administration,
Major Industries Finance
Group

INE, the Partnership and Westinghouse respectfully request the Department to expedite its consideration of the application for approval of the transfer and assignment of the Water Permits. Such approval may take the form of a returned, executed acknowledgement and consent as provided in this letter request, or any other form required by the Department to effectuate its approval. Expedited consideration of this application would be deeply appreciated.

DEC 03 2003

Please send a copy of all notices to and correspondence with the Partnership, or its successors or assigns, to Westinghouse. The addresses for notices for the Partnership and for Westinghouse are as follows:

Partnership: Smith Falls Hydropower
c/o American Pacific Power Corp.
699 East South Temple, Suite 220
Salt Lake City, Utah 84302
Att'n: David B. Van Otten

Westinghouse: Westinghouse Credit Corporation
One Oxford Centre
Pittsburgh, Pennsylvania 15219
Att'n: Manager, Administration,
Major Industries Finance
Group

INE, the Partnership and Westinghouse respectfully request the Department to expedite its consideration of the application for approval of the transfer and assignment of the Water Permits. Such approval may take the form of a returned, executed acknowledgement and consent as provided in this letter request, or any other form required by the Department to effectuate its approval. Expedited consideration of this application would be deeply appreciated.

Please contact Carl Barton at Prince, Yeates & Geldzahler (801) 524-1000 if you have any questions or require additional information.

Respectfully submitted,

IDAHO NATURAL ENERGY, INC.
699 East South Temple
Suite 220
Salt Lake City, Utah 84102
Attn: David B. Van Otten

IDAHO NATURAL ENERGY, INC.

By: _____
David B. Van Otten
President

SMITH FALLS HYDROPOWER
c/o American Pacific
Power Corp.
699 East South Temple,
Suite 220
Salt Lake City, Utah 84302
Att'n: David B. Van Otten

SMITH FALLS HYDROPOWER

by its general partners

[illegible]

4[illegible] 3 2003

0773e

AMERICAN PACIFIC POWER CORP.

By: _____
David B. Van Otten, President

PACIFIC WEST POWER CORP.

By: _____
Gary May, President

AMERICA WEST HYDRO, INC.

By: _____
R. Fred Moss, President

WESTINGHOUSE CREDIT CORPORATION
One Oxford Centre
Pittsburgh, PA 15219

Attn: Manager,
Administration,
Major Industries
Finance Group

WESTINGHOUSE CREDIT CORPORATION

By: _____
Glenn E. Smith
Senior Investment Manager

ACKNOWLEDGED AND AGREED TO:

WATER RIGHTS ALLOCATION DIVISION
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

By: _____
Name:
Title:

RECEIVED
MAY 31 1989
Department of Water Resources

ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT (the "Agreement") is made effective the 26 day of May, 1989, between IDAHO NATURAL ENERGY, INC., an Idaho corporation ("INE"), HYDRO-FLOW, INC., a Utah corporation ("Hydro-Flow"), both of which are sometimes collectively referred to hereinafter as "Sellers," and SMITH FALLS HYDROPOWER, a Utah general partnership ("Buyer").

RECITALS

A. Hydro-Flow and INE are parties to that certain Financing Agreement ("Financing Agreement"), dated as of the 25 day of May, 1989, between and among themselves, Westinghouse Credit Corporation, Buyer, American Pacific Power Corp., a Utah corporation, Pacific West Power Corp., a Utah corporation, and America West Hydro, Inc., a Utah corporation. The Financing Agreement relates to the construction and financing of a hydroelectric power facility ("Facility") adjacent to the Smith Creek in Boundary County, Idaho.

B. Pursuant to the terms of the Financing Agreement, INE and Hydro-Flow are required to transfer and sell to Buyer those certain permits, agreements, licenses, and other assets ("Assets") as referenced below.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties hereto agree as follows:

1. (a) INE hereby agrees to sell, assign, and transfer to Buyer on or before the Construction Loan Closing Date, as said term is defined in the Financing Agreement, the Assets of INE, as more particularly listed on the attached Exhibit "A", which is incorporated herein by this reference, for $10.00 and other good and valuable consideration. The parties acknowledge that while the Assets of INE are held in its name, all costs of acquisition and development of such Assets have been borne by Hydro-Flow, which is being reimbursed for the same in connection with financing provided by Westinghouse Credit Corporation pursuant to the Financing Agreement. At the Construction Loan Closing, as defined in the Financing Agreement ("Closing"), and in return for such consideration, INE shall execute and deliver to Buyer a Bill of Sale in the form attached hereto as Exhibit "B," which is incorporated herein by this reference, conveying the Assets to Buyer. Buyer agrees that it shall assume all indebtedness and other obligations related to INE's prior acquisition and/or development of said Assets. Such indebtedness and obligations are as set forth on Exhibit "C" hereto. As set forth on the attached Exhibit "A," some of INE's Assets require governmental approval to transfer certain governmental permits to Buyer. Such governmental approval may occur after the Construction Loan Closing Date.

(b) With respect to the Transmission Line Easements referenced in the Lessee Easement Mortgage as

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referred to in the Financing Agreement ("Transmission LIne Easement"), INE agrees to execute and cause to be recorded at Closing an Assignment of Co-Grantees Rights Under Right-of-Way Easements in the form attached hereto and incorporated herein by this reference as Exhibit "D" ("Assignment of Easements"), transferring to Buyer each portion of said Transmission Line Easements then running in INE's favor. INE agrees to obtain all remaining portions of said Transmission Line Easements and to cause the same to be transferred by Buyer under the Assignment of Easements on or before the First Lease Closing Date, as defined in the Financing Agreement. INE agrees to transfer to Buyer all other assets acquired by it relating to the Facility after the Construction Loan Closing Date.

2. (a) Hydro-Flow hereby agrees to sell, assign, and transfer to Buyer on or before the Construction Loan Closing Date, as said term is defined in the Financing Agreement, the Assets of Hydro-Flow, as listed on Exhibit "E" hereto, which is incorporated herein by this reference, for $10.00 and other good and valuable consideration, a portion of which shall be allocable to the purchase of the real property ("Real Property") identified therein, and a portion of which shall be allocable to the costs incurred by Hydro-Flow on behalf of INE, in connection with INE's acquisition and development of the Assets of INE, as referenced in Section 1(a) above. At the Construction Loan Closing, as defined in the Financing Agreement, and in return for such

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consideration, Hydro-Flow shall execute and deliver to Buyer a Bill of Sale in the form attached hereto as Exhibit "F," which is incorporated herein by this reference, conveying said Assets (other than the Real Property) to Buyer. Buyer agrees that it shall assume all indebtedness and other obligations related to Hydro-Flow's prior acquisition and/or development of said Assets. Such indebtedness and obligations are as set forth on Exhibit "G" hereto.

(b) With respect to the Real Property, on or before the Construction Loan Closing, and simultaneously with Hydro-Flow's receipt of Buyer's payment for the purchase thereof, Hydro-Flow shall execute and deliver to Buyer a Warranty Deed in the form attached hereto as Exhibit "H," together with the legal description attached thereto as Exhibit "H-1" which is incorporated herein by this reference, conveying said property to Buyer, subject only to such exceptions as are attached to the Warranty Deed as Exhibit "H-2," which is incorporated herein by this reference. Buyer agrees that it shall assume all indebtedness incurred by Hydro-Flow in connection with its purchase of said Real Property and any and all other obligations of Hydro-Flow relating to said Real Property, all as set forth on Exhibit "I" hereto.

3. Sellers acknowledge and agree that prior to the Construction Loan Closing, as defined in the Financing Agreement, certain permits and licenses of INE which they have

been seeking relating to the Facility, as defined in the Financing Agreement, may be issued in the name of Buyer. The issuance of the same shall not increase the amount of the payments otherwise required to be made hereunder to Sellers.

4. The parties hereto agree to do such other and further acts as are necessary to carry out the intent of this Agreement, and to effectuate any and all transfers contemplated hereunder or under the Financing Agreement.

IN WITNESS WHEREOF, the parties hereto have set their signatures as of the day and year first above written.

IDAHO NATURAL ENERGY, INC.

By _____
Its President

HYDRO-FLOW, ~~INC~~.

By _____
Its President

SMITH FALLS HYDROPOWER
By Its General Partners:

AMERICAN PACIFIC POWER CORP.

By _____
Its President

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PACIFIC WEST POWER CORP.

By _____
Its PRESIDENT

AMERICA WEST HYDRO, INC.

By R. Frick Mosz
Its President

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EXHIBIT "A"

IDAHO NATURAL ENERGY, INC.

LIST OF ASSETS

1. License issued by Federal Energy Regulatory Commission, Project No. 8436-001 (Agency approval to transfer required).

2. Water Rights Permit issued by the Department of Water Resources, State of Idaho, Permit No. 98-7612 (Agency approval to transfer required).

3. Special Use Permit issued by Bonners Ferry Ranger District Idaho Panhandle National Forest, dated May 12, 1988, for the Smith Creek Hydroelectric Project (Agency approval to transfer required).

4. Conditional Use Permit issued by Boundary County Commission, dated September 1, 1987 (Agency approval to transfer required).

5. Water Quality Permit issued by State of Idaho, dated December 18, 1985 (Agency approval to transfer required.)

6. Army Corps 404 Permit issued by Department of the Army, dated January 6, 1988, No. 071-OYC-4-003180.

7. Qualifying Status Permit to be issued by Federal Energy Regulatory Commission, pursuant to Docket No. QF84-209-001 (Agency approval to transfer required).

8. Permit to Alter Stream issued by State of Idaho Department of Water Resources, dated March 22, 1988 (Agency approval to transfer required).

9. Department of Energy Finding of No Significant Impact, dated November 4, 1988.

10. Environmental Assessment, Smith Creek Hydroelectric Project, Office of Power Sales Administration, November, 1988.

11. In Stream Flow Incremental Method Study.

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12. Forest Service Collection Agreement between Idaho Natural Energy, Inc. and idaho Panhandle National Forest, USDA-Forest Service, dated February 23, 1989 (Agency approval to transfer required).

13. Transmission Line Easements referred to in the Lessee Easement Mortgage as referenced in the Financing Agreement.

14. Power Sales and Right to Purchase Agreement between Eugene Water and Electric Board, Hydro-Flow, Inc., and Idaho Natural Energy, Inc., dated October 28, 1988.

15. Performance Bond for Equipment Purchase together with Dual Obligee Endorsements issued by the Continental Insurance Company, Bond No. 1353562.

16. All other assets of Idaho Natural Energy, Inc., whether tangible or intangible, relating to the Facility.

EXHIBIT "B"
BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS:

The undersigned, Idaho Natural Energy, Inc., an Idaho corporation ("Grantor"), for and in consideration of the sum of Ten Dollars ($10.00), and other good and valuable consideration, to Grantor in hand paid by Smith Falls Hydropower, a Utah general partnership ("Grantee"), the receipt of which is hereby acknowledged, has assigned, transferred, bargained, sold and conveyed, and, by these presents, does assign, transfer, bargain, sell and convey unto the said Grantee all of Grantor's right, title and interest in and to the following described property, all of which is related to the construction of a hydroelectric power facility ("Facility") adjacent to the Smith Creek in Boundary County, Idaho:

1. License issued by Federal Energy Regulatory Commission, Project No 8436-001 (Agency approval to transfer required).

2. Water Rights Permit issued by the Department of Water Resources, State of Idaho, Permit No. 98-7612 (Agency approval to transfer required).

3. Special Use Permit issued by Bonners Ferry Ranger District Idaho Panhandle National Forest, dated May 12, 1988, for the Smith Creek Hydroelectric Project (Agency approval to transfer required).

4. Conditional Use Permit issued by Boundary County Commission, dated September 1, 1987 (Agency approval to transfer required).

5. Water Quality Permit issued by State of Idaho, dated December 18, 1985 (Agency approval to transfer required).

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6. Army Corps 404 Permit issued by Department of the Army, dated January 6, 1988, No. 071-OYC-4-003180.

7. Qualifying Status Permit to be issued by Federal Energy Regulatory Commission, pursuant to Docket No. QF84-209-001 (Agency to transfer approval required).

8. Permit to Alter Stream issued by State of Idaho Department of Water Resources, dated March 22, 1988 (Agency approval to transfer required).

9. Department of Energy Finding of No SIgnificant Impact, dated November 4, 1988.

10. Environmental Assessment, Smith Creek Hydroelectric Project, Office of Power Sales Administration, November 1988.

11. In Stream Flow Incremental Method Study.

12. Forest Service Collection Agreement between Idaho Natural Energy, Inc. and Idaho Panhandle National Forest, USDA-Forest Service, dated February 23, 1989 (Agency approval to transfer required).

13. Power Sales and Right to Purchase Agreement between Eugene Water and Electric Board, Hydro-Flow, Inc., and Idaho Natural Energy, Inc., dated October 28, 1988.

14. Performance Bond for Equipment Purchase together with Dual Obligee Endorsements issued by the Continental Insurance Company, bond No. 1353562.

15. All other assets of Idaho Natural Energy, Inc., whether tangible or intangible, relating to the Facility.

Grantor hereby warrants title to all of the above-described property, and that it has the right to assign the same except as qualified herein.

EXECUTED this ____ day of _____, 1989.

GRANTOR:
IDAHO NATURAL ENERGY, INC.,
an Idaho corporation

By_____
Its_____

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ACCEPTED:

GRANTEE:

SMITH FALLS HYDROPOWER, a Utah general partnership
By Its General Partners:

AMERICAN PACIFIC POWER CORP., a Utah corporation

By_____
Its_____

PACIFIC WEST POWER CORP., a Utah corporation

By_____
Its_____

AMERICA WEST HYDRO, INC., a Utah corporation

By_____
Its_____

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EXHIBIT "C"

IDAHO NATURAL ENERGY, INC.
INDEBTEDNESS AND OBLIGATIONS
ASSUMED BY SMITH FALLS HYDROPOWER

1. 1989 FERC Annual Charge of $18,337.

2. Obligations of Idaho Natural Energy, Inc. under the following Agreements:

   (a) Forest Service Collection Agreement between Idaho Natural Energy, Inc. and idaho Panhandle National Forest, USDA-Forest Service, dated February 23, 1989 (Agency approval to transfer required).

   (b) Power Sales and Right to Purchase Agreement between Eugene Water and Electric Board, Hydro-Flow, Inc., and Idaho Natural Energy, Inc., dated October 28, 1988.

EXHIBIT "D"

WHEN RECORDED, MAIL TO:
Carl W. Barton, Esq.
Prince, Yeates & Geldzahler
175 East Fourth South, Suite 900
Salt Lake City, Utah 84111

Space Above For Recorder's Use Only

ASSIGNMENT OF CO-GRANTEE'S RIGHTS
UNDER
RIGHT-OF-WAY EASEMENTS

THIS ASSIGNMENT is made and entered into this _____ day of May, 1989, by IDAHO NATURAL ENERGY, INC., an Idaho corporation (herein called "Assignor"), whose address is 699 East South Temple, Suite 220, Salt Lake City, Utah 84102, to SMITH FALLS HYDROPOWER, a Utah general partnership (herein called "Assignee"), whose address is 699 East South Temple, Suite 220, Salt Lake City, Utah 84102, with reference to the following facts:

R E C I T A L S

A. Assignor is the co-grantee with Northern Lights, Inc., a cooperative corporation, of certain rights more particularly set forth in those certain Right-of-Way Easements (herein called the "Easements"), more particularly described on Exhibit A attached hereto and by this reference made a part hereof.

B. Assignor desires to assign all of its rights under the Easements to Assignee, and Assignee is willing to accept said Assignment.

A S S I G N M E N T

NOW, THEREFORE, for Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor does hereby assign, transfer, set over and convey unto Assignee, its successors and assigns, all of Assignor's right, title and interest, as co-grantee, in and to and arising under the Easements.

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IN WITNESS WHEREOF, Assignor has executed this Assignment as of the day and year first above-written

IDAHO NATURAL ENERGY, INC., an Idaho corporation

By _____
President

By _____
Secretary

STATE OF _____)
: ss.
COUNTY OF _____)

On this _____ day of _____, in the year _____, before me _____, a Notary Public, personally appeared _____ and _____, known or identified to me to be the President and Secretary, respectively, of the corporation that executed the instrument, and acknowledged to me that such Corporation executed the same.

_____
NOTARY PUBLIC
Residing at:_____

My Commission Expires:

_____

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EXHIBIT "E"

HYDRO-FLOW, INC.

LIST OF ASSETS

1. Engineering Agreement between Hydro-Flow, Inc. and Sorenson Engineering, date April 22, 1988, and as amended April 17, 1989.

2. SSR Engineering Agreement (Electrical System Design and Construction), between SSR Engineers, Inc. and Hydro-Flow, Inc., dated October 18, 1988.

3. Hydropower generator Contract between Hydro-Flow, Inc. and Bouvier Hydropower, dated as of November 14, 1988.

4. Mead Real Property (See Exhibit "E-1" hereto for legal description).

5. Power Sales and Right to Purchase Agreement between Eugene Water & Electric Board, Hydro-Flow, Inc., and Idaho Natural Energy, Inc., dated as of October 28, 1988.

6. Materials Contract between Hydro-Flow, Inc. ACPC, Inc., and Alcoa, dated as of January 6, 1989.

7. Materials Contract between Hydro-Flow, Inc. and Lapp Insulator Company, dated as of January 6, 1989.

8. Materials Contract between Hydro-Flow, Inc. and Montana Electric Supply, dated as of January 6, 1989.

9. Materials Contract between Hydro-Flow, inc. and Taylor Lumber and Treating, Inc., dated as of December 29, 1988.

10. Performance bond for Equipment Purchase together with Dual Obligee Endorsement issued by the Continental Insurance Company, Bond No. 1353562.

EXHIBIT E-1

SCHEDULE II

DESCRIPTION OF FEE PROPERTY

A tract of land in the West Half of the Northeast Quarter (W 1/2 NE 1/4) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho; more particularly described as follows:

Beginning at a point on the north line of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), which is North 89 degrees 46' 32" East, 476.29 feet from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4); thence North 00 degrees 13' 23" West, 175.00 feet; thence North 89 degrees 46' 32" East, 313.48 feet; thence South 18 degrees 13' 11" East, 184.00 feet; thence South 12 degrees 40' 05" East, 49.72 feet, to the center of Smith Creek; thence up the center of Smith Creek, South 28 degrees 20' 26" West, 127.92 feet; thence leaving the centerline of the creek, South 89 degrees 46' 32" West, 319.88 feet; thence North 00 degrees 13' 23" West, 160.90 feet, to the TRUE POINT OF BEGINNING.

TOGETHER WITH an easement 100 feet in width for access and utilities through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26); said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the north line of the above described property which is South 89 degrees 46' 32" West, 52.57 feet from the northeast corner of the above described property; thence North 18 degrees 13' 13" West, 27.77 feet; thence North 62 degrees 49' 13" West, 68.33 feet; thence North 03 degrees 42' 02" West, 115.88 feet; thence North 25 degrees 59' 34" West, 116.34 feet; thence North 42 degrees 21' 30" East, 130.65 feet; thence North 49 degrees 57' 12" East, 106.56 feet; thence North 01 degrees 39' 14" West, 132.54 feet; thence North 38 degrees 40' 06" West, 96.06 feet; thence North 24 degrees 43' 39" East, 138.37 feet; thence North 07 degrees 38' 20" East, 140.62 feet; thence North 43 degrees 47' 47" East, 220.51 feet; thence North 85 degrees 12' 25" East, 165.20 feet to the westerly right of way of the county road known as the West Side road, and the terminus of this easement; with the sidelines of said easement to intersect the county road right of way and adjacent boundaries.

(continued)

TOGETHER WITH an easement 100 feet in width for a pipeline through the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26); said easement being 50 feet on each side of the following described centerline:

Beginning at a point on the west line of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), which is South 00 degrees 18' 07" East, 249.21 feet from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4); thence North 69 degrees 29' 36" East, 507.41 feet, to the west boundary of the above described property with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

EXHIBIT "F"

BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS:

The undersigned, Hydro-Flow, Inc., a Utah corporation ("Grantor"), for $10.00 and other good and valuable consideration, to Grantor in hand paid by Smith Falls Hydropower, a Utah general partnership ("Grantee"), the receipt of which is hereby acknowledged, has assigned, transferred, bargained, sold and conveyed, and by these presents does assign, transfer, bargain, sell and convey, unto the said Grantee all of Grantor's right, title and interest in and to the construction of a hydroelectric power facility ("Facility") in Boundary County, Idaho:

1. Engineering Agreement between Hydro-Flow, Inc. and Sorenson Engineering, dated April 22, 1988, and as amended April 17, 1989.

2. SSR Engineering Agreement (Electrical System Design and Construction), between SSR Engineers, Inc. and Hydro-Flow, Inc., dated October 18, 1988.

3. Hydropower Generator Contract between Hydro-Flow, Inc. and Bouvier Hydropower, dated as of November 14, 1988.

4. Power Sales and Right to Purchase Agreement between Eugene Water & Electric Board, Hydro-Flow, inc., and Idaho Natural Energy, Inc., dated as of October 28, 1988.

5. Materials Contract between Hydro-Flow, Inc., ACPC, Inc., and Alcoa, dated as of January 6, 1989.

6. Materials Contract between Hydro-Flow, Inc. and Lapp Insulator Company, dated as of January 6, 1989.

7. Materials Contract between Hydro-Flow, Inc. and Montana Electric Supply, dated as of January 6, 1989.

8. Materials Contract between Hydro-Flow, Inc. and Taylor Lumber and Treating, Inc., dated as of December 29, 1988.

9. Performance Bond for Equipment Purchase together with Dual Obligee Endorsements issued by the Continental Insurance Company, Bond No. 1353562.

10. All other assets of Hydro-Flow, Inc., whether tangible or intangible, relating to the Facility, excepting that portion of the Mead Property (the entire Mead Property is described on Exhibit "F-1" hereto), described on Exhibit "F-2" hereto and leased to Glea J. Mead in accordance with that certain Lease, dated November 4, 1988, between Glea J. Mead, as tenant, and Hydro-Flow, Inc. as landlord.

Except as provided below, Grantor hereby warrants title to all of the above-described property, and that it has the right to assign the same except as qualified hereinabove. With respect to the Mead Real Property, title shall be subject to such exceptions as are set forth in that certain Title Insurance Policy issued by Chicago Title Insurance Company of Idaho, Policy No. 13-0187-92-000053.

EXECUTED this _____ day of _____, 1989.

GRANTOR:

HYDRO-FLOW, INC.

By _____
Its _____

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ACCEPTED:

GRANTEE:

SMITH FALLS HYDROPOWER
By Its General Partners:

AMERICAN PACIFIC POWER CORP.

By _____
Its _____

PACIFIC WEST POWER CORP.

By _____
Its _____

AMERICA WEST HYDRO, INC.

By _____
Its _____

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The real property described in the attached document is located in Boundary County, Idaho, and is more particularly described as follows:

The Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) encompassing an area of approximately 39.55 acres, AND a tract of land in the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), both of Section Twenty-Six (26), Township Sixty-five (65) North, Range Two (2) West of the Boise Meridian, Boundary County, Idaho; said tract being more particularly described as follows:

Beginning at the North Quarter (1/4) Section Corner of said Section 26; thence along the north line of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said section, N 89° 37'58" E, 1,312.18 feet, to the northeast corner of said quarter; thence along the east line of said quarter, S 00°23'43"E, 790.87 feet, to the center of Smith Creek; thence along the center of said creek for the following two (2) courses: S 46°49'48" West, 269.42 feet; thence South 33°31'15" West, 406.90 feet, to the south line of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section 26; thence along said south line, S 89°46'32" W, 889.74 feet to the southwest corner of said quarter; thence along the west line of said quarter, North 00°18'07" West, 1,309.16 feet to the TRUE POINT OF BEGINNING, encompassing an area of approximately 36.69 acres.

RESERVING UNTO THE GRANTOR her heirs and or assigns that certain domestic water right known as #98-4021, more particularly described in a letter dated September 11, 1983 from the Idaho State Department of Water Administration (Idaho Water Resources).

EXHIBIT A

EXHIBIT "F-2"

DESCRIPTION OF FENCE LINE & TERRITORY FOR MEAD

Start at end of shed standing on road north facing south. On east side of road approximately 60' from end of shed north go across to boundary line (fence); go south to creek. This is SE area (SE); at end of shed approximately 60' from shed northwest facing south on west side of road go straight across to bottom of Hydro-Flow's road, then south (this road will angle somewhat) to waterfall. This area is W-S (NW & SW). Waterfall down creek to East boundary

Fence will be built across north end, east, west, ~~also southeast~~.

EXHIBIT "F-2"

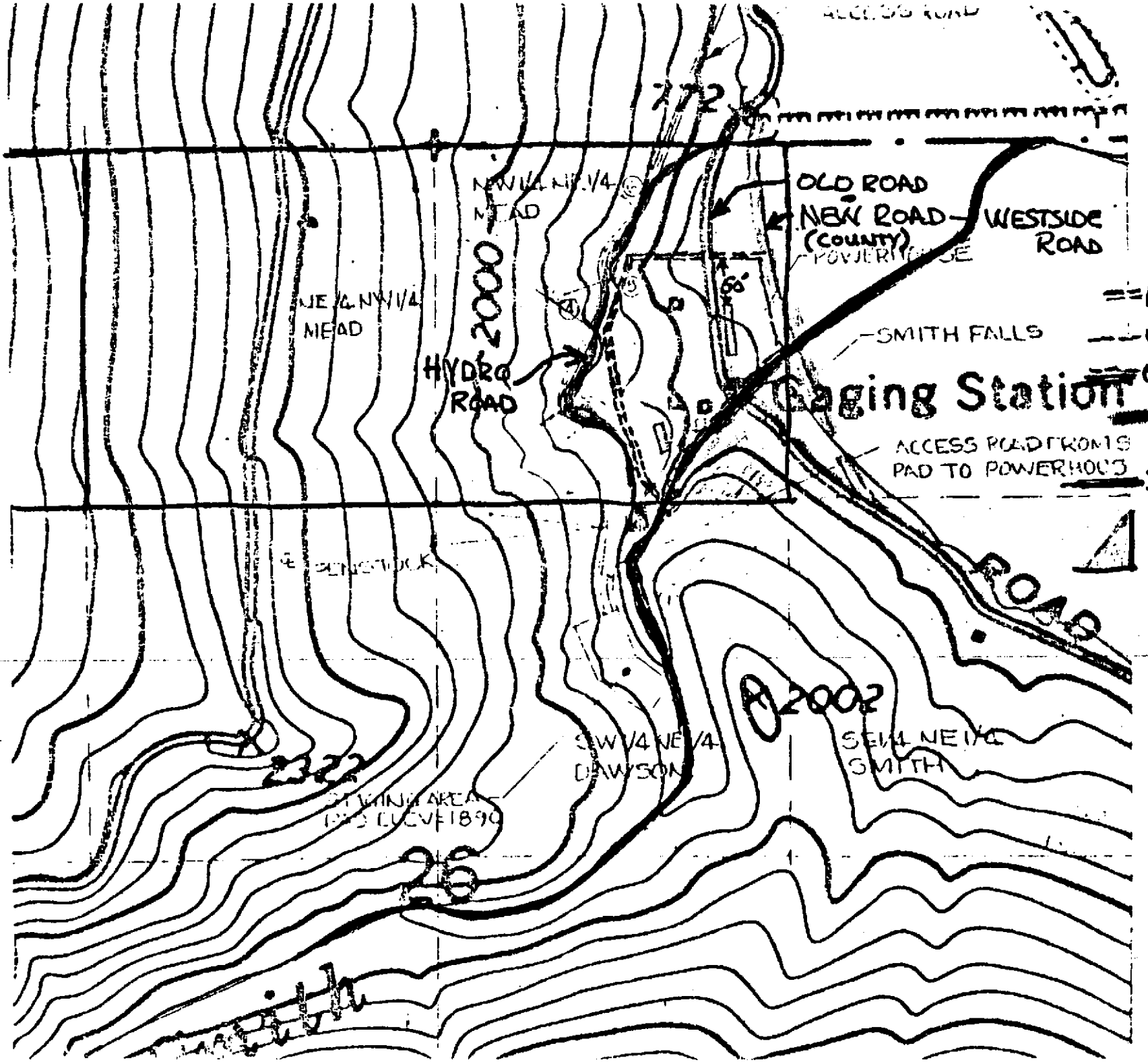

OLD ROAD
NEW ROAD (COUNTY)
WESTSIDE ROAD
NW1/4 NE1/4 MEAD
NE1/4 NW1/4 MEAD
2000
HYDRO ROAD
SMITH FALLS
Gaging Station
ACCESS ROAD FROM S PAD TO POWERHOUS
ROADS
SMITH CR
EXCLUD PROPER
ROAD
2002
SW1/4 NE1/4 DAWSON
SE1/4 NE1/4 SMITH

EXHIBIT "G"

HYDRO-FLOW, INC.
INDEBTEDNESS AND OBLIGATIONS
ASSUMED BY SMITH FALLS HYDROPOWER

1. 2,641,500.60 owing to BayBank for payoff of Interim Construction Loan.

2. $315,000 owing to Smith Creek Hydroelectric Group pursuant to Smith Creek Hydroelectric Group Partnership Agreement.

3. Mead Property Obligation ("See Exhibit "I").

4. $290,447.26 owing to Bingham Engineering.

5. Obligation of Hydro-Flow, Inc. under the following Agreements:

   a. Engineering Agreement between Hydro-Flow, Inc. and Sorenson Engineering, dated April 22, 1988, and as amended April 17, 1989.

   b. SSR Engineering Agreement (Electrical System Design and Construction), between SSR Engineers, Inc. and Hydro-Flow, Inc., dated October 18, 1988.

   c. Hydropower Generator Contract between Hydro-Flow, Inc. and Bouvier Hydropower, dated as of November 14, 1988.

   d. Power Sales and Right to Purchase Agreement between Eugene Water & Electric Board, Hydro-Flow, inc., and Idaho Natural Energy, Inc., dated as of October 28, 1988.

   e. Materials Contract between Hydro-Flow, Inc., ACPC, Inc., and Alcoa, dated as of January 6, 1989.

   f. Materials Contract between Hydro-Flow, Inc. and Lapp Insulator Company, dated as of January 6, 1989.

   g. Materials Contract between Hydro-Flow, Inc. and Montana Electric Supply, dated as of January 6, 1989.

h. Materials Contract between Hydro-Flow, Inc. and Taylor Lumber and Treating, Inc., dated as of December 29, 1988.

EXHIBIT H

WARRANTY DEED
(Penstock)

For good and valuable consideration, the receipt of which is hereby acknowledged, Hydro-Flow, Inc., a Utah corporation, as grantor, does hereby grant, bargain, sell and convey unto Smith Falls Hydropower, a Utah general partnership, as grantee, whose current address is 699 East South Temple in Salt Lake City, Utah, the following described premises, in Boundary County, Idaho, to-wit:

> That certain real property more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter sometimes called the "Dominant Tenement);

TOGETHER WITH the following perpetual, nonexclusive easements, in, under, over, along, upon, through and across:

> That certain real property situated in the County of Boundary, State of Idaho, more particularly described on Exhibit "B" attached hereto and by this reference made a part hereof (hereinafter called the "Servient Tenement");

for the benefit of and appurtenant to the Dominant Tenament:

A NONEXCLUSIVE EASEMENT 100 feet in width for a road over, along, across and upon the Servient Tenement to install, use, keep, maintain, repair and replace, as required, pedestrian and vehicular ingress to and egress from the Dominant Tenement and in, under, over, through, along and across the Servient Tenement to install, use, keep, maintain, repair and replace, as required, utility lines, pipes and conduits of all types for the benefit of and appurtenant to the Dominant Tenement, which nonexclusive easement is more particularly described as follows on the attached Exhibit "C," which is incorporated herein by this reference.

A NONEXCLUSIVE EASEMENT 100 feet in width in, under, over, through, along, and across the Servient Tenement to install, use, keep, maintain, repair, and replace, as required, one or more water pipes or penstocks and all appurtenances thereto through the Southwest Quarter of the Northeast Quarter of Section 26, Range 2 West of the Boise Meridian, Boundary County, Idaho, and more particularly described on the attached Exhibit "D," which is incorporated herein by this reference.

A NONEXCLUSIVE EASEMENT 100 feet in width, in, under, over, through, along, and across the Servient Tenement to install, use, keep, maintain, repair, and replace, as required, one or more electrical transmission lines and all appurtenances thereto through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26), said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the north line of said Section Twenty-six (26) which is North 89 degrees 37' 58" East, 643.23 feet, from the northwest corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), thence South 00 degrees 26' 19" West, 1135.84 feet to the north boundary of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

THIS ADDITION WAS AUTHORIZED AND DIRECTED BY THE SIGNATORS.

RESERVING UNTO GRANTOR, its successors and assigns in interest in the Servient Tenement, the right to use the Servient Tenement for any and all purposes that do not unreasonably interfere with the use thereof by Grantee, its successors and assigns in interest in the Dominant Tenement, for the purposes herein specified.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee that it is the owner in fee simple of said premises; that the premises are free from all encumbrances, except for the exceptions identified on the attached Exhibit "E," which is incorporated herein by this reference, and that it will warrant and defend the same from all lawful claims whatsoever.

GRANTOR:

HYDRO-FLOW, INC.,
a Utah corporation

By _____
Its President

STATE OF Utah)
: ss.
COUNTY OF Salt Lake)

On this 24th day of May, 1989, before me, the undersigned Notary Public, personally appeared David VanOtten, known or identified to me to be the president of Hydro-Flow, Inc., 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.

_____
NOTARY PUBLIC
Residing at: Salt Lake County

My Commission Expires:
April 27, 1990

STATE OF IDAHO)
: ss.
COUNTY OF _____)

I HEREBY CERTIFY that this instrument was filed for record at the request of _____ at _____ minutes past _____ o'clock __.M., this ____ day of _____, 19__, in my office, and duly recorded in Book _____ of Deeds at page _____.

_____
Ex-Officio Recorder

By _____
Deputy

Fees: $_____.

Mail To: _____

5397L
052289

EXHIBIT "I"

MEAD PROPERTY OBLIGATIONS

Purchase obligations owing to Glea J. Mead pursuant to Purchase Agreement dated October 14, 1988 signed by Hydro-Flow, Inc. as Buyer and Glea J. Mead as Seller and Promissory Note dated November 4, 1988 in the original principal amount of $342,000.00 executed by Hydro-Flow, Inc. as Maker.

EXHIBIT "F-1"

SCHEDULE II

DESCRIPTION OF HYDRO-FLOW PARCEL

TRACT I .

A tract of land in the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) and the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho; more particularly described as follows:

Beginning at the North Quarter corner of said Section Twenty-six (26); thence, along the north line of the section, North 89 degrees 37' 50" East, 1312.18 feet, to the northeast corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4); thence, along the east line of said Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), South 00 degrees 23' 42" East, 790.87 feet to the center of Smith Creek; thence up the center of Smith Creek, South 46 degrees 49' 48" West, 269.42 feet; thence South 33 degrees 31' 15" West, 406.50 feet, to the south line of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4); thence along said south line south 89 degrees 46' 32" West, 43.12 feet; thence North 18 degrees 13' 11" West, 184.00 feet; thence South 89 degrees 46' 32" West, 313.48 feet; thence South 00 degrees 13' 23" East, 175.00 feet; thence South 89 degrees 46' 32" West, 476.29 feet, to the southeast corner of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4); thence North 89 degrees 53' 40" West, 1317.76 feet; thence, along the west line of the Northeast Quarter of the Northwest Quarter, North 00 degrees 02' 06" East, 1313.47 feet, to the north line of Section Twenty-six (26); thence, along the north line of the Section South 89 degrees 42' 17" East, 1310.08 feet, to the TRUE POINT OF BEGINNING.

(continued)

SUBJECT to an easement 100 feet in width for access and utilities through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26); said strip being 50 feet on each side of the following described centerline:

Commencing at the southwest corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26); thence North 00 degrees 18' 06" West, along the west line of said Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), 174.01 feet; thence North 89 degrees 41' 54" East, 737.43 feet to the TRUE POINT OF BEGINNING; thence North 18 degrees 13' 13" West, 27.77 feet; thence North 62 degrees 49' 13" West, 68.33 feet; thence North 03 degrees 42' 02" West, 115.88 feet; thence North 25 degrees 59' 34" West, 116.34 feet; thence North 42 degrees 21' 30' East, 130.65 feet; thence North 49 degrees 57' 12" East, 106.56 feet; thence North 01 degrees 39' 14" West, 132.54 feet; thence North 38 degrees 40' 06" West, 96.06 feet; thence North 24 degrees 43' 39" East, 138.37 feet; thence North 07 degrees 38' 20" East, 140.62 feet; thence North 43 degrees 47' 47" East, 220.51 feet; thence North 70 degrees 48' 45" East, 185.01 feet to the westerly right of way of the county road known as the West Side road, and the terminus of this easement; with the sidelines of said easement to intersect the county road right of way and adjacent boundaries.

SUBJECT to an easement 100 feet in width for an electrical transmission line through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26), said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the north line of said Section Twenty-six (26) which is North 89 degrees 37' 58" East, 643.23 feet, from the northwest corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), thence South 00 degrees 26' 19" West, 1135.84 feet to the north boundary of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

(continued)

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 22, 1989

Carl Barton, Attorney at Law
City Centre I, Suite 900
175 East 4th South
Salt Lake City, UT 84111

RE: Smith Creek Hydroelectric Project Request for Approval of Assignment of Water Permits Nos. 98-7612 and 98-7650

Dear Mr. Barton:

I have reviewed the information which you sent to me again, and the letter of transmittal that accompanied the information. I will address each one of the documents as you referred to them in your letter dated July 19, 1989.

Exhibit "A", Assignment from INE and Hydro-Flow Inc. to Smith Falls Hydropower

Exhibit A appears to be an assignment agreement that is identical to the assignment agreement submitted earlier. It is dated May 26. Exhibits A and B of the document refer only to permit no. 98-7612. Without further documentation, the Department will only recognize the assignment to Smith Falls Hydropower of permit no. 98-7612.

Exhibit "B", All Inclusive Mortgage in Favor of Westinghouse from Smith Falls Hydropower

The definitions in the mortgage agreement define "water permits" as the permits identified in schedule no. V of the financing agreement. A copy of the financing agreement was sent to me, but a copy of schedule no. V was not included.

Exhibits "C" and "D"

The mortgage issued by Hydro-Flow is not necessary for review, since Hydro-Flow has assigned its interest in the permits to the partnership (assuming 98-7650 has been assigned). In addition, the facility lease is not necessary for review at the present time except as it may refer to the water permits generally.

The two questions that I raised in my last letter still remain unresolved. When additional materials are submitted, I ask that they be reviewed carefully and that discretion be exercised to prevent submittal of excessive volume. While you probably are unfamiliar with our requirements, I have had difficulty interpreting the large number of documents I have received.

Respectfully,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

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ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT (the "Agreement") is made effective the 26 day of May, 1989, between IDAHO NATURAL ENERGY, INC., an Idaho corporation ("INE"), HYDRO-FLOW, INC., a Utah corporation ("Hydro-Flow"), both of which are sometimes collectively referred to hereinafter as "Sellers," and SMITH FALLS HYDROPOWER, a Utah general partnership ("Buyer").

RECITALS

A. Hydro-Flow and INE are parties to that certain Financing Agreement ("Financing Agreement"), dated as of the 25 day of May, 1989, between and among themselves, Westinghouse Credit Corporation, Buyer, American Pacific Power Corp., a Utah corporation, Pacific West Power Corp., a Utah corporation, and America West Hydro, Inc., a Utah corporation. The Financing Agreement relates to the construction and financing of a hydroelectric power facility ("Facility") adjacent to the Smith Creek in Boundary County, Idaho.

B. Pursuant to the terms of the Financing Agreement, INE and Hydro-Flow are required to transfer and sell to Buyer those certain permits, agreements, licenses, and other assets ("Assets") as referenced below.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties hereto agree as follows:

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EXHIBIT "A"

1. (a) INE hereby agrees to sell, assign, and transfer to Buyer on or before the Construction Loan Closing Date, as said term is defined in the Financing Agreement, the Assets of INE, as more particularly listed on the attached Exhibit "A", which is incorporated herein by this reference, for $10.00 and other good and valuable consideration. The parties acknowledge that while the Assets of INE are held in its name, all costs of acquisition and development of such Assets have been borne by Hydro-Flow, which is being reimbursed for the same in connection with financing provided by Westinghouse Credit Corporation pursuant to the Financing Agreement. At the Construction Loan Closing, as defined in the Financing Agreement ("Closing"), and in return for such consideration, INE shall execute and deliver to Buyer a Bill of Sale in the form attached hereto as Exhibit "B," which is incorporated herein by this reference, conveying the Assets to Buyer. Buyer agrees that it shall assume all indebtedness and other obligations related to INE's prior acquisition and/or development of said Assets. Such indebtedness and obligations are as set forth on Exhibit "C" hereto. As set forth on the attached Exhibit "A," some of INE's Assets require governmental approval to transfer certain governmental permits to Buyer. Such governmental approval may occur after the Construction Loan Closing Date.

(b) With respect to the Transmission Line Easements referenced in the Lessee Easement Mortgage as

referred to in the Financing Agreement ("Transmission LIne Easement"), INE agrees to execute and cause to be recorded at Closing an Assignment of Co-Grantees Rights Under Right-of-Way Easements in the form attached hereto and incorporated herein by this reference as Exhibit "D" ("Assignment of Easements"), transferring to Buyer each portion of said Transmission Line Easements then running in INE's favor. INE agrees to obtain all remaining portions of said Transmission Line Easements and to cause the same to be transferred by Buyer under the Assignment of Easements on or before the First Lease Closing Date, as defined in the Financing Agreement. INE agrees to transfer to Buyer all other assets acquired by it relating to the Facility after the Construction Loan Closing Date.

2. (a) Hydro-Flow hereby agrees to sell, assign, and transfer to Buyer on or before the Construction Loan Closing Date, as said term is defined in the Financing Agreement, the Assets of Hydro-Flow, as listed on Exhibit "E" hereto, which is incorporated herein by this reference, for $10.00 and other good and valuable consideration, a portion of which shall be allocable to the purchase of the real property ("Real Property") identified therein, and a portion of which shall be allocable to the costs incurred by Hydro-Flow on behalf of INE, in connection with INE's acquisition and development of the Assets of INE, as referenced in Section 1(a) above. At the Construction Loan Closing, as defined in the Financing Agreement, and in return for such

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consideration, Hydro-Flow shall execute and deliver to Buyer a Bill of Sale in the form attached hereto as Exhibit "F," which is incorporated herein by this reference, conveying said Assets (other than the Real Property) to Buyer. Buyer agrees that it shall assume all indebtedness and other obligations related to Hydro-Flow's prior acquisition and/or development of said Assets. Such indebtedness and obligations are as set forth on Exhibit "G" hereto.

(b) With respect to the Real Property, on or before the Construction Loan Closing, and simultaneously with Hydro-Flow's receipt of Buyer's payment for the purchase thereof, Hydro-Flow shall execute and deliver to Buyer a Warranty Deed in the form attached hereto as Exhibit "H," together with the legal description attached thereto as Exhibit "H-1" which is incorporated herein by this reference, conveying said property to Buyer, subject only to such exceptions as are attached to the Warranty Deed as Exhibit "H-2," which is incorporated herein by this reference. Buyer agrees that it shall assume all indebtedness incurred by Hydro-Flow in connection with its purchase of said Real Property and any and all other obligations of Hydro-Flow relating to said Real Property, all as set forth on Exhibit "I" hereto.

3. Sellers acknowledge and agree that prior to the Construction Loan Closing, as defined in the Financing Agreement, certain permits and licenses of INE which they have

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been seeking relating to the Facility, as defined in the Financing Agreement, may be issued in the name of Buyer. The issuance of the same shall not increase the amount of the payments otherwise required to be made hereunder to Sellers.

4. The parties hereto agree to do such other and further acts as are necessary to carry out the intent of this Agreement, and to effectuate any and all transfers contemplated hereunder or under the Financing Agreement.

IN WITNESS WHEREOF, the parties hereto have set their signatures as of the day and year first above written.

IDAHO NATURAL ENERGY, INC.

By _____
Its _____

HYDRO-FLOW, ~~INC~~.

By _____
Its _____

SMITH FALLS HYDROPOWER
By Its General Partners:

AMERICAN PACIFIC POWER CORP.

By _____
Its _____

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PACIFIC WEST POWER CORP.

By _____
Its PRESIDENT

AMERICA WEST HYDRO, INC.

By R. Jack Moss
Its President

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EXHIBIT "A"

IDAHO NATURAL ENERGY, INC.

LIST OF ASSETS

1. License issued by Federal Energy Regulatory Commission, Project No. 8436-001 (Agency approval to transfer required).

2. Water Rights Permit issued by the Department of Water Resources, State of Idaho, Permit No. 98-7612 (Agency approval to transfer required).

3. Special Use Permit issued by Bonners Ferry Ranger District Idaho Panhandle National Forest, dated May 12, 1988, for the Smith Creek Hydroelectric Project (Agency approval to transfer required).

4. Conditional Use Permit issued by Boundary County Commission, dated September 1, 1987 (Agency approval to transfer required).

5. Water Quality Permit issued by State of Idaho, dated December 18, 1985 (Agency approval to transfer required.)

6. Army Corps 404 Permit issued by Department of the Army, dated January 6, 1988, No. 071-OYC-4-003180.

7. Qualifying Status Permit to be issued by Federal Energy Regulatory Commission, pursuant to Docket No. QF84-209-001 (Agency approval to transfer required).

8. Permit to Alter Stream issued by State of Idaho Department of Water Resources, dated March 22, 1988 (Agency approval to transfer required).

9. Department of Energy Finding of No Significant Impact, dated November 4, 1988.

10. Environmental Assessment, Smith Creek Hydroelectric Project, Office of Power Sales Administration, November, 1988.

11. In Stream Flow Incremental Method Study.

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12. Forest Service Collection Agreement between Idaho Natural Energy, Inc. and idaho Panhandle National Forest, USDA-Forest Service, dated February 23, 1989 (Agency approval to transfer required).

13. Transmission Line Easements referred to in the Lessee Easement Mortgage as referenced in the Financing Agreement.

14. Power Sales and Right to Purchase Agreement between Eugene Water and Electric Board, Hydro-Flow, Inc., and Idaho Natural Energy, Inc., dated October 28, 1988.

15. Performance Bond for Equipment Purchase together with Dual Obligee Endorsements issued by the Continental Insurance Company, Bond No. 1353562.

16. All other assets of Idaho Natural Energy, Inc., whether tangible or intangible, relating to the Facility.

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EXHIBIT "B"
BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS:

The undersigned, Idaho Natural Energy, Inc., an Idaho corporation ("Grantor"), for and in consideration of the sum of Ten Dollars ($10.00), and other good and valuable consideration, to Grantor in hand paid by Smith Falls Hydropower, a Utah general partnership ("Grantee"), the receipt of which is hereby acknowledged, has assigned, transferred, bargained, sold and conveyed, and, by these presents, does assign, transfer, bargain, sell and convey unto the said Grantee all of Grantor's right, title and interest in and to the following described property, all of which is related to the construction of a hydroelectric power facility ("Facility") adjacent to the Smith Creek in Boundary County, Idaho:

1. License issued by Federal Energy Regulatory Commission, Project No 8436-001 (Agency approval to transfer required).

2. Water Rights Permit issued by the Department of Water Resources, State of Idaho, Permit No. 98-7612 (Agency approval to transfer required).

3. Special Use Permit issued by Bonners Ferry Ranger District Idaho Panhandle National Forest, dated May 12, 1988, for the Smith Creek Hydroelectric Project (Agency approval to transfer required).

4. Conditional Use Permit issued by Boundary County Commission, dated September 1, 1987 (Agency approval to transfer required).

5. Water Quality Permit issued by State of Idaho, dated December 18, 1985 (Agency approval to transfer required).

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6. Army Corps 404 Permit issued by Department of the Army, dated January 6, 1988, No. 071-OYC-4-003180.

7. Qualifying Status Permit to be issued by Federal Energy Regulatory Commission, pursuant to Docket No. QF84-209-001 (Agency to transfer approval required).

8. Permit to Alter Stream issued by State of Idaho Department of Water Resources, dated March 22, 1988 (Agency approval to transfer required).

9. Department of Energy Finding of No SIgnificant Impact, dated November 4, 1988.

10. Environmental Assessment, Smith Creek Hydroelectric Project, Office of Power Sales Administration, November 1988.

11. In Stream Flow Incremental Method Study.

12. Forest Service Collection Agreement between Idaho Natural Energy, Inc. and Idaho Panhandle National Forest, USDA-Forest Service, dated February 23, 1989 (Agency approval to transfer required).

13. Power Sales and Right to Purchase Agreement between Eugene Water and Electric Board, Hydro-Flow, Inc., and Idaho Natural Energy, Inc., dated October 28, 1988.

14. Performance Bond for Equipment Purchase together with Dual Obligee Endorsements issued by the Continental Insurance Company, bond No. 1353562.

15. All other assets of Idaho Natural Energy, Inc., whether tangible or intangible, relating to the Facility.

Grantor hereby warrants title to all of the above-described property, and that it has the right to assign the same except as qualified herein.

EXECUTED this ____ day of _____, 1989.

GRANTOR:
IDAHO NATURAL ENERGY, INC.,
an Idaho corporation

By_____
Its_____

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ACCEPTED:

GRANTEE:

SMITH FALLS HYDROPOWER, a Utah general partnership
By Its General Partners:

AMERICAN PACIFIC POWER CORP., a Utah corporation

By_____
Its_____

PACIFIC WEST POWER CORP., a Utah corporation

By_____
Its_____

AMERICA WEST HYDRO, INC., a Utah corporation

By_____
Its_____

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EXHIBIT "C"

IDAHO NATURAL ENERGY, INC.
INDEBTEDNESS AND OBLIGATIONS
ASSUMED BY SMITH FALLS HYDROPOWER

1. 1989 FERC Annual Charge of $18,337.

2. Obligations of Idaho Natural Energy, Inc. under the following Agreements:

   (a) Forest Service Collection Agreement between Idaho Natural Energy, Inc. and idaho Panhandle National Forest, USDA-Forest Service, dated February 23, 1989 (Agency approval to transfer required).

   (b) Power Sales and Right to Purchase Agreement between Eugene Water and Electric Board, Hydro-Flow, Inc., and Idaho Natural Energy, Inc., dated October 28, 1988.

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EXHIBIT "D"

WHEN RECORDED, MAIL TO:
Carl W. Barton, Esq.
Prince, Yeates & Geldzahler
175 East Fourth South, Suite 900
Salt Lake City, Utah 84111

Space Above For Recorder's Use Only

ASSIGNMENT OF CO-GRANTEE'S RIGHTS UNDER RIGHT-OF-WAY EASEMENTS

THIS ASSIGNMENT is made and entered into this _____ day of May, 1989, by IDAHO NATURAL ENERGY, INC., an Idaho corporation (herein called "Assignor"), whose address is 699 East South Temple, Suite 220, Salt Lake City, Utah 84102, to SMITH FALLS HYDROPOWER, a Utah general partnership (herein called "Assignee"), whose address is 699 East South Temple, Suite 220, Salt Lake City, Utah 84102, with reference to the following facts:

R E C I T A L S

A. Assignor is the co-grantee with Northern Lights, Inc., a cooperative corporation, of certain rights more particularly set forth in those certain Right-of-Way Easements (herein called the "Easements"), more particularly described on Exhibit A attached hereto and by this reference made a part hereof.

B. Assignor desires to assign all of its rights under the Easements to Assignee, and Assignee is willing to accept said Assignment.

A S S I G N M E N T

NOW, THEREFORE, for Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor does hereby assign, transfer, set over and convey unto Assignee, its successors and assigns, all of Assignor's right, title and interest, as co-grantee, in and to and arising under the Easements.

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IN WITNESS WHEREOF, Assignor has executed this Assignment as of the day and year first above-written

IDAHO NATURAL ENERGY, INC., an Idaho corporation

By _____
President

By _____
Secretary

STATE OF _____)
: ss.
COUNTY OF _____)

On this _____ day of _____, in the year _____, before me _____, a Notary Public, personally appeared _____ and _____, known or identified to me to be the President and Secretary, respectively, of the corporation that executed the instrument, and acknowledged to me that such Corporation executed the same.

_____
NOTARY PUBLIC
Residing at:_____

My Commission Expires:

_____

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EXHIBIT "E"

HYDRO-FLOW, INC.

LIST OF ASSETS

1. Engineering Agreement between Hydro-Flow, Inc. and Sorenson Engineering, date April 22, 1988, and as amended April 17, 1989.

2. SSR Engineering Agreement (Electrical System Design and Construction), between SSR Engineers, Inc. and Hydro-Flow, Inc., dated October 18, 1988.

3. Hydropower generator Contract between Hydro-Flow, Inc. and Bouvier Hydropower, dated as of November 14, 1988.

4. Mead Real Property (See Exhibit "E-1" hereto for legal description).

5. Power Sales and Right to Purchase Agreement between Eugene Water & Electric Board, Hydro-Flow, Inc., and Idaho Natural Energy, Inc., dated as of October 28, 1988.

6. Materials Contract between Hydro-Flow, Inc. ACPC, Inc., and Alcoa, dated as of January 6, 1989.

7. Materials Contract between Hydro-Flow, Inc. and Lapp Insulator Company, dated as of January 6, 1989.

8. Materials Contract between Hydro-Flow, Inc. and Montana Electric Supply, dated as of January 6, 1989.

9. Materials Contract between Hydro-Flow, inc. and Taylor Lumber and Treating, Inc., dated as of December 29, 1988.

10. Performance bond for Equipment Purchase together with Dual Obligee Endorsement issued by the Continental Insurance Company, Bond No. 1353562.

EXHIBIT E-1

SCHEDULE II

DESCRIPTION OF FEE PROPERTY

A tract of land in the West Half of the Northeast Quarter (W 1/2 NE 1/4) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho; more particularly described as follows:

Beginning at a point on the north line of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), which is North 89 degrees 46' 32" East, 476.29 feet from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4); thence North 00 degrees 13' 23" West, 175.00 feet; thence North 89 degrees 46' 32" East, 313.48 feet; thence South 18 degrees 13' 11" East, 184.00 feet; thence South 12 degrees 40' 05" East, 49.72 feet, to the center of Smith Creek; thence up the center of Smith Creek, South 28 degrees 20' 26" West, 127.92 feet; thence leaving the centerline of the creek, South 89 degrees 46' 32" West, 319.88 feet; thence North 00 degrees 13' 23" West, 160.90 feet, to the TRUE POINT OF BEGINNING.

TOGETHER WITH an easement 100 feet in width for access and utilities through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26); said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the north line of the above described property which is South 89 degrees 46' 32" West, 52.57 feet from the northeast corner of the above described property; thence North 18 degrees 13' 13" West, 27.77 feet; thence North 62 degrees 49' 13" West, 68.33 feet; thence North 03 degrees 42' 02" West, 115.88 feet; thence North 25 degrees 59' 34" West, 116.34 feet; thence North 42 degrees 21' 30" East, 130.65 feet; thence North 49 degrees 57' 12" East, 106.56 feet; thence North 01 degrees 39' 14" West, 132.54 feet; thence North 38 degrees 40' 06" West, 96.06 feet; thence North 24 degrees 43' 39" East, 138.37 feet; thence North 07 degrees 38' 20" East, 140.62 feet; thence North 43 degrees 47' 47" East, 220.51 feet; thence North 85 degrees 12' 25" East, 165.20 feet to the westerly right of way of the county road known as the West Side road, and the terminus of this easement; with the sidelines of said easement to intersect the county road right of way and adjacent boundaries.

(continued)

TOGETHER WITH an easement 100 feet in width for a pipeline through the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26); said easement being 50 feet on each side of the following described centerline:

Beginning at a point on the west line of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), which is South 00 degrees 18' 07" East, 249.21 feet from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4); thence North 69 degrees 29' 36" East, 507.41 feet, to the west boundary of the above described property with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

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EXHIBIT "F"

BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS:

The undersigned, Hydro-Flow, Inc., a Utah corporation ("Grantor"), for $10.00 and other good and valuable consideration, to Grantor in hand paid by Smith Falls Hydropower, a Utah general partnership ("Grantee"), the receipt of which is hereby acknowledged, has assigned, transferred, bargained, sold and conveyed, and by these presents does assign, transfer, bargain, sell and convey, unto the said Grantee all of Grantor's right, title and interest in and to the construction of a hydroelectric power facility ("Facility") in Boundary County, Idaho:

1. Engineering Agreement between Hydro-Flow, Inc. and Sorenson Engineering, dated April 22, 1988, and as amended April 17, 1989.

2. SSR Engineering Agreement (Electrical System Design and Construction), between SSR Engineers, Inc. and Hydro-Flow, Inc., dated October 18, 1988.

3. Hydropower Generator Contract between Hydro-Flow, Inc. and Bouvier Hydropower, dated as of November 14, 1988.

4. Power Sales and Right to Purchase Agreement between Eugene Water & Electric Board, Hydro-Flow, inc., and Idaho Natural Energy, Inc., dated as of October 28, 1988.

5. Materials Contract between Hydro-Flow, Inc., ACPC, Inc., and Alcoa, dated as of January 6, 1989.

6. Materials Contract between Hydro-Flow, Inc. and Lapp Insulator Company, dated as of January 6, 1989.

7. Materials Contract between Hydro-Flow, Inc. and Montana Electric Supply, dated as of January 6, 1989.

8. Materials Contract between Hydro-Flow, Inc. and Taylor Lumber and Treating, Inc., dated as of December 29, 1988.

9. Performance Bond for Equipment Purchase together with Dual Obligee Endorsements issued by the Continental Insurance Company, Bond No. 1353562.

10. All other assets of Hydro-Flow, Inc., whether tangible or intangible, relating to the Facility, excepting that portion of the Mead Property (the entire Mead Property is described on Exhibit "F-1" hereto), described on Exhibit "F-2" hereto and leased to Glea J. Mead in accordance with that certain Lease, dated November 4, 1988, between Glea J. Mead, as tenant, and Hydro-Flow, Inc. as landlord.

Except as provided below, Grantor hereby warrants title to all of the above-described property, and that it has the right to assign the same except as qualified hereinabove. With respect to the Mead Real Property, title shall be subject to such exceptions as are set forth in that certain Title Insurance Policy issued by Chicago Title Insurance Company of Idaho, Policy No. 13-0187-92-000053.

EXECUTED this _____ day of _____, 1989.

GRANTOR:

HYDRO-FLOW, INC.

By _____
Its _____

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ACCEPTED:

GRANTEE:

SMITH FALLS HYDROPOWER
By Its General Partners:

AMERICAN PACIFIC POWER CORP.

By _____
Its _____

PACIFIC WEST POWER CORP.

By _____
Its _____

AMERICA WEST HYDRO, INC.

By _____
Its _____

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The real property described in the attached document is located in Boundary County, Idaho, and is more particularly described as follows:

The Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) encompassing an area of approximately 39.55 acres, AND a tract of land in the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), both of Section Twenty-Six (26), Township Sixty-five (65) North, Range Two (2) West of the Boise Meridian, Boundary County, Idaho; said tract being more particularly described as follows:

Beginning at the North Quarter (1/4) Section Corner of said Section 26; thence along the north line of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said section, N 89° 37'58" E, 1,312.18 feet, to the northeast corner of said quarter; thence along the east line of said quarter, S 00°23'43"E, 790.87 feet, to the center of Smith Creek; thence along the center of said creek for the following two (2) courses: S 46°49'48" West, 269.42 feet; thence South 33°31'15" West, 406.50 feet, to the south line of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section 26; thence along said south line, S 89°46'32" W, 889.74 feet to the southwest corner of said quarter; thence along the west line of said quarter, North 00°18'07" West, 1,309.16 feet to the TRUE POINT OF BEGINNING, encompassing an area of approximately 36.69 acres.

RESERVING UNTO THE GRANTOR her heirs and or assigns that certain domestic water right known as #98-4021, more particularly described in a letter dated September 11, 1983 from the Idaho State Department of Water Administration (Idaho Water Resources).

EXHIBIT A

EXHIBIT "F-2"

DESCRIPTION OF FENCE LINE & TERRITORY FOR MEAD

Start at end of shed standing on road north facing south. On east side of road approximately 60' from end of shed north go across to boundary line (fence); go south to creek. This is SE area (SE); at end of shed approximately 60' from shed northwest facing south on west side of road go straight across to bottom of Hydro-Flow's road, then south (this road will angle somewhat) to waterfall. This area is W-S (NW & SW). Waterfall down creek to East boundary

Fence will be built across north end, east, west, ~~also southeast~~.

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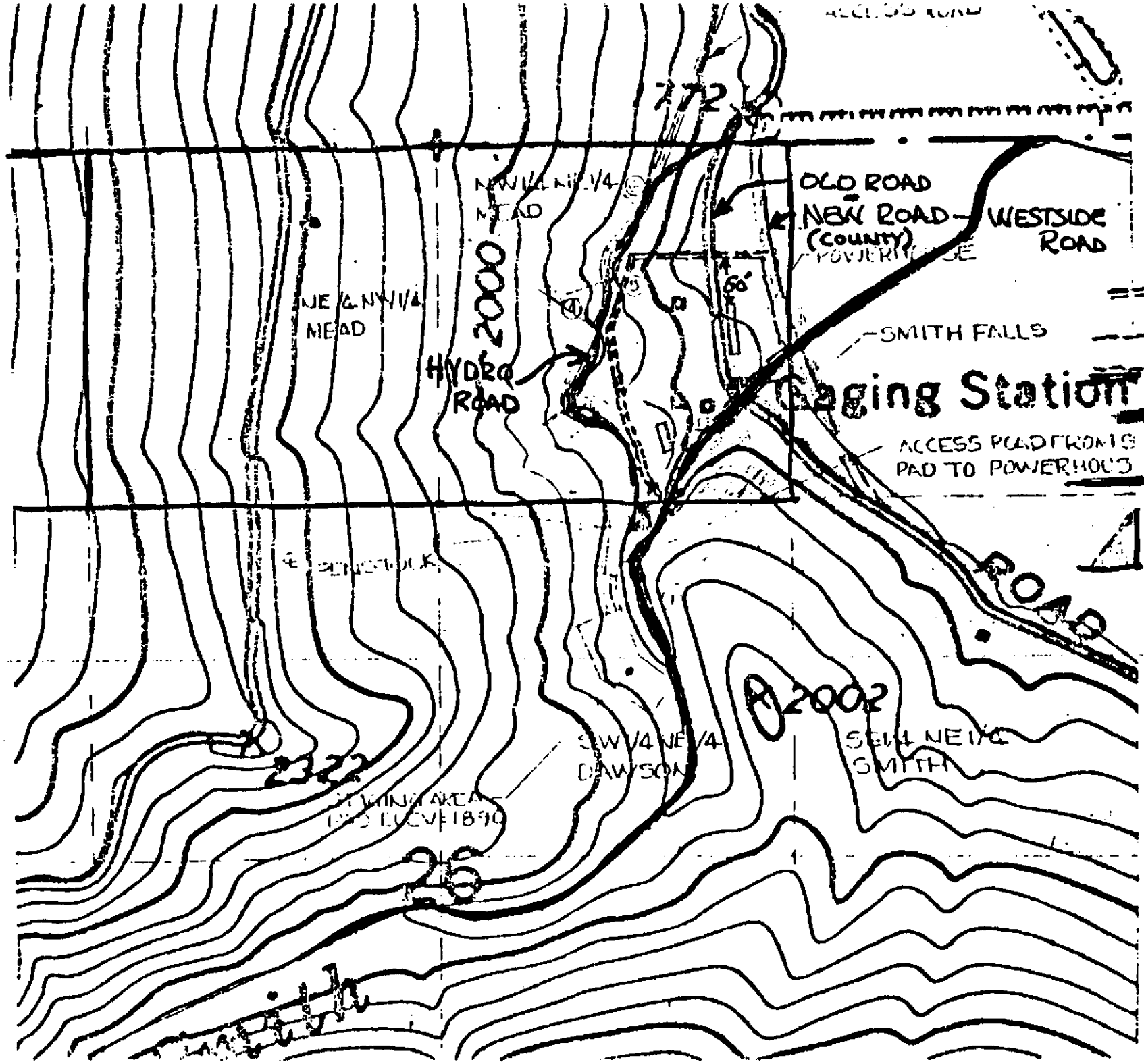

OLD ROAD
NEW ROAD (COUNTY)
WESTSIDE ROAD
NW¼ NE¼
MEAD
NE¼ NW¼
MEAD
HYDRO ROAD
2000
SMITH FALLS
Gaging Station
ACCESS ROAD FROM S
PAD TO POWERHOUS
ROAD
SW¼ NE¼
DAWSON
SE¼ NE¼
SMITH
NEW
EXISTING
ROADS
SMITH
EXCLU
PROPER

EXHIBIT "F-2"

EXHIBIT "G"

HYDRO-FLOW, INC.
INDEBTEDNESS AND OBLIGATIONS
ASSUMED BY SMITH FALLS HYDROPOWER

1. 2,641,500.60 owing to BayBank for payoff of Interim Construction Loan.

2. $315,000 owing to Smith Creek Hydroelectric Group pursuant to Smith Creek Hydroelectric Group Partnership Agreement.

3. Mead Property Obligation ("See Exhibit "I").

4. $290,447.26 owing to Bingham Engineering.

5. Obligation of Hydro-Flow, Inc. under the following Agreements:

   a. Engineering Agreement between Hydro-Flow, Inc. and Sorenson Engineering, dated April 22, 1988, and as amended April 17, 1989.

   b. SSR Engineering Agreement (Electrical System Design and Construction), between SSR Engineers, Inc. and Hydro-Flow, Inc., dated October 18, 1988.

   c. Hydropower Generator Contract between Hydro-Flow, Inc. and Bouvier Hydropower, dated as of November 14, 1988.

   d. Power Sales and Right to Purchase Agreement between Eugene Water & Electric Board, Hydro-Flow, inc., and Idaho Natural Energy, Inc., dated as of October 28, 1988.

   e. Materials Contract between Hydro-Flow, Inc., ACPC, Inc., and Alcoa, dated as of January 6, 1989.

   f. Materials Contract between Hydro-Flow, Inc. and Lapp Insulator Company, dated as of January 6, 1989.

   g. Materials Contract between Hydro-Flow, Inc. and Montana Electric Supply, dated as of January 6, 1989.

DEC 0 3 2003

h. Materials Contract between Hydro-Flow, Inc. and Taylor Lumber and Treating, Inc., dated as of December 29, 1988.

1410F

EXHIBIT H

WARRANTY DEED
(Penstock)

For good and valuable consideration, the receipt of which is hereby acknowledged, Hydro-Flow, Inc., a Utah corporation, as grantor, does hereby grant, bargain, sell and convey unto Smith Falls Hydropower, a Utah general partnership, as grantee, whose current address is 699 East South Temple in Salt Lake City, Utah, the following described premises, in Boundary County, Idaho, to-wit:

> That certain real property more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter sometimes called the "Dominant Tenement);

TOGETHER WITH the following perpetual, nonexclusive easements, in, under, over, along, upon, through and across:

> That certain real property situated in the County of Boundary, State of Idaho, more particularly described on Exhibit "B" attached hereto and by this reference made a part hereof (hereinafter called the "Servient Tenement");

for the benefit of and appurtenant to the Dominant Tenament:

A NONEXCLUSIVE EASEMENT 100 feet in width for a road over, along, across and upon the Servient Tenement to install, use, keep, maintain, repair and replace, as required, pedestrian and vehicular ingress to and egress from the Dominant Tenement and in, under, over, through, along and across the Servient Tenement to install, use, keep, maintain, repair and replace, as required, utility lines, pipes and conduits of all types for the benefit of and appurtenant to the Dominant Tenement, which nonexclusive easement is more particularly described as follows on the attached Exhibit "C," which is incorporated herein by this reference.

A NONEXCLUSIVE EASEMENT 100 feet in width in, under, over, through, along, and across the Servient Tenement to install, use, keep, maintain, repair, and replace, as required, one or more water pipes or penstocks and all appurtenances thereto through the Southwest Quarter of the Northeast Quarter of Section 26, Range 2 West of the Boise Meridian, Boundary County, Idaho, and more particularly described on the attached Exhibit "D," which is incorporated herein by this reference.

DEC 0 3 2003

A NONEXCLUSIVE EASEMENT 100 feet in width, in, under, over, through, along, and across the Servient Tenement to install, use, keep, maintain, repair, and replace, as required, one or more electrical transmission lines and all appurtenances thereto through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26), said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the north line of said Section Twenty-six (26) which is North 89 degrees 37' 58" East, 643.23 feet, from the northwest corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), thence South 00 degrees 26' 19" West, 1135.84 feet to the north boundary of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

THIS ADDITION WAS AUTHORIZED AND DIRECTED BY THE SIGNATORS.

RESERVING UNTO GRANTOR, its successors and assigns in interest in the Servient Tenement, the right to use the Servient Tenement for any and all purposes that do not unreasonably interfere with the use thereof by Grantee, its successors and assigns in interest in the Dominant Tenement, for the purposes herein specified.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee that it is the owner in fee simple of said premises; that the premises are free from all encumbrances, except for the exceptions identified on the attached Exhibit "E," which is incorporated herein by this reference, and that it will warrant and defend the same from all lawful claims whatsoever.

GRANTOR:

HYDRO-FLOW, INC.,
a Utah corporation

By _____
Its President

STATE OF Utah)
: ss.
COUNTY OF Salt Lake)

On this 24th day of May, 1989, before me, the undersigned Notary Public, personally appeared Darrel VanOtten, known or identified to me to be the president of Hydro-Flow, Inc., 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.

_____
NOTARY PUBLIC
Residing at: Salt Lake County

My Commission Expires:
April 23, 1990

DEC 03 2003

STATE OF IDAHO)
: ss.
COUNTY OF _____)

I HEREBY CERTIFY that this instrument was filed for record at the request of _____ at _____ minutes past _____ o'clock __.M., this ____ day of _____, 19__, in my office, and duly recorded in Book _____ of Deeds at page _____.

_____
Ex-Officio Recorder

By _____
Deputy

Fees: $_____.

Mail To: _____

5397L
052289

EXHIBIT "I"

MEAD PROPERTY OBLIGATIONS

Purchase obligations owing to Glea J. Mead pursuant to Purchase Agreement dated October 14, 1988 signed by Hydro-Flow, Inc. as Buyer and Glea J. Mead as Seller and Promissory Note dated November 4, 1988 in the original principal amount of $342,000.00 executed by Hydro-Flow, Inc. as Maker.

EXHIBIT "F-1"

SCHEDULE II

DESCRIPTION OF HYDRO-FLOW PARCEL

TRACT I

A tract of land in the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) and the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho; more particularly described as follows:

Beginning at the North Quarter corner of said Section Twenty-six (26); thence, along the north line of the section, North 89 degrees 37' 50" East, 1312.18 feet, to the northeast corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4); thence, along the east line of said Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), South 00 degrees 23' 42" East, 790.87 feet to the center of Smith Creek; thence up the center of Smith Creek, South 46 degrees 49' 48" West, 269.42 feet; thence South 33 degrees 31' 15" West, 406.50 feet, to the south line of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4); thence along said south line south 89 degrees 46' 32" West, 43.12 feet; thence North 18 degrees 13' 11" West, 184.00 feet; thence South 89 degrees 46' 32" West, 313.48 feet; thence South 00 degrees 13' 23" East, 175.00 feet; thence South 89 degrees 46' 32" West, 476.29 feet, to the southeast corner of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4); thence North 89 degrees 53' 40" West, 1317.76 feet; thence, along the west line of the Northeast Quarter of the Northwest Quarter, North 00 degrees 02' 06" East, 1313.47 feet, to the north line of Section Twenty-six (26); thence, along the north line of the Section South 89 degrees 42' 17" East, 1310.08 feet, to the TRUE POINT OF BEGINNING.

(continued)

MAR 5 2023

SUBJECT to an easement 100 feet in width for access and utilities through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26); said strip being 50 feet on each side of the following described centerline:

Commencing at the southwest corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26); thence North 00 degrees 18' 06" West, along the west line of said Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), 174.01 feet; thence North 89 degrees 41' 54" East, 737.43 feet to the TRUE POINT OF BEGINNING; thence North 18 degrees 13' 13" West, 27.77 feet; thence North 62 degrees 49' 13" West, 68.33 feet; thence North 03 degrees 42' 02" West, 115.88 feet; thence North 25 degrees 59' 34" West, 116.34 feet; thence North 42 degrees 21' 30' East, 130.65 feet; thence North 49 degrees 57' 12" East, 106.56 feet; thence North 01 degrees 39' 14" West, 132.54 feet; thence North 38 degrees 40' 06" West, 96.06 feet; thence North 24 degrees 43' 39" East, 138.37 feet; thence North 07 degrees 38' 20" East, 140.62 feet; thence North 43 degrees 47' 47" East, 220.51 feet; thence North 70 degrees 48' 45" East, 185.01 feet to the westerly right of way of the county road known as the West Side road, and the terminus of this easement; with the sidelines of said easement to intersect the county road right of way and adjacent boundaries.

SUBJECT to an easement 100 feet in width for an electrical transmission line through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26), said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the north line of said Section Twenty-six (26) which is North 89 degrees 37' 58" East, 643.23 feet, from the northwest corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), thence South 00 degrees 26' 19" West, 1135.84 feet to the north boundary of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

(continued)

DEC 23 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 14, 1989

Mr. McNeill Watkins II
Bishop, Cook, Purcell & Reynolds
1400 L Street, N.W.
Washington, D.C. 20005

Re: Smith Creek Project, FERC Project No. 8436

Dear Mr. Watkins:

On July 24, 1989 the Federal Energy Regulatory Commission (FERC) issued an Order Approving Transfer of License for the above-referenced project to Smith Falls Hydropower for which you are the named contact. The order states that Smith Falls Hydropower "agrees to accept all of the terms and conditions of the license and to be bound by the license as if it were the original licensee."

Enclosed for your information is a copy of a letter from the President of the Northern Idaho Chapter of the National Audubon Society concerning the project. The letter suggests that an attempt is being made through an appeal or other means to modify the 27 c.f.s. minimum flow requirement contained in article 103 of the project license. The Department of Water Resources has been unable to confirm an effort to modify the minimum flow requirement.

I would appreciate a response describing any current or planned efforts to modify the minimum flow requirements of the project license.

Sincerely,

Phillip J. Rassier

PHILLIP J. RASSIER
Deputy Attorney General
Department of Water Resources

Encl.

MICROFILMED
DEC 0 3 2003

INTER-OFFICE ROUTING SLIP

TO: Andy DATE

RECEIVED
AUG 09 1989
Department of Water Resources

____ Review
____ Respond
____ Take Necessary Action
____ For Your Information.
____ Anonymous - FYI

MICROFILMED
DEC 03 2003

Northern Idaho Chapter
National Audubon Society
Mr. Russ Hersurd, President
Route 1
Bonners Ferry, ID 83805

Dear Sir:

The enclosed letter to the Federal Energy Regulatory Commission (FERC) represents the consensus of a very broad section of citizenry in the affected area of the Smith Falls Hydroproject. We are deeply concerned for the ecological integrity of this major stream segment. Local input throughout the licensing process has been negligible, and the project developer has enjoyed agency support and acquiescense.

We have now entered the construction phase. This outdoor oriented community is making enormous sacrifice on behalf of private hydro-generation. We ask you to support Idaho Fish & Game and our chapter by attempting to preserve the existing fishery.

Thank you,

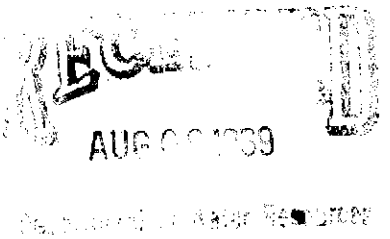
Russ Hersrud, President

AUG 22 1989

DEC 8 2 2005

July 21, 1989

Northern Idaho Chapter
National Audubon Society
Mr. Russ Hersurd, President
Route 1
Bonners Ferry, Idaho 83805



Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
825 North Capitol, N.E.
Washington, D.C. 20426

Dear Mr. Plumb:

RE: FERC License #8436, Smith Creek
Boundary County, Idaho

Construction is now underway on a 38 megawatt run-of-the-river hydroelectric project on Smith Creek in the Bonner's Ferry District of the Panhandle National Forest. The Northern Idaho Chapter of the Audubon Society is deeply concerned about the impact of this endeavor on the ecology of a major stream in our region. We have obtained copies of the 1984 application for license to the Federal Energy Regulatory Commission (FERC) by Idaho Natural Energy, Inc. (INE), the project owner and developer, as well as the 1987 order issuing license itself. We are most disturbed by the trend of agency acquiescense consistently in favor of the developer. For example, the application described a 42" diameter penstock feeding a 15 MW turbine housed in a 58' x 36' x 25' powerhouse.[1] The license allows for a 72" penstock feeding a 38 MW turbine, housed in a 100' x 50' x 30' powerhouse.[2] As recently as February 15, 1989 the developer appealed what we feel is the most significant protective article in the license: the minimum release requirement.[3]

Smith Creek has been identified as a significant fishery.[4] From the onset all parties have recognized the maintenance of the native fishery as intergral to the development of the project. Article 103 of the license originally called for a continuous 27 CFS minimum flow, with 10 consecutive days of unrestricted flow as a channel maintenance requirement of the Forest Service,

1. Application for License - Exhibit A - Project Description
2. Order Issuing License 8436
3. Letter from Panhandle Supervisor, William Norden to FERC Reply to 2770, February 15, 1989
4. Application for License - Recommended Mitigative Measurers E-3-iii-1

As well as staggered 50, 100, 80 CFS releases as a fishery requirement of Idaho Fish & Game. The Forest Service acquiessed on their requirement, citing the notion that Smith Creek is a bedrock, as opposed to alluvial channel, and determined that 3 days of unrestricted flow would suffice for channel maintenance.[5] However, the fishery flow requirement remains in force, as originally proposed by Idaho Fish and Game. We support this agency's position of fishery maintenance. The survival challenge to the native fishery even at these levels will be significant, and any less could be detrimental to not only the trout, but other plant and animal life as well. We also note in the enviromental concerns section of the license, that Idaho Fish & Game has made a number of recommendations that the commission has denied. Specifically, Idaho Fish & Game requested an on site bioengineer, powerhouse location approval, and the authority to stop operation if INE was negligent in fishery concerns. Your response was to reserve that authority for FERC.[6] Our unequival support for Idaho Fish & Game in the matter of fishery protection will be relayed to any interested parties, including the Idaho gubenetorial and congressional offices, other enviromentally concerned groups and local and regional media, as well as INE. However, ultimately, the survival of this beautiful, unspoiled trout stream is your responsibility.

If all beneficial uses of Smith Creek are to be realized, then the preproject integrity of the native fishery must be maintained. On behalf of not only the active membership of this chapter, but the sportsman and traditional users of Smith Creek, we respectfully request FERC to defer to Idaho Fish & Game in matters of fishery protection, and not consider any further alteration to article 103 of License #8436.

Sincerely,

Russ Hersrud

Russ Hersrud, President

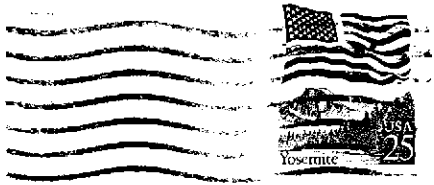
5. Exhibit A to supervisor Norden's letter of February 15, 1989
6. Order Issuing License Recommendations of Federal & State Fish & Wildlife Agencies DC-A-2

CC:

Honorable Cecil Andrus
Senator James McClure
Senator Steve Symms
Congressman Larry Craig
Senator Karen Cooke
Representative Tim Tucker
Boundary County Commissioners
Bonners Ferry City Council
Kootenai Indian Tribe
William E. Norden, Supervisor, Panhandle National Forest
Jerry Conley, Director of Idaho Fish & Game
Ray Heberger, Fish and Wildlife Service
Lew Brown, Bureau of Land Management
Kootenai Valley Sportsmen Association
Boundary Backpackers
Inland Empire Public Lands Council
Trout Unlimited
American Rivers
National Wildlife Federation
National Audubon Society
Sierra Club
Eugene Oregon Water & Electric
Idaho Natural Energy

Russ Hersrud
Route 1
Bonners Ferry, ID 83805





Honorable Cecil Andrus
Office of the Govenor
Statehouse
Boise, ID 83702

48 FERC ¶ 62,046

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Natural Energy, Inc. Project No. 8436-048
Smith Falls Hydropower

ORDER APPROVING TRANSFER OF LICENSE
(Issued July 24, 1989)

Idaho Natural Energy, Inc. seeks Commission approval to transfer its license for the Smith Creek Project to Smith Falls Hydropower. The project is located on Smith Creek in Boundary County, Idaho. The purpose of the transfer is to facilitate the financing of the project.

Idaho Natural Energy, Inc. has fully complied with the terms of the license and agrees to pay the annual charges that have accrued to the date of the transfer. Smith Falls Hydropower is qualified to hold the license and operate the property under li ense and agrees to accept all of the terms and conditions of the license and to be bound by the license as if it were the original licensee.

No protests or motions to intervene were filed in response to the public notice of the application to transfer the license. Transfer of the license for this project is consistent with the Commission's regulations and is in the public interest.

The Director orders:

(A) Transfer of the license for this project is approved.

(B) Approval of the transfer is contingent upon transfer of title of the properties under license and delivery of all license instruments to Smith Falls Hydropower which shall be subject to all terms and conditions of the license as though it were the original licensee. Smith Falls Hydropower shall submit certified copies of all instruments of conveyance within 60 days from the date of this order.

8-1-89
Spoke with Bill Horton of F&G who follows the Smith Falls Project. He knows nothing of an effort to change the 27 cfs minimum flow requirement in Art. 103 of the License. Phil

(C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission within 30 days from the date of this order. Smith Falls Hydropower shall acknowledge acceptance of this order and its terms and conditions by signing and returning the attached acceptance sheet within 60 days from the date of this order.

Sincerely,

Dean L. Shumway
Director, Division
of project Review

Project No. 8436-042

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, Smith Falls Hydropower this _____ day of _____, 19__, has caused its corporate name to be signed hereto by _____, its _____ President, and its corporate seal to be affixed hereto and attested by _____ its Secretary, pursuant to a resolution of its Board of Directors duly adopted on the _____ day of _____ 19__, a certified copy of the record of which is attached hereto.

By _____
President

Attest:

_____
Secretary

(executed in quadruplicate)

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Notice of Application Filed with the Commission
(June 9, 1989)

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Transfer of License

b. Project No.: 8436-042

c. Date filed: May 1, 1989

d. Applicant: Idaho Natural Energy, Inc. (Transferor) and Smith Falls Hydropower. (Transferee)

e. Name of Project: Smith Creek

f. Location: On Smith Creek, in Idaho Panhandle National Forest, in Boundary County, Idaho.

g. Filed Pursuant to: Federal Power Act 16 USC §§791(a) - 825(r)

h. Applicant Contact: Transferor: Mr. Carl W. Barton
Prince, Yeates & Geldzahler
City Centre I, Suite 900
175 East Fourth South
Salt Lake City, UT 84111
(801) 524-1000

Transferee: Mr. McNeill Watkins II
Bishop, Cook, Purcell & Reynolds
1400 L Street, N.W.
Washington, D.C. 20005
(202) 371-5785

i. *FERC Contact:* Michael Spencer at (202) 376-1669

j. Comment Date: JUN 20 1989

k. Description of Proposed Action: On April 10, 1987, a major license was issued to Idaho Natural Energy, Inc. for the Construction, operation, and maintenance of the Smith Creek project. It is proposed to transfer the license to Smith Falls Hydropower. The proposed transfer will not result in any changes to the proposed development. The Transferor certifies that it has fully complied with the terms and conditions of the license. The Transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it were the original licensee.

l. This notice also consists of the following standard paragraphs: B and C.

DC-A-41

B. Comments, Protests, or Motions to Intervene--Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Linwood A. Watson, Jr.
Acting Secretary

C. Filing and Service of Responsive Documents--Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: the Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 204-RB, at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

48 FERC ¶ 62,046

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Natural Energy, Inc. **Project No. 8436-048**
Smith Falls Hydropower

ORDER APPROVING TRANSFER OF LICENSE
(Issued July 24, 1989)

Idaho Natural Energy, Inc. seeks Commission approval to transfer its license for the Smith Creek Project to Smith Falls Hydropower. The project is located on Smith Creek in Boundary County, Idaho. The purpose of the transfer is to facilitate the financing of the project.

Idaho Natural Energy, Inc. has fully complied with the terms of the license and agrees to pay the annual charges that have accrued to the date of the transfer. Smith Falls Hydropower is qualified to hold the license and operate the property under license and agrees to accept all of the terms and conditions of the license and to be bound by the license as if it were the original licensee.

No protests or motions to intervene were filed in response to the public notice of the application to transfer the license. Transfer of the license for this project is consistent with the Commission's regulations and is in the public interest.

The Director orders:

(A) Transfer of the license for this project is approved.

(B) Approval of the transfer is contingent upon transfer of title of the properties under license and delivery of all license instruments to Smith Falls Hydropower which shall be subject to all terms and conditions of the license as though it were the original licensee. Smith Falls Hydropower shall submit certified copies of all instruments of conveyance within 60 days from the date of this order.

(C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission within 30 days from the date of this order. Smith Falls Hydropower shall acknowledge acceptance of this order and its terms and conditions by signing and returning the attached acceptance sheet within 60 days from the date of this order.

Sincerely

Dean L. Shumway
Director, Division
of project Review

Project No. 8436-042

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, Smith Falls Hydropower this _____ day of _____, 19__, has caused its corporate name to be signed hereto by _____, its _____ President, and its corporate seal to be affixed hereto and attested by _____ its Secretary, pursuant to a resolution of its Board of Directors duly adopted on the _____ day of _____ 19__, a certified copy of the record of which is attached hereto.

By _____
President

Attest:

_____
Secretary

(executed in quadruplicate)

8-8-89

CECIL D. ANDRUS, GOVERNOR
OFFICE OF THE GOVERNOR
STATE CAPITOL
BOISE, IDAHO 83720

RECEIVED
AUG 09 1989
Department of Water Resources

ANDY BRUNELLE

Keith —
This is what I found.
I don't know if it relates
to what Mr. Faber was
concerned about
Andy
PS — Also the
Attached letter from Faber's
group that I just
found in my mail box. It is
specific to their concerns.

MICROFILMED
DEC 03 2003

IMPORTANT MESSAGE

FOR Keith

DATE 8/3 TIME 4:56 A.M. P.M.

M Mike Faber

OF Audobon Society - Bonners Ferry

PHONE 267-5437 (home)
AREA CODE NUMBER EXTENSION

TELEPHONED		PLEASE CALL 8/7	✓
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Re: Smith Creek Hydropower Project.

SIGNED

LITHO IN U.S.A.

Everett Pad & Paper No. 79-120

Phil —

Apparently it is not a petition to change the license but an appeal of a license condition relative to Minimum flow. Note the new information attached. Looks like Rock Creek II is in the making.

MICROFILMED

OF WATER RESOURCES

) W. State Street, Boise, Idaho

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

MIKE FABER WORK 267-3340
HOME 267-5437

SMITH CREEK HYDRO ?

#8436 —
FERC

OF WATER RESOURCES

1 W. State Street, Boise, Idaho

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

MIKE FABER WORK 267-3340
HOME 267-5437

SMITH CREEK HYDRO ?
#8436
FERC

Keith
NORM,

8-1-89

I have checked the FERC reports and Rick Sterling has checked with the FERC office in Portland and Wash. D.C. for information on a request to change the minimum bypass flow requirements on the Smith Creek project.

We have found no indication such a request has been made. Paul

MICROFILMED

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Natural Energy, Inc. Project No. 8436-027
Idaho

ORDER APPROVING STREAMFLOW GAGING PLAN

(Issued June 26, 1989)

On January 9, 1989, Idaho Natural Energy, Inc. (licensee) filed a streamflow gaging plan, as required by article 406 of the license for the Smith Creek Project. Article 406 requires the licensee, in cooperation with the U.S. Fish and Wildlife Service (FWS) and the Idaho Department of Fish and Game (IDFG) to develop a plan to install a streamflow gage in Smith Creek.

The licensee proposes to install a continuous monitoring flow gage within 50 yards downstream of the diversion dam. Flow data will be compiled and routinely supplied to the agencies semi-annually or within 10 days following receipt of a written request.

By letter dated October 13, 1988, the FWS stated that they have no comment concerning the plan. The IDFG stated their approval of the plan by letter dated November 16, 1988.

The proposed gaging plan does not, however, include provisions for reporting violations of the required flow releases to the Commission. In order for the Commission to monitor compliance and investigate any minimum flow violation, the licensee should notify the Commission within 30 days from the date that data becomes available indicating the violation. The licensee should file a report that identifies the cause, duration, and severity of the violation, any environmental impacts resulting from the violation, and the measures that were implemented to correct the violation.

The proposed streamflow gaging plan would ensure adequate monitoring of required minimum flow releases.

The Director Orders:

(A) The streamflow gaging plan filed on January 9, 1989, pursuant to article 406, as modified by paragraph (B), is approved.

(B) If a violation of the minimum flows required by articles 103 and 405 occurs, the licensee shall file a report with the Commission within 30 days from the date that the data becomes available indicating the violation. The report shall identify the cause, duration, and severity of the violation, any environmental impacts resulting from the violation, and the measures that were implemented to correct the violation. Based on the report and the Commission's investigation of the violation, the Commission reserves the right to require modifications to project facilities and operation.

(C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.

J. Mark Robinson
Director, Division of Project
Compliance and Administration

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JUN 3 0 1989
Department of Water Resources

~~876 F. 2d 1129~~

Smith Creek Hydro
Proj. # 8436

		34	62,424	
4/10/87		39	62,038	- Order Issuing License
8/23/88	004	44	62,157	- Order Modifying Plan to Remove Sediment
6/20/88	005	43	62,321	- Order Modifying Ramping Rate Plan
2/15/89	010	46	62,161	- Order Approving Wildlife Mitigation Plan
2/15/89	030	46	62,160	- Order Approving Plan to Monitor Cobble Embedment
2/15/89	032	46	62,146	- Order Modifying Plan to Monitor Dissolved Gas
2/8/89	034	46	62,140	- Order Approving Revised Ex. G Drawings

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Department of Water Resources

Recording Requested By And
When Recorded Mail to:

ORRICK, HERRINGTON & SUTCLIFFE
600 Montgomery Street
San Francisco, California 94111
Attention: Daniel R. Bedford, Esq.

Space above this line for recorder's use

INDENTURE OF MORTGAGE, DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING

(Lessee Easement Mortgage)

KNOW ALL MEN BY THESE PRESENTS:

THIS INDENTURE OF MORTGAGE, DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Indenture") is made as of the 25th day of May, 1989 by SMITH FALLS HYDROPOWER, a Utah general partnership having an office at 699 East South Temple, Suite 220, Salt Lake City, Utah 84102 (the "Grantor") and Chicago Title Insurance Company of Idaho, as Indenture Trustee (the "Indenture Trustee"), for the benefit of Westinghouse Credit Corporation, a Delaware corporation having an office at One Oxford Centre, Pittsburgh, PA 15219 (the "Beneficiary").

W I T N E S S E T H :

WHEREAS, Grantor has entered into a certain Financing Agreement dated as of May 25, 1989 (the "Financing Agreement") among Grantor, Beneficiary, American Pacific Power Corp., a Utah corporation ("APPC"), Pacific West Power Corp., a Utah corporation ("PWPC"), America West Hydro, Inc., a Utah corporation ("AWHI"), Hydro-Flow, Inc., a Utah corporation ("Hydro-Flow") and Idaho Natural Energy, Inc., an Idaho corporation ("INE"). APPC, PWPC and AWHI are sometimes each referred to herein as a "General Partner" and collectively, as the "General Partners." Capitalized terms not otherwise defined herein are used as defined in Schedule I hereto;

WHEREAS, the Obligations secured by this Indenture shall be in an original principal amount not greater than thirty million dollars ($30,000,000);

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WHEREAS, the Obligations secured by this Indenture shall terminate no later than forty (40) years after the date hereof;

WHEREAS, it is a condition to the obligation of Beneficiary to enter into the Overall Transaction that Grantor execute and deliver this Indenture;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and FOR THE PURPOSE OF SECURING the Obligations, as hereinafter defined (collectively, the "Obligations"), Grantor hereby irrevocably grants, bargains, sells, releases, conveys, warrants, assigns, transfers, mortgages, pledges, hypothecates, sets over and confirms unto the Indenture Trustee in trust for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, all of Grantor's right, title and interest in and to the following described property, now owned or hereafter acquired by Grantor and whether now existing or hereafter arising (the "Collateral"):

(a) That certain real property located in Boundary County, Idaho, and more particularly described in Schedule II attached hereto (the "Easements"), which is the location of an electrical transmission line (the "Transmission Line") commencing from a hydroelectric facility located in Boundary County, Idaho (the "Facility").

(b) That certain Ground Lease by and between Grantor and Beneficiary (the "Ground Lease").

(c) All covenants, agreements, rights, appurtenances, tenements, hereditaments, privileges, franchises and appendages of or relating to the Easements and any streets, roads or public places, easements or rights of way, any land laying within the right-of-way of any street, open or proposed, adjoining the Easements and any and all sidewalks, alleys, and strips and gores of land adjacent to or used in connection therewith, the diversion structure, the penstock and the Transmission Line associated with the Easements and the Facility.

(d) All development rights, air rights, water, water rights, water stock, ditches or ditch rights and reservoirs, reservoir rights and other rights of Grantor relating to the Facility or the Easements and any licenses that the Idaho Department of Water Resources or any other federal, state or municipal government, governmental agency or commission may issue in the future.

(e) All present and future structures, buildings, improvements, appurtenances and fixtures of any kind on the Easements, including without limitation the Facility, and all building materials and building equipment of every kind (including, without limitation, all poles, wires, main service entrance equipment, conduits, cables, handholes, connection boxes, transformers, transformer enclosures, machinery, apparatus, equipment and fittings constituting fixtures) located on the Easements or attached to, contained in or used in any such buildings or in the Facility and other improvements, and all appurtenances and additions thereto and

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betterments, substitutions and replacements thereof (collectively, the "Improvements").

(f) All leases, subleases and subtenancies, occupancy agreements, and concessions (including the Ground Lease) affecting any of the Collateral, the Easements or the Improvements (collectively, the "Project Leases"), and all rents, royalties, income and profits arising from the Easements, the Improvements or the Project Leases and all production payments or other similar payments and all proceeds of the conversion, voluntary or involuntary, of the Collateral into cash or liquidated amounts or claims for the purposes and upon the terms and conditions hereinafter set forth, subject to the right, power and authority given to Grantor pursuant to Section 1.09 to collect and apply the same.

(g) All proceeds and claims arising on account of any damage to or taking of the Easements or Improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Easements or Improvements.

(h) All chattel paper of Grantor and all present and future amendments thereto.

(i) All accounts and deposit accounts of Grantor, including, without limitation, each account established pursuant to the Construction Escrow Agreement, the Lease Payment Agreement and the Escrow Fund Agreement and all goods repossessed or returned in connection therewith.

(j) All goods, machinery, equipment, fittings and fixtures of Grantor of every kind and nature whatsoever, including without limitation; all machinery, dies, blueprints, catalogues, computer hardware and software, tools, motors, vehicles, furniture and furnishings, together with all additions and accessions thereto and replacements therefor, related to the development and use of the Easements and the Improvements and any other business of Grantor.

(k) All general intangibles of Grantor, including without limitation all right, title and interest of Grantor in, to or arising out of (i) all contracts and agreements with respect to the Easements, the Facility and other Improvements, including, without limitation, the NLI Agreement, the NLI Easement, the Power Purchase Agreement, the Construction Contracts, the BPA Agreements, the Collection Agreement, the Transmission Line Transfer Agreement and the Wheeling Agreement and every other Related Document (the "Contracts"); (ii) all patents, trademarks, tradenames, good will, inventions, processes, distribution rights, common law and statutory copyrights, agreements, leases, royalties and judgments; (iii) all consents, rights, exemptions, concessions, permits, licenses, authorizations, certificates, orders, franchises, determinations and approvals of any federal, state, municipal or governmental department, commission, board, bureau, agency or instrumentality with respect to or in connection with the Facility, Easements and other Improvements, now existing or hereafter arising, including without limitation, the Permits, the Water Permits, the BPA Agreements, the Collection

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Agreement, the FERC License, the FERC License Amendment, the FERC Recertification, the FERC Waiver, the 70 CFS Water Permit and the Wheeling Agreement (the "Governmental Authorizations") to the extent such Governmental Authorizations can be assigned or subjected to security interests under applicable law, and any other rights necessary to own, operate, and use the Facility, now held or hereafter acquired; (iv) all warranties, guaranties and obligations of each and every contractor under all Construction Contracts, purchase orders, installation or supply agreements, guaranties and other contracts and agreements of whatever kind or character in respect thereof, now in existence or hereafter arising, including, without limitation, each Performance Bond (the "Warranty Agreements"); (v) all claims arising thereunder and all rights to compel performance of the terms of the Warranty Agreements, the Contracts and the Governmental Authorizations, all payments and refunds that any contractor may be required to make with respect to the Facility and any portion thereof under any Warranty Agreements, and all payments under the Contracts and the Governmental Authorizations; (vi) all names under or by which the Facility, Easements or other Improvements may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof; (vii) all books, records, and other information in whatever form and however stored, relating to the ownership, use and operation of the Facility, the Easements and other Improvements; and (viii) all goodwill in any way relating to the Facility, the Easements and other Improvements.

(l) All documents and instruments of Grantor, now owned or hereafter acquired by Grantor, including without limitation, documents of title, securities and all new, substituted and additional documents and instruments issued with respect thereto, all voting or other rights now or hereafter exercisable, all cash and noncash dividends, all goods repossessed or returned in connection therewith and all other property now or hereafter receivable with respect to any of the foregoing.

(m) All inventory, including, without limitation, all raw materials, component parts, work in progress or materials used or consumed in its business or in connection with the Facility, the Easements and other Improvements, goods held for sale or lease or to be furnished under a contract or service, goods so leased or furnished, and merchandise, and all equipment, including, without limitation, all furniture, fixtures, supplies, equipment, machinery, all other tangible personal property used in the operation of its business or in connection with the Facility, the Easements and other Improvements.

(n) All other property of Grantor now or hereafter in the possession, custody or control of Grantor, warehousemen, bailees or any other person and whether located at Grantor's place of business or elsewhere.

(o) All of Grantor's receivables and all monies and claims for money due or to become due and all securities, guaranties, warranties, indemnity agreements and insurance policies.

(p) All of Grantor's title and interest in and to all real and immovable property or leaseholds, and all fixtures with respect thereto, together with any and all estates and interests therein, including but not limited to, all land, buildings and other erections, fixed plant, fixed equipment and all permits, rights, licenses, rents, benefits and other interests of any kind or nature whatsoever in or with respect to such real and immovable property or leaseholds.

(q) All accounts, contracts, contract rights, documents, instruments, general intangibles, chattel paper, and all ledger sheets, files and other documents relating to the property described in paragraphs (a) through (p) above.

(r) all improvements, replacements, substitutions, renewals, accessions or additions to all of the above-described real or personal property, and any and all products thereof, whether in the possession of Grantor, warehousemen, bailees or any other person and whether located at Grantor's place of business or elsewhere.

(s) all Proceeds of the foregoing.

For purposes of this Indenture, the term "Proceeds" includes whatever is receivable or received when the property referred to above or Proceeds is sold, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, and includes without limitation all rights to payment, including return premiums with respect to any insurance relating thereto.

TO HAVE AND TO HOLD the Collateral with all privileges and appurtenances thereunto belonging, to the Indenture Trustee and its successors and assigns for the benefit of Beneficiary and its successors and assigns, forever.

PROVIDED ALWAYS, that if the Obligations secured hereby shall be paid and performed in full and Grantor shall abide by and comply with each and every covenant contained herein, then this Indenture and the lien and estate hereby granted shall cease, terminate and be void.

The obligations secured by this Indenture (the "Obligations") shall consist of the following (each of the agreements listed below hereinafter referred to individually as an "Agreement" and collectively as the "Agreements"):

(a) any and all debts, obligations and liabilities of Grantor to Beneficiary under the Financing Agreement, the Construction Loan Agreement, the Construction Note, the Construction Escrow Agreement, this Indenture, the Lessee Fee Mortgage, the Ground Lease, the Lease, each Bill of Sale, the LeasePayment Agreement, the Escrow Fund Agreement, the Tax Indemnity Agreement, the Revolving Loan Agreement, the Revolving Note, the Agreement of Understanding, every other mortgage executed by Grantor in favor of Beneficiary, and each other instrument, document and agreement delivered or to

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be delivered by Grantor pursuant hereto and thereto or in connection herewith and therewith and in connection with the Overall Transaction;

(b) any and all debts, obligations and liabilities of each Shareholder to Beneficiary under each of their respective Shareholder Pledge Agreements, the Intercrediter Agreement (if applicable) and each other instrument, document and agreement delivered or to be delivered by each Shareholder pursuant thereto or in connection therewith and in connection with the Overall Transaction;

(c) any and all debts, obligations and liabilities of each General Partner to Beneficiary under the Financing Agreement and under each of their respective General Partner Pledge and Security Agreements and each other instrument, document and agreement delivered or to be delivered by each General Partner pursuant thereto or in connection therewith and in connection with the Overall Transaction;

(d) any and all debts, obligations and liabilities of Hydro-Flow to Beneficiary under the Financing Agreement, the Hydro-Flow Mortgage and the Hydro-Flow Pledge Agreement and each other instrument, document and agreement delivered or to be delivered by Hydro-Flow pursuant thereto or in connection therewith and in connection with the Overall Transaction;

(e) any and all debts, obligations and liabilities of INE to Beneficiary under the Financing Agreement and the INE Security Agreement and each other instrument, document and agreement delivered or to be delivered by INE pursuant thereto or in connection therewith and in connection with the Overall Transaction;

and all amendments or extensions or renewals to the Agreements, whether now existing or hereafter arising, voluntary or involuntary, whether or not jointly owed with others, direct or indirect, absolute or contingent, liquidated or unliquidated, and whether or not from time to time decreased or extinguished and later increased, created or incurred.

TO PROTECT THE SECURITY OF THIS INDENTURE, GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

ARTICLE I

AGREEMENTS OF GRANTOR

1.01 Performance of Obligations Secured. Grantor covenants and agrees to pay promptly when due all sums due pursuant to the Obligations and to perform each and every agreement and condition contained in the Obligations and contained herein.

1.02 Title to Collateral. Grantor is, and shall hereafter remain, the owner or holder of the Collateral free and clear of all voluntary or involuntary liens, encumbrances, attachments, security interests, purchase

money security interests, assignments, mortgages, charges or other liens or encumbrances of any nature whatsoever, with the exceptions of (a) all interests in favor of Beneficiary, (b) the mortgage and security interest created herein, (c) liens for real estate taxes not yet due and payable and (d) all Permitted Liens.

1.03 Condemnation and Insurance Proceeds. The proceeds of any award or claim for damages, direct or consequential, in connection with any requisition, condemnation or other taking of or damage or injury to the Collateral, or any part thereof, or for conveyance in lieu of requisition or condemnation, payable to Grantor and assigned to the Indenture Trustee or to Beneficiary pursuant to this Indenture, shall prior to the First Lease Closing Date be paid and distributed as provided in the Construction Loan Agreement, and shall after the First Lease Closing Date be paid and distributed as provided in the Lease.

1.04 Security Agreement

(a) This Indenture is also a security agreement pursuant to the Idaho Uniform Commercial Code for (i) any and all items of personal property specified above as part of the Collateral that may be subject to a security interest pursuant to the Idaho Uniform Commercial Code and that are not real property, and (ii) any and all items of property specified above as part of the Collateral that constitute fixtures and may be subject to a security interest under the Idaho Uniform Commercial Code. To the extent that Grantor has any right, title or interest in such property, Grantor hereby grants Beneficiary a security interest in said property, and in all additions thereto, substitutions therefor, and proceeds thereof, for the purpose of securing the Obligations, and this Indenture constitutes a security agreement and financing statement, and is intended, when recorded, to create a perfected security interest in such property in favor of Beneficiary. Grantor agrees to execute and deliver on demand such security agreements, financing statements and other instruments as Beneficiary may reasonably request from time to time in order to impose a lien more specifically upon any of such property and to pay all recording and/or filing fees associated therewith. For purposes of treating this Indenture as a security agreement and financing statement, Beneficiary shall be deemed the secured party and Grantor shall be deemed the debtor.

(b) Grantor represents and warrants that (i) this Indenture has been duly authorized, executed and delivered by Grantor, and constitutes a valid and binding obligation of Grantor; (ii) as of the date hereof, Beneficiary will have a valid and perfected security interest in such of the Collateral as is subject to perfection by filing under the Idaho Uniform Commercial Code, subject to no Lien other than Permitted Liens or liens in favor of Beneficiary; (iii) the execution, delivery, performance and enforcement of this Indenture do not and will not contravene, or constitute a default under, any provision of applicable law or regulation or of Grantor's constituent documents or of any agreement, judgment, injunction, order, decree or other instrument binding upon Grantor or result in the creation or imposition of any lien (other than Permitted Liens or liens in favor of

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Beneficiary) upon any asset of Grantor; and (iv) Grantor has not performed any acts which might prevent Beneficiary from enforcing any of the terms and conditions of this Indenture or which would limit Beneficiary in any such enforcement.

(c) Each item of Collateral consisting of accounts, instrument, chattel paper, general intangibles or other rights of payment of money (collectively, "Rights to Payment") is genuine and enforceable in accordance with its terms against the party obligated to pay the same (an "Account Debtor"), which terms have not been modified or waived in any respect or to any extent, and Grantor has no reason to believe that the Rights to Payment are not genuine or so enforceable.

(d) No person has any defense, setoff, claim or counterclaim against Grantor that can be asserted successfully against Beneficiary, whether in any proceeding to enforce Beneficiary's rights in the Collateral or otherwise.

1.05 Further Sales or Encumbrances. Except as otherwise expressly provided in the Fundamental Agreements, without the prior written consent of Beneficiary being first had and obtained, Grantor shall not sell, contract to sell, lease with option to purchase, convey, alienate, transfer, encumber, mortgage or otherwise dispose of all or any portion of the Collateral or any interest therein, whether voluntarily or involuntarily, by operation of law or otherwise.

1.06 Protection of Security.

(a) If any action or proceeding is commenced that affects Beneficiary's interest in the Collateral or any part thereof, including without limitation (i) eminent domain actions, (ii) actions under any federal, state or local statute regulating the the transportation, storage or release of hazardous substances, including without limitation the RCRA, CERCLA, the Federal Clean Water Act, as amended, 33 U.S.C. Section 1251 et seq., the Toxic Substance and Control Act, as amended, 15 U.S.C. Section 2601 et seq., the Federal Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq., the Idaho Hazardous Waste Management Act of 1983, as amended, Idaho Code Section 39-4401 et seq., the Idaho Enviromental Protection and Health Act of 1972, as amended, Idaho Code Section 39-101 et seq., the Idaho PCB Disposal Act of 1987, Idaho Code Section 39-6201 et seq., and the regulations issued under each of such statutes, or (iii) proceedings of any nature whatsoever under any federal, state or local law, whether now existing or hereafter enacted or amended, relating to bankruptcy, insolvency, arrangement, reorganization or other form of debtor relief, then Beneficiary may, but without obligation to do so and without notice to or demand upon Grantor, make such appearances, pay any such costs and take such action as Beneficiary deems reasonably necessary or appropriate to protect Beneficiary's interest, including without limitation payment of reasonable attorneys fees, entry upon the Facility or the Easements to make repairs or take other action to protect the security hereof, and payment, purchase, contest or compromise of any lien that in the reasonable judgment of Beneficiary appears to be prior or superior hereto. Any amounts

disbursed by Beneficiary pursuant to this Section 1.06(a) shall be part of the Obligations and secured by this Indenture and shall bear interest at the Default Rate.

(b) Grantor hereby irrevocably appoints Beneficiary as its attorney in fact so to do, but Beneficiary shall not be obligated to and shall incur no liability to Grantor or any third party for failure so to do, any act that Grantor is obligated by this Indenture to do, and to exercise such rights, powers and remedies as Grantor might exercise with respect to the Collateral, including without limitation Grantor's rights under the Project Leases. Anything to the contrary set forth in this Section 1.06(b) notwithstanding, Beneficiary agrees that it shall not exercise any of the rights or powers granted to or conferred on it pursuant to this Section 1.06(b) (other than the right to give notice of a default or an event of default under any of the Project Leases and the right to inspect the property leased thereunder) prior to an Event of Default pursuant to Article III hereof and except in connection with the exercise by Beneficiary of any of the rights and remedies of Beneficiary contained in the Construction Loan Agreement and the Lease. Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable. The powers conferred on Beneficiary hereunder and the Collateral are solely to protect its interests in the Collateral and shall not impose any duty upon Beneficiary to exercise any such powers. Beneficiary shall be accountable only for amounts that it actually receives as a result of the exercise of such powers and in no event shall Beneficiary or any of its officers, directors, employees or agents be responsible to Grantor for any act or failure to act.

(c) Nothing contained in this Indenture shall be construed to require Beneficiary to incur any expense, make any appearance, or take any other action. Neither this Indenture nor any action on the part of Beneficiary shall constitute an assumption by Beneficiary of any of the obligations of Grantor under any of the contracts or agreements constituting a part of the Collateral, and Grantor shall continue to be liable for all of its obligations thereunder.

1.07 Anti-merger. There shall be no merger of the leasehold estate created by the Ground Lease with the property interest in the Easements held by Grantor by reason of any of those interests coming into common ownership, unless Beneficiary consents in writing. In the event of the exercise of any power of sale under this Indenture, Beneficiary shall have the right to sell the leasehold estate and the fee interest of Grantor separately or together at the election of Beneficiary.

1.08 Project Leases.

(a) Grantor agrees with respect to each Project Lease as follows:

(i) each Project Lease shall remain in full force and effect despite any merger of the interest of Grantor and any lessee thereunder; and

(ii) Grantor shall not grant any consent or approval provided for under any of the Project Leases without the prior written consent of Beneficiary.

(b) In connection with and limited to the exercise of any of its rights and remedies under this Indenture, Beneficiary shall be deemed to be a creditor of the lessee under each of the Project Leases with respect to any assignment for the benefit of creditors in any bankruptcy, arrangement, reorganization, insolvency, dissolution, receivership or other debtor relief proceedings affecting such lessee (without obligation on the part of Beneficiary, however, to file claims in such proceedings or otherwise pursue creditor's rights therein).

(c) Grantor shall not enter into any Project Lease without the prior written consent of Beneficiary, which consent shall not be unreasonably withheld. Each such Project Lease shall be in form and substance satisfactory to Beneficiary and, without limiting the generality of the foregoing, shall include a provision confirming that the Project Lease is subordinate to the lien of this Indenture and consenting to the assignment provided for herein of the Project Lease to Beneficiary. Grantor shall furnish Beneficiary, upon the request of Beneficiary, with copies of each and every Project Lease and any other information relative to each such Project Lease and the tenant thereunder. Grantor will take all action as may be requested by Beneficiary in furtherance of the rights of Beneficiary hereunder, including, without limitation, obtaining estoppel certificates and agreements (in form reasonably satisfactory to Beneficiary) from each tenant subordinating the Project Lease to the lien of this Indenture and consenting to the assignment of the Project Lease provided for herein.

1.09 Rents. Prior to an Event of Default under this Indenture, Grantor shall have a license to collect and receive all Rents (as defined in Article II). Beneficiary may terminate such license, at its sole option, without regard to the adequacy of its security hereunder and without notice to or demand upon Grantor, upon the occurrence of any Event of Default under this Indenture and may apply all Rents to payment of any Obligations. It is understood and agreed that neither the assignment of Rents to Beneficiary nor the exercise by Beneficiary of any of its rights or remedies hereunder shall be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or operation of any portion thereof, unless and until Beneficiary, in person or by agent, assumes actual possession thereof. Nor shall appointment of a receiver for the Collateral by any court at the request of Beneficiary or by agreement with Grantor, or the entering into possession of any part of the Collateral by such receiver, be deemed to make Beneficiary a mortgagee-in-possession or otherwise responsible or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or operation of any portion thereof.

1.10 Insurance. Prior to the First Lease Closing Date, Grantor shall purchase and maintain such insurance as is required under the

Construction Loan Agreement and from and after the First Lease Closing Date, Grantor shall purchase and maintain in such insurance as is required under the Lease. The proceeds of such insurance prior to the First Lease Closing Date shall be distributed in accordance with the Construction Loan Agreement and the proceeds of such insurance from and after the First Lease Closing Date shall be distributed in accordance with the Lease.

1.11 Assignments of Policies Upon Foreclosure. In the event of foreclosure of the lien of this Indenture or other transfer of title or assignment of the Collateral in extinguishment, in whole or in part of the Obligations secured hereby, all right, title and interest of the Grantor in and to all policies of insurance required under Section 1.10 shall inure to the benefit of Beneficiary and pass to the successors in interest of Beneficiary or the purchaser or grantee of the Collateral or any part thereof.

1.12 No Financing Statements on File. Except for those to be terminated concurrently with the execution and delivery of the Lease, no effective financing statement or other instrument similar in effect covering all or any part of Grantor's interest in the Collateral is on file in any recording office, except such as may have been filed pursuant to this Indenture or pursuant to the documents evidencing Permitted Liens, or in favor of Beneficiary.

1.13 Notices, Etc. Grantor shall deliver to Beneficiary a copy of each demand, notice or document received or given by Grantor relating in any way to any Project Lease or Contract.

1.14 Place of Perfection; Records. Grantor shall give Beneficiary 30 days prior written notice before it changes the location of its chief place of business and chief executive office and shall at the expense of Grantor execute and deliver such instruments and documents as required to maintain a prior perfected security interest and as requested by Beneficiary. Grantor will hold and preserve such records and will permit representatives of Beneficiary at any time during normal business hours to inspect and make abstracts from such records.

1.15 Impositions. Grantor shall pay, before the imposition of any fine, penalty, interest or cost attached thereto, all taxes, assessments and other governmental or non-governmental charges or levies now or hereafter assessed or levied against the Collateral or upon the security interest provided for herein (except for liens for taxes and assessments not then delinquent) as well as pay, or cause to be paid, all claims for labor, materials or supplies which, if unpaid, might become a Lien (other than a Permitted Lien) on the Collateral or any part thereof, and will exhibit receipts showing payment of any of the foregoing.

1.16 Litigation. There is no suit, action, proceeding, or, to the knowledge of Grantor, any investigation presently pending or threatened against Grantor, or any of the Collateral, which, if determined adversely, would have a material adverse effect upon Grantor or the Collateral.

1.17 Further Assurances.

(a) Grantor shall execute, acknowledge and deliver, from time to time, such further instruments as Beneficiary or the Indenture Trustee may reasonably require to accomplish the purposes of this Indenture.

(b) Grantor, immediately upon the execution and delivery of this Indenture, and thereafter from time to time, shall cause this Indenture, any security agreement, mortgage or deed of trust supplemental hereto and each instrument of further assurance to be filed, registered or recorded and refiled, re-registered or re-recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and perfect the lien or estate of this Indenture upon the Collateral.

(c) Grantor shall pay all filing, registration and recording fees, all refiling, re-registration and re-recording fees, and all expenses incident to the execution, filing, recording and acknowledgment of this Indenture, any security agreement, mortgage or deed of trust supplemental hereto and any instrument of further assurance, and all Federal, State, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery, filing and recording of the Construction Loan Note, the Revolving Note, this Indenture, any security agreement, mortgage or deed of trust supplemental hereto or any instruments of further assurance.

1.18 Fixture Filing. This Indenture constitutes a financing statement filed as fixture filing in the Official Records of the County Recorder of the county in which the Collateral is located with respect to any and all fixtures included within the term "Collateral" as used herein and with respect to any goods or other personal property that may now be or hereafter become such fixtures.

1.19 Limitations of Use. Grantor shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses that may be made of the Easements and the Improvements or any part thereof that would have a material adverse effect on the value of the Easements or the Improvements. Grantor shall comply with the provisions of licenses, agreements and private covenants, conditions and restrictions that at any time are applicable to the Collateral.

1.20 Actions to Protect Collateral. If Grantor shall fail to (a) effect the insurance required by Section 1.10, (b) make any payments required hereunder or (c) perform or observe any of its other covenants or agreements hereunder, Beneficiary may, without obligation to do so, and upon notice to Grantor (except in an emergency) effect or pay the same. All sums, including reasonable attorneys' fees, so expended or expended to sustain the lien or estate of this Indenture or its priority, or to protect or enforce any of the rights hereunder, or to recover any indebtedness secured hereby, shall be a lien on the Collateral, shall be deemed to be added to the indebtedness secured by this Indenture, and shall be paid by Grantor within ten (10) days

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after demand therefor, together with interest thereon at the Default Rate. In any action or proceeding to foreclose this Indenture as a deed of trust or to recover or collect the Obligations, the provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

1.21 Waivers.

(a) The obligations of Grantor under this Indenture and Beneficiary's security interest in the Collateral shall remain in full force and effect until all Obligations shall have been paid and performed in full and shall not be released, discharged or terminated for any reason whatsoever, including, without limitation, the following: (i) the waiver by Beneficiary of the performance or observance by Grantor, any General Partner, any Shareholder, Hydro-Flow or INE of any Obligations; (ii) the extension to Grantor of any additional credit facilities, any changes in the amount of the Rent, the change by Beneficiary of the interest rate in the Construction Loan Agreement, the Revolving Credit Agreement or any other credit facilities extended to Grantor or the extension of time for payment by Grantor, any General Partner, any Shareholder, Hydro-Flow or INE of any Obligations or of the time for performance by Grantor, any General Partner, any Shareholder, Hydro-Flow or INE of any other Obligations under or arising out of or account of any of the Agreements, or the extension or renewal of any of the Agreements; (iii) any failure, omission or delay of Beneficiary to enforce, assert or exercise any right, power or remedy conferred on Beneficiary in this Indenture or any of the other Agreements or any action on the part of Beneficiary granting extension or indulgence in any form; (iv) any transfer or assignment by Grantor, any General Partner, any Shareholder, Hydro-Flow or INE or Beneficiary of its interest, or any part thereof, into any of the "Collateral," as defined in each of the Agreements; (v) any compromise, settlement, release, renewal, extension, indulgence, change in or waiver or modification of any of the Obligations or the release or discharge of Grantor, any General Partner, any Shareholder, Hydro-Flow or INE from the performance or observance of any of the Obligations by operation of law; (vi) the voluntary or involuntary liquidation, dissolution, sale, or other disposition of all or substantially all the assets and liabilities of, or the voluntary or involuntary receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or adjustment of, or any other similar proceeding affecting Grantor, any General Partner, any Shareholder, Hydro-Flow or INE or the disaffirmance of any of the Agreements in any such proceeding; (vii) any merger, consolidation, or any other reorganization of Grantor, any General Partner, any Shareholder, Hydro-Flow or INE, or any sale or disposition, whether directly or indirectly of any of the assets of Grantor, any General Partner, any Shareholder, Hydro-Flow or INE; (viii) to the extent permitted by applicable law, the invalidity of any of the Agreements; (ix) the default of Grantor under this Indenture; (x) any impairment of Grantor's rights of subrogation by virtue of Beneficiary's actions; or (xi) any other circumstance which might otherwise constitute a legal or equitable defense or discharge of Grantor.

(b) Grantor specifically agrees that it shall not be necessary or required in order to enforce its obligations hereunder that there be, and Grantor specifically waives: (i) any notice of the acceptance of this Indenture or of the performance or nonperformance by Grantor, any General Partner, any Shareholder, Hydro-Flow or INE of any of the Agreements; (ii) demand for payment or performance from Grantor, any General Partner, any Shareholder, Hydro-Flow or INE; (iii) presentment for payment upon Grantor, any General Partner, any Shareholder, Hydro-Flow or INE or the making of any protest; (iv) notice of the amount of Obligations outstanding at any time; (v) notice of nonpayment or failure to perform on the part of Grantor, any General Partner, any Shareholder, Hydro-Flow or INE; and (vi) and any other circumstance which otherwise might constitute a legal or equitable defense or discharge of Grantor. Grantor specifically agrees that it shall not be necessary or required, and that it shall not be entitled to require, that Beneficiary file suit or proceed to obtain or assert a claim for personal judgment against Grantor, any General Partner, any Shareholder, Hydro-Flow or INE for any Obligations or make any effort at collection of any Obligations from Grantor, any General Partner, any Shareholder, Hydro-Flow or INE or foreclose against or seek to realize upon any security now or hereafter existing for the Obligations or file suit or proceed to obtain or assert a claim for personal judgment against any other party liable for any Obligations or make any effort at collection of any Obligations from any other party or exercise or assert any other right or remedy to which any of them is or may be entitled in connection with the Obligations or any security or other guarantee therefor or assert or file any claim against the assets of Grantor, any General Partner, any Shareholder, Hydro-Flow or INE or any other Person liable for the Obligations or any part thereof, before or as a condition of enforcing its rights against Grantor under this Indenture.

(c) Until all Obligations have been paid and performed in full, Grantor shall have no right of subrogation to, and waives, to the fullest extent permitted by law, any right to enforce any remedy which Beneficiary now has or may hereafter have against any General Partner, any Shareholder, Hydro-Flow or INE in respect of the Obligations, and Grantor waives any benefit of, and any right to participate in, any security, whether real or personal property, now or hereafter held by Beneficiary for the Obligations. Until all Obligations have been paid and performed in full, Grantor shall not seek reimbursement from any General Partner, any Shareholder, Hydro-Flow or INE or any of their respective assets. Grantor assumes the responsibility for being and keeping itself informed of the financial condition of every General Partner, every Shareholder, Hydro-Flow and INE and of all other circumstances bearing upon the risk of nonpayment of the Obligations which diligent inquiry would reveal, and agrees that Beneficiary shall have no duty to advise Grantor of information known to it regarding such condition or any such circumstances.

ARTICLE II

ASSIGNMENTS OF RENTS, ISSUES AND PROFITS

2.01 Assignment of Rents, Issues and Profits. Grantor hereby assigns and transfer to Beneficiary the rents, revenues, issues, profits, royalties, income and benefits derived from the Easements and the Improvements (collectively, the "Rents"), and hereby gives to and confers upon Beneficiary the right, power and authority to collect the same. Grantor irrevocably appoints Beneficiary its true and lawful attorney-in-fact, at the option of Beneficiary at any time and from time to time following the occurrence of an Event of Default, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of the Grantor or otherwise, for the Rents and apply the same to the Obligations; provided, however, that Grantor shall have the right to collect the Rents at any time prior to the occurrence of an Event of Default. The foregoing assignment of Rents is intended to be an absolute assignment from Grantor to Beneficiary and not merely the passing of a security interest. The Rents are assigned absolutely by Grantor to Beneficiary subject only to the terms of this Indenture.

2.02 Collection Upon Event of Default. To the extent permitted by law, upon the occurrence of any Event of Default, Beneficiary may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Obligations enter upon and take possession of the Easements or the Improvements or any part thereof, in its own name, sue for or otherwise collect the Rents including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, to the payment of the Obligations, and in such order as Beneficiary may determine. The collection of the Rents or the entering upon and taking possession of the Easements or the Improvements or any part thereof, or the application thereof as aforesaid, shall not cure or waive any Event of Default or notice thereof or invalidate any act done in response to such Event of Default or pursuant to notice thereof.

2.03 Warranty Enforcement. Until an Event of Default shall occur under this Indenture, Grantor may deal with the Collateral and exercise all rights and powers that it would otherwise be entitled to exercise in connection therewith. Without limiting the generality of the foregoing, Beneficiary agrees that, prior an Event of Default under this Indenture, Grantor shall have the full right, power and authority to exercise and enforce all Contracts, Governmental Authorizations and Warranty Agreements, including without limitation (i) all claims arising thereunder, (ii) any and all rights to compel performance of the terms of the Contracts, Governmental Authorizations and Warranty Agreements, and (iii) all payments and refunds that any contractor may be required to make with respect to the Mortgaged Property and any portion thereof under any Warranty Agreement and all payments under the Contracts, Governmental Authorizations and Warranty Agreements.

ARTICLE III

EVENTS OF DEFAULT AND REMEDIES

3.01 Event of Default. An Event of Default shall be deemed to have occurred under this Indenture upon the occurrence of any of the following events: (a) an "Event of Default" under and as defined in the Construction Loan Agreement, the Lease or any of the other Fundamental Agreement; (b) Grantor shall fail to discharge any Lien on the Collateral or the priority of the security interest in the Collateral granted herein shall be otherwise impaired in any material respect within ten (10) Business Days after the existence thereof or impairment thereof shall have first become known to Grantor (unless Grantor shall be contesting the same in good faith with due diligence and by appropriate proceedings but only so long as such proceedings do not in Beneficiary's opinion, involve any risk of the sale, forfeiture or loss of any Collateral, title thereto or any interest therein); (c) Grantor shall fail to observe or perform any other obligation to be observed or performed by it under this Indenture and such failure shall continue unremedied for a period of thirty (30) days after written notice thereof to Grantor by Beneficiary, provided that such period shall be extended to one hundred twenty (120) days so long as (i) such Event of Default is curable other than by the payment of money, (ii) Grantor diligently pursues such cure and completes the cure within such extended period and (iii) the cure does not, in Beneficiary's opinion, involve any risk of the sale, forfeiture or loss of any of the Collateral, title thereto or interest therein; (d) any representation, warranty or certificate made or furnished by Grantor to Beneficiary in connection with this Indenture and the Financing Agreement or as an inducement to Beneficiary to enter into this Indenture or the Financing Agreement, or in any separate statement or document to be delivered hereunder or thereunder to Beneficiary, shall prove to be materially false, incorrect or incomplete in any material respect when made; or (e) a judgment creditor of Grantor shall obtain possession of any of the Collateral by any means, including, but not limited to, levy, distraint, replevin or self help.

3.02 Default Remedies.

(a) If an Event of Default shall have occurred this Indenture may, to the extent permitted by law, be enforced either as a deed of trust or as a mortgage at the option of Beneficiary, and the Indenture Trustee or Beneficiary may exercise any right, power or remedy permitted to it hereunder, under the Construction Loan Agreement, the Lease and any other Fundamental Agreement or by law, and, without limiting the generality of the foregoing, Beneficiary may, personally or by its agents, to the extent permitted by law:

(i) enter and take possession of the Collateral or any part thereof, exclude Grantor and all persons claiming through Grantor whose claims are junior to this Indenture, wholly or partly therefrom, and use, operate, manage and control the same either in the name of Grantor or otherwise as Beneficiary shall deem best, and upon such entry, from time to time at the expense of Grantor and the Collateral, make all such repairs, replacements, alterations, additions or improvements to the

Collateral or any part thereof as Beneficiary may deem proper and, whether or not Beneficiary has so entered and taken possession of the Collateral or any part thereof, collect and receive all the rents and profits and apply the same, to the extent permitted by law, to the payment of all expenses which Beneficiary may be authorized to make under this Indenture, the remainder to be applied to the payment of the Obligations until the same shall have been repaid in full. If Beneficiary demands or attempts to take possession of the Collateral or any portion thereof in the exercise of any rights hereunder, Grantor shall promptly turn over and deliver complete possession thereof to Beneficiary; and

(ii) with or without entry, if Beneficiary shall deem it advisable:

(x) sell the Collateral at a sale or sales held at such place or places and time or times and upon such notice and otherwise in such manner as may be required by law, or, in the absence of any such requirement, as Beneficiary may deem appropriate and from time to time adjourn any such sale by announcement at the time and place specified for such sale or for such adjourned sale without further notice, except such as may be required by law;

(y) proceed to protect and enforce its rights under this Indenture, by suit for specific performance of any covenant contained herein or in any Fundamental Agreement or in aid of the execution of any power granted herein or in any Fundamental Agreement, or for the foreclosure of this Indenture (as a mortgage or otherwise) and the sale of the Collateral under the judgment or decree of a court of competent jurisdiction, or for the enforcement of any other right as Beneficiary shall deem most effectual for such purpose, provided, that in the event of a sale, by foreclosure or otherwise, of less than all of the Collateral, this Indenture shall continue as a lien on, and security interest in, the remaining portion of the Collateral; or

(z) exercise any or all of the remedies available to a secured party under the applicable Uniform Commercial Code, including, without limitation:

(1) either personally or by means of a court appointed receiver, take possession of all or any of the personal property included in the Collateral (the "Personal Property") and exclude therefrom Grantor and all persons claiming under Grantor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Grantor in respect of the Personal Property or any part thereof; if Beneficiary demands or attempts to take possession of the Personal Property in the exercise of any rights hereunder, Grantor shall promptly turn over and deliver complete possession thereof to Beneficiary;

(2) without notice to or demand upon Grantor, make such payments and do such acts as Beneficiary may deem necessary to protect its security interest in the Personal Property, including, without limitation, paying, purchasing, contesting or compromising any encumbrance which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority paying all expenses incurred in connection therewith;

(3) require Grantor to assemble the Personal Property or any portion thereof, at a place designated by Beneficiary and reasonably convenient to both parties, and promptly to deliver the Personal Property to Beneficiary, or an agent or representative designated by it; Beneficiary, and its agents and representatives, shall have the right to enter upon the premises and property of Grantor to exercise Beneficiary's rights hereunder;

(4) sell, lease or otherwise dispose of the Personal Property, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as the Beneficiary may determine (Beneficiary may be a purchaser at any such sale); and

(5) unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give Grantor at least 10 days' prior notice of the time and place of any sale of the Personal Property or other intended disposition thereof.

(b) If an Event of Default shall have occurred, Beneficiary, to the extent permitted by law, shall be entitled, as a matter of right, to the appointment of a receiver of the Collateral, without notice or demand, and without regard to the adequacy of the security for the indebtedness secured hereby or the solvency of Grantor. Grantor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry and shall continue as such and exercise all such powers until the date of confirmation of sale of the Collateral, unless such receivership is sooner terminated.

(c) If an Event of Default shall have occurred, Grantor shall, to the extent permitted by law, pay monthly in advance to Beneficiary, or to any receiver appointed at the request of Beneficiary to collect rents, the fair and reasonable rental value for the use and occupancy of the Easements and the Improvements or of such part thereof as may be in the possession of Grantor. Upon default in the payment thereof, Grantor shall vacate and surrender possession of the Easements and the Improvements to Beneficiary or such receiver, and upon a failure so to do may be evicted by summary proceedings.

(d) In any sale under any provision of this Indenture or pursuant to any judgment or decree of court, the Collateral, to the extent permitted by law, may be sold in one or more parcels or as an entirety and in such order as Beneficiary may elect, without regard to the right of Grantor or any person claiming under Grantor to the marshalling of assets. The purchaser at any such sale shall take title to the Collateral or the part thereof so sold free and discharged of the estate of Grantor therein, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary, may purchase at any such sale. Upon the completion of any such sale by virtue of this Section 3.02, the Indenture Trustee shall execute and deliver to the purchaser an appropriate instrument which shall effectively transfer all of Grantor's and the Indenture Trustee's estate, right, title, interest, property, claim and demand in and to the Collateral or portion thereof so sold, but without any covenant or warranty, express or implied. Beneficiary is hereby irrevocably appointed the attorney-in-fact of Grantor in its name and stead to make all appropriate transfers and deliveries of the Collateral or any portions thereof so sold and, for that purpose, Beneficiary may execute all appropriate instruments of transfer, and may substitute one or more persons with like power, Grantor hereby ratifying and confirming all that said attorneys or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, Grantor shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Beneficiary, for such purpose, and as may be designated in such request. Any sale or sales made under or by virtue of this Indenture, to the extent not prohibited by law, shall operate to divest all the estate, right, title, interest, property, claim and demand whatsoever, whether at law or in equity, of Grantor in and to the Collateral, or any portions thereof so sold, and shall be a perpetual bar both at law and in equity against Grantor and against any and all persons claiming or who may claim the same, or any part thereof, by, through or under Grantor. The powers and agency herein granted are coupled with an interest and are irrevocable.

(e) All rights of action under the Fundamental Agreements and this Indenture may be enforced by Beneficiary or the Indenture Trustee without the possession of the Construction Note, the Lease or the Revolving Loan Note and without the production thereof at any trial or other proceeding relative thereto. Any such suit or proceeding instituted by the Indenture Trustee shall be brought in its name and as trustee of an express trust, and any recovery of judgment shall, subject to the rights of the Indenture Trustee, be for the benefit of Beneficiary.

3.03 Application of Proceeds.

(a) The proceeds of any sale made either under the power of sale hereby given or under a judgment, order or decree made in any action to foreclose or to enforce this Indenture shall, to the extent permitted by law, be applied:

(i) first, to the payment of all costs and expenses of such sale, including the Indenture Trustee's and Beneficiary's attorneys' fees;

(ii) second, to the payment of all charges, expenses and advances incurred or made by the Indenture Trustee or Beneficiary in order to protect the lien and estate of this Indenture or the security afforded hereby;

(iii) third, to the payment in full of the portion of the Obligations representing interest, including, without limitation, any interest due under the Agreements;

(iv) fourth, to the payment of all other Obligations; and

after payment in full of all Obligations any surplus remaining shall be paid to Grantor or to whosoever may be lawfully entitled to receive the same.

(b) No sale or other disposition of all or any part of the Collateral pursuant to Section 3.02 shall be deemed to relieve Grantor of its obligations under the Obligations except to the extent the proceeds thereof are applied to the payment of the Obligations. If the proceeds of sale, collection or other realization of or upon the Collateral are insufficient to cover the costs and expenses of such realization and the payment in full of the Obligations, Grantor shall remain liable for any deficiency.

3.04 Right to Sue. The Indenture Trustee and Beneficiary, or either of them, shall have the right from time to time to sue for any sums required to be paid by Grantor under the terms of this Indenture as the same become due, without regard to whether or not the Obligations shall be, or have become, due and without prejudice to the right of the Indenture Trustee or Beneficiary thereafter to bring any action or proceeding of foreclosure or any other action upon the occurrence of any Event of Default existing at the time such earlier action was commenced.

3.05 Remedies Cumulative.

(a) No right or remedy herein conferred upon or reserved to the Indenture Trustee or Beneficiary is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy under this Indenture, or now or hereafter existing, upon the occurrence and during the continuance of an Event of Default; the failure of the Indenture Trustee or Beneficiary to insist at any time upon the strict observance or performance of any of the provisions of this Indenture, or to exercise any right or remedy provided for herein, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof.

(b) The Indenture Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of the Obligations and any of the obligations of Grantor hereunder and to exercise all rights and powers under this Indenture or any laws now or hereafter in force,

notwithstanding that some or all of the obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise; neither the acceptance of this Indenture nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect the Indenture Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by the Indenture Trustee or Beneficiary, it being stipulated that the Indenture Trustee and Beneficiary, and each of them, shall be entitled to enforce this Indenture and any other security now or hereafter held by Beneficiary in such order and manner as Beneficiary, in its sole discretion, may determine; every power or remedy given by the Fundamental Agreements or this Indenture to Beneficiary or to which Beneficiary is otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Beneficiary, and Beneficiary may pursue inconsistent remedies.

3.06 Waiver of Stay, Extension, Moratorium Laws: Equity of Redemption. To the extent permitted by law, Grantor shall not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any applicable present or future stay, extension or moratorium law, which may affect observance or performance of the provisions of this Indenture; nor claim, take or insist upon any benefit or advantage of any present or future law providing for the valuation or appraisal of the Collateral or any portion thereof prior to any sale or sales thereof which may be made under or by virtue of Section 3.02; and Grantor, to the extent that it lawfully may, hereby waives all benefit or advantage of any such law or laws. Grantor for itself and all who may claim under it, hereby waives, to the extent permitted by applicable law, any and all rights and equities of redemption from sale under the power of sale created hereunder or from sale under any order or decree of foreclosure of this Indenture and (if an Event of Default shall have occurred) all notice or notices of seizure, and all right to have the Collateral marshalled upon any foreclosure hereof. Neither the Indenture Trustee nor Beneficiary shall be obligated to pursue or exhaust its rights or remedies as against any other part of the Collateral and Grantor hereby waives any right or claim of right to have the Indenture Trustee or Beneficiary proceed in any particular order.

3.07 No Waiver. No failure to exercise, nor any delay in exercising or any course of dealing in respect of any right, power or remedy hereunder by the Indenture Trustee or Beneficiary shall operate as a waiver thereof, nor shall any single or partial exercise by the Indenture Trustee or Beneficiary of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

ARTICLE IV

THE INDENTURE TRUSTEE

4.01 Acceptance by Indenture Trustee. The Indenture Trustee accepts this trust when this Indenture, duly executed and acknowledged, is made a public record as provided by law.

4.02 Compensation. The Indenture Trustee waives any statutory fee and shall accept reasonable compensation from Beneficiary in lieu thereof for any services rendered by it in accordance with the terms hereof. Grantor shall pay all costs, fees and expenses of the Indenture Trustee, its agents and counsel in connection with the performance of the Indenture Trustee's duties hereunder, including without limitation reasonable and actual attorneys' fees and the cost of any trustee's sale guaranty or other title insurance coverage ordered in connection with any foreclosure proceedings hereunder.

4.03 Action in Accordance with Instructions. Upon receipt by the Indenture Trustee of instructions from Beneficiary at any time or from time to time, the Indenture Trustee shall (a) give any notice or direction or exercise any right, remedy or power hereunder or in respect of any part or all of the Collateral as shall be specified in such instructions and (b) approve as satisfactory all matters required by the terms hereof to be satisfactory to the Indenture Trustee or to Beneficiary. The Indenture Trustee may, but need not, take any of such actions in the absence of such instructions. At any time or from to time, upon request of Beneficiary and presentation of this Indenture for endorsement, and without affecting the liability of any person for payment of the Obligations, the Indenture Trustee may, upon such request, reconvey all or any part of the Collateral, consent to the making of any map or plat thereof, join in granting any easement thereon, or join in any extension agreement or any agreement subordinating the lien and estate hereof.

4.04 Resignation. The Indenture Trustee may resign at any time upon giving not less than 60 days' prior notice to Beneficiary, but shall continue to act as trustee until its successor shall have been qualified and appointed pursuant to Section 4.05.

4.05 Successor Indenture Trustee. In the event of the death, removal, resignation or refusal or inability of the Indenture Trustee to act, or for any reason, at any time, Beneficiary shall have the irrevocable power, with or without cause, without notice of any kind, and without applying to any court, to select and appoint a successor trustee. Each such appointment and substitution shall be made by notice to Grantor, the Indenture Trustee and successor trustee and by recording notice of such in each office in which this Indenture is recorded. Such notice shall be executed and acknowledged by Beneficiary and shall contain reference to this Indenture and when so recorded shall be conclusive proof of proper appointment of the successor trustee. Such successor shall not be required to give bond for the faithful performance of its duties unless required by Beneficiary.

ARTICLE V

MISCELLANEOUS

5.01 Severability. Any provision of this Indenture which is prohibited or unenforceable in any jurisdiction, shall be, only as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability, but all the remaining provisions of this Indenture shall remain valid.

5.02 Addresses for Notices. All notices or other communications required or permitted to be given hereunder shall be in writing, shall be addressed as provided below and shall be considered as properly given (i) if delivered in person, (ii) if sent by overnight delivery service (including, without limitation, Federal Express, ETA, Emery, Purolator, DHL, Air Borne or similar overnight delivery services), (iii) in the event overnight delivery services are not readily available, if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested or (iv) if sent by prepaid telegram, facsimile copy or by telex and confirmed. Notice given in any manner shall be effective upon receipt by the addressee; provided, however, that if any notice is tendered to an addressee and the delivery thereof is refused by such addressee, such notice shall be effective upon such tender. For the purposes of notice, the addresses of the parties shall be as set forth below; provided, however, that any party shall have the right to change its address for notice hereunder to any other location within the continental United States by giving of thirty (30) days' notice to the other parties in the manner set forth hereinabove. The initial addresses of the parties hereto are as follows:

(1) Lessor:
Westinghouse Credit Corporation
One Oxford Centre
Pittsburg, Pennsylvania 15219
Attention: Manager, Administration,
Major Industries
Finance Group

(2) Grantor:
Smith Falls Hydropower
c/o American Pacific Power Corp.
699 East South Temple, Suite 220
Salt Lake City, Utah 84102
Attn: David Van Otten

5.03 Grantor Not Released. Extension of the time for payment or modification of the terms of payment of any sums secured by this Indenture granted by Beneficiary to any successor in interest of Grantor shall not operate to release, in any manner, the liability of the original Grantor. Beneficiary shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify the terms of payment of the sums secured by the Indenture by reason of any demand made by the original Grantor. Without affecting the liability of any person, including Grantor, for the payment of any Obligations secured hereby, or the

lien of this Indenture on the remainder of the Collateral for the full amount of any such Obligation and liability unpaid, Beneficiary is empowered as follows: Beneficiary may from time to time and without notice (a) release any person liable for the payment of any of the Obligations, (b) extend the time of payment of any of the Obligations, (c) accept additional real or personal property of any kind as security therefor, whether evidenced by deeds of trust, mortgages, security agreements, or any other instruments of security, (d) alter, substitute or release any property securing the Obligations, (e) consent to the making of any map or plat of the Collateral or any part thereof, (f) join in granting any easement or creating any restriction thereon, (g) join in any subordination or other agreement affecting this Indenture or the lien or charge hereof, or (h) reconvey, without any warranty, all or part of the Collateral.

5.04 Inspection. Beneficiary may at any reasonable time or times make or cause to be made entry upon and inspection of the Collateral or any part thereof in person or by agent.

5.05 Statute of Limitations. The pleading of any statute of limitations as a defense to any and all Obligations secured by this Indenture is hereby waived to the fullest extent permitted by law.

5.06 Interpretation. Wherever used in this Indenture, unless the context otherwise indicates a contrary intent, or unless otherwise specifically provided herein, the word "Grantor" shall mean and include Grantor and any subsequent owner or owners of the Collateral, and the word "Beneficiary" shall mean and include not only the original Beneficiary hereunder but also any future assignees or transferees which are Lessor under the Construction Loan Agreement and the Lease. In this Indenture, the use of the word "including" shall not be deemed to limit the generality of the term or clause to which it has reference, whether or not nonlimiting language (such as "without limitation," or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term, or matter. The captions and headings of the Articles and Sections of this Indenture are for convenience only and are not to be used to interpret, define, or limit the provisions hereof.

5.07 Consent; Delegation to Sub-agents. Any waiver, permit, consent or approval by Beneficiary of any Event of Default or breach of any provision, condition or covenant of this Indenture or any of the Agreements must be in writing and shall be effective only to the extent it is set forth in writing. No waiver of a specific breach or Event of Default shall operate as a waiver of any other breach or Event of Default or of the same breach or Event of Default occurring at a later time. Wherever a power of attorney is conferred upon Beneficiary hereunder, it is understood and agreed that such power is conferred with full power of substitution, and Beneficiary may elect in its sole discretion to exercise such power itself or to delegate such power, or any part thereof, to one or more sub-agents.

5.08 Successors and Assigns. This Indenture shall be binding upon and shall inure to the benefit of Beneficiary and Grantor and their respective successors and assigns; provided, however, that Grantor may not assign or transfer its rights or obligations under this Indenture except in connection with a transfer of Grantor's rights and obligations under the Construction Loan Agreement and the Lease. Beneficiary reserves the right to sell, assign or transfer all or any part of, or any interest in, Beneficiary's rights and obligations under this Indenture. In connection therewith, Beneficiary may disclose all documents and information which Beneficiary now or hereafter may have relating to Grantor or its business.

5.09 Amendments. This Indenture may not be altered or amended except by an agreement in writing signed by Beneficiary and Grantor. In the event that Beneficiary at any time or from time to time dispenses with any one or more of the requirements specified in this Indenture, such dispensation may be revoked by Beneficiary at any time and shall not be deemed to constitute a waiver of any such requirements subsequent thereto.

5.10 Continuing Security Interest. This Indenture shall create a continuing security interest in the Collateral and shall remain in full force and effect until fulfillment of all Obligations.

5.11 Fees and Expenses. Grantor will reimburse Beneficiary for all costs and expenses, including, but not limited to, (i) all costs incurred in connection with the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Collateral, and (ii) reasonable attorneys' fees and expenses expended or incurred by Beneficiary in collecting any sum which becomes due Beneficiary under this Indenture, or in the protection, preservation and enforcement of any and all rights of Beneficiary in connection with this Indenture, including, without limitation, the fees and costs incurred in a bankruptcy proceeding.

5.12 Conflict with Construction Loan Agreement and Lease. If there shall occur any conflict between the express provisions of this Indenture and the express provisions of the Construction Loan Agreement or the Lease, the terms of the Construction Loan Agreement or the Lease, as applicable, shall govern.

5.13 Reconveyance by Indenture Trustee. Beneficiary shall notify the Indenture Trustee of the payment and performance in full or the assignment of the Obligations and shall surrender this Indenture to the Indenture Trustee for cancellation and retention. Upon receipt of such notification and upon payment by the Grantor of the Indenture Trustee's expenses, the Indenture Trustee (and, if required by law, the Beneficiary) shall release the lien of this Indenture, without warranty or covenant, any portion of the Collateral then held hereunder to the Grantor or upon the request of the Grantor and at the Grantor's expense.

5.14 Invalidity of Certain Provisions. If the lien or estate of this Indenture is invalid or unenforceable as to any part of the Collateral, the unsecured portion of such indebtedness shall be completely paid prior to

the payment of the remaining and secured or partially secured portion thereof, and all payments made on such indebtedness, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion thereof that is not secured or fully secured by the lien or estate of this Indenture.

5.15 One of a Number of Indentures. This Indenture is given as security together with certain other indentures which collectively cover the Collateral. A copy of all such indenture instruments (including this Indenture) are on file with Grantor and with Beneficiary and are available for inspection during normal business hours upon reasonable advance request therefor. A default with respect to any such indenture instrument (including this Indenture) shall constitute a default under all such indenture instruments (including this Indenture).

5.16 Scope of Liability. Notwithstanding any other provision of this Indenture or any of the other Fundamental Agreements, there shall be no recourse against the General Partners, Hydro-Flow, the Shareholders or any of their respective Affiliates, stockholders, officers, directors or employees, for any liability to Beneficiary arising in connection with any breach or default under this Indenture except to the extent the same is enforced against Grantor or the Collateral (and the "Collateral" as defined in the other Collateral Documents), and Beneficiary shall look solely to Grantor and the Collateral (and the "Collateral" as defined in the other Collateral Documents) in enforcing rights and obligations under and in connection with this Indenture, provided, however, that foregoing provisions of this Section 5.16 shall not:

(a) Constitute a waiver, release or discharge of any of the indebtedness under, or of any of the terms, covenants, conditions or provisions of, this Indenture or any other Fundamental Agreement, and the same shall continue until fully paid, discharged, observed, or performed;

(b) Limit or restrict the right of Beneficiary to name Grantor or any other Person as a defendant in any action or suit for a judicial foreclosure or for the exercise of any other remedy under or with respect to this Indenture, the Collateral Documents or any other Fundamental Agreement, or for injunction or specific performance; or

(c) In any way limit or restrict any right or remedy of Beneficiary (or any assignee or beneficiary thereof or successor thereto) with respect to, and Grantor and any other party hereto shall remain fully liable to the extent that it would otherwise be liable for, any fraud, misrepresentation or misappropriation of Facility revenues, Proceeds or any other earnings, revenues, rents, issues, profits or proceeds from or of the Collateral (and the "Collateral" as defined in the other Collateral Documents) that should or would have been paid as provided herein or paid or delivered to Beneficiary (or any assignee or beneficiary thereof or successor thereto) towards any payment required under this Indenture or any other Fundamental Agreement.

5.17 Counterparts. This Indenture may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Indenture by signing any such counterpart.

5.18 Governing Law. This Indenture shall be governed by and construed under the laws of the State of Idaho.

IN WITNESS WHEREOF, the undersigned general partners have executed this Indenture the day and year first hereinabove written.

SMITH FALLS HYDROPOWER
by its general partners

AMERICAN PACIFIC POWER CORP.

David B. Van Otten
President

PACIFIC WEST POWER CORP.,

By _____
Gary E. May
President

AMERICA WEST HYDRO CORP.,

By _____
R. Fred Moss
President

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IN WITNESS WHEREOF, the undersigned general partners have executed this Indenture the day and year first hereinabove written.

SMITH FALLS HYDROPOWER
by its general partners

AMERICAN PACIFIC POWER CORP.

David B. Van Otten
President

PACIFIC WEST POWER CORP.,

By _____
Gary E. May
President

AMERICA WEST HYDRO CORP.,

By _____
R. Fred Moss
President

STATE OF UTAH)

) ss.

COUNTY OF SALT LAKE)

On this 23rd day of May, 1989 before the undersigned, a Notary Public in and for said State of Utah, personally appeared David B. Van Otten, personally known to me or proved to me on the basis of satisfactory evidence to be the President of Ameican Pacific Power Corp., a Utah corporation ("APPC"), the corporation known to me or proved to me on the basis of satisfactory evidence to be the general partner of Smith Falls Hydropower, a Utah general partnership (the "Partnership"), the general partnership that executed the within instrument, and acknowledged to me that he executed the within instrument on behalf of PWPC, and further acknowledged to me that PWPC executed the within instrument on behalf of the Partnership, and further acknowledged to me that the Partnership executed the within instrument.

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

Notary Public in and for said State of Salt Lake City, Utah

[SEAL]

* * * My commission expires: April 27, 1990

34721

Lessee Easement Mortgage

STATE OF IDAHO)
) ss.
COUNTY OF BONNER)

On this 19th day of May, 1989 before the undersigned, a Notary Public in and for said State of IDAHO personally appeared Gary E. May, personally known to me or proved to me on the basis of satisfactory evidence to be the President of Pacific West Power Corp., a Utah corporation ("PWPC"), the corporation known to me or proved to me on the basis of satisfactory evidence to be the general partner of Smith Falls Hydropower, a Utah general partnership (the "Partnership"), the general partnership that executed the within instrument, and acknowledged to me that he executed the within instrument on behalf of PWPC, and further acknowledged to me that PWPC executed the within instrument on behalf of the Partnership, and further acknowledged to me that the Partnership executed the within instrument.

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

Notary Public in and for said State of IDAHO
Exp: 10/8/94

[SEAL] * * *

34721

Lessee Easement Mortgage

STATE OF IDAHO)
) ss.
COUNTY OF BONNER)

On this 19th day of May, 1989 before the undersigned, a Notary Public in and for said State of IDAHO personally appeared R. Fred Moss, personally known to me or proved to me on the basis of satisfactory evidence to be the President of America West Hydro, Inc., a Utah corporation ("AWHI"), the corporation known to me or proved to me on the basis of satisfactory evidence to be the general partner of Smith Falls Hydropower, a Utah general partnership (the "Partnership"), the general partnership that executed the within instrument, and acknowledged to me that he executed the within instrument on behalf of AWHI, and further acknowledged to me that AWHI executed the within instrument on behalf of the Partnership, and further acknowledged to me that the Partnership executed the within instrument.

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

Notary Public in and for said State of IDAHO
Exp: 10/8/94

[SEAL] * * *

34721

Lessee Easement Mortgage

SCHEDULE I

DEFINITIONS

"Account Holder" means First Security Bank of Utah, N.A.

"Affiliate" of any Person means any other Person controlling, controlled by or under direct or indirect common control with such Person. For the purposes of this definition, "control," when used with respect to any specified Person, means the power to direct the management or policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Agreement of Understanding" means the letter agreement between Lessor, Lessee and Utility, in the form of Exhibit N to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"APPC" means American Pacific Power Corp., a Utah corporation.

"Applicable Law" means (a) all applicable federal, state and local statutes, regulations, ordinances and codes, including, without limitation, the Code, the FPA, the PUHCA and the State PUC Law, (b) the Idaho Hazardous Waste Management Act of 1983, as amended, Idaho Code section 39-4401, et seq., the Idaho Environmental Protection and Health Act of 1972, as amended, Idaho Code section 39-101, et seq., the Idaho PCB Disposal Act of 1987, Idaho Code section 39-6201, et seq., and the regulations issued under each of such statutes and (c) all other applicable lawful rules, regulations, interpretations and orders of any commissions, boards or other legislative, executive, judicial or other governmental bodies or officers having power to regulate or supervise the Facility or the Site.

"Appraisal" means a written appraisal (which appraisal shall include component cost segregation) from an Appraiser and in form and substance satisfactory to Lessor stating that, among other things, Lessor's Cost does not exceed the Fair Market Value of the Facility, the estimated residual value of the Facility at the end of the Basic Term will be at least 20% of Lessor's Cost (without regard to inflation or deflation), the Basic Term will not exceed 80% of the economic life of the Facility and the Facility is not limited use property (within the meaning of Revenue Procedure 75-21, 1975-1 C.B. 715, or any other applicable successor statute, regulation, revenue procedure, information release or published Internal Revenue Service policy) and setting forth the economic life of the Facility.

"Appraiser" means a reputable, independent appraiser (who is not a manufacturer of equipment used to generate electrical energy) qualified and experienced in the appraisal of facilities or equipment used for the hydrological generation of electrical energy.

"Assignment Agreement" means the Asset Sale Agreement between Lessee, Hydro-Flow and INE in the form of Exhibit R to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Authorized Investments" means the investments specified in Schedule I to the Construction Escrow Agreement, the Escrow Fund Agreement and the Lease Payment Agreement.

"AWHI" means America West Hydro, Inc., a Utah corporation.

"Base Case Projections" means a projection of operating results for the Facility over a period ending no sooner than December 31, 2009, showing at a minimum Lessee's reasonable good faith estimates, as of the Construction Loan Closing Date, of revenues, operating expenses, debt service coverage ratios and sources and uses of proceeds over the forecast period, which projection is attached as Schedule IV-B to the Financing Agreement, as the same may be adjusted with Lessor's consent from time to time.

"Basic Rent" means, with respect to any Rent Payment Date during the Basic Term, an amount equal to the Basic Rent Factor set forth opposite such Rent Payment Date on Schedule III annexed to the Lease multiplied by Lessor's Cost, and, with respect to any Rent Payment Date during a Renewal Term, an amount determined as provided in Section 6(b) of the Lease.

"Basic Rent Factor" means the applicable figure set forth on Schedule III annexed to the Lease.

"Basic Term" means the period beginning on the First Lease Closing Date and expiring on the twentieth anniversary of the First Lease Closing Date.

"BayBank" means BayBank Boston, N.A., a national banking association.

"BayBank Loan Agreement" means the Amended and Restated Revolving Loan Facility Agreement dated as of May 3, 1989, among INE, Hydro-Flow and BayBank.

"BayBank Termination Agreement" means the BayBank Boston, N.A. Agreement Regarding Assignments and Loan Agreement Obligations executed by BayBank in connection with the Construction Loan Closing.

"Bill of Sale" means a Bill of Sale, dated as of a Lease Closing Date, and executed by Lessee by which ownership of the property specified therein is to be transferred to Lessor.

"BPA Agreements" means the BPA O&M Agreement, the Breaker Agreement, and the BPA Construction Reimbursement Agreement.

"BPA Construction Reimbursement Agreement" means the Customer Agreement to be executed between Lessee and BPA pursuant to the Wheeling Agreement.

"BPA O&M Agreement" means the agreement to be executed between BPA and Lessee regarding the operation and maintenance of the substation to be constructed to interconnect the Transmission Line with the BPA transmission system.

"Breaker Agreement" means the agreement to be executed between BPA and Lessee regarding the rental of a gas breaker from BPA to Lessee.

"Business Day" means any day other than a Saturday or a Sunday or a day on which commercial banking institutions in Salt Lake City, Utah, or in New York, New York, are authorized or required by law to be closed. Any reference in the Fundamental Agreements to "days" (unless Business Days are specified) shall mean calendar days.

"Casualty Loss Payment Date" means the thirtieth day (or the last day of such month if such month is February) of the first month following the date on which (a) Lessee should have notified Lessor of a Casualty Occurrence pursuant to Section 11(b)(i) of the Lease or (b) the Lease terminates pursuant to Section 11(c)(i) of the Lease.

"Casualty Loss Value" means (a) as of any date during the Basic Term the amount determined by multiplying the appropriate percentage on Schedule III annexed to the Lease by Lessor's Cost, and (b) as of any date during a Renewal Term, the amount determined pursuant to Section 6(b) of the Lease.

"Casualty Occurrence" has the meaning set forth in Section 11(b)(i) of the Lease.

"Casualty Payment" has the meaning set forth in Section 11(b)(ii) of the Lease.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., as amended.

"Certificate of Delivery and Acceptance" means either Certificate of Delivery and Acceptance, dated as of a the First Lease Closing Date or the Second Lease Closing Date, executed by Lessee in accordance with the terms of Section 3 of the Lease.

"Closing" shall mean each Closing described in Section 2 of the Financing Agreement.

"Code" means the Internal Revenue Code of 1986, as amended, or any successor tax code thereto.

"Collateral" means every item of "Collateral" as defined in each of the Collateral Documents.

"Collateral Documents" means each of the Lessee Fee Mortgage, the Lessee Easement Mortgage, each General Partner Pledge and Security Agreement, each Shareholder Pledge Agreement, the Hydro-Flow Pledge and Security Agreement, the Hydro-Flow Mortgage, the INE Security Agreement, the Intercreditor Agreement, the Construction Escrow Agreement, the Lease Payment Agreement and the Escrow Fund Agreement.

"Collection Agreement" means the Collection Agreement for Project Construction, Collection Agreement Number 1, between INE and Idaho Panhandle National Forest, USDA-Forest Service, dated February 22, 1989, as such Collection Agreement has been assigned from INE to Lessee.

"Commitment" with respect to the Construction Loans, shall have the meaning as defined in Section 1.01 of the Construction Loan Agreement. "Commitment" with respect to the Revolving Loans shall have the meaning as defined in Section 1.01 of the Revolving Loan Agreement.

"Completion" means the time when all construction on the Facility is complete and final, including the addition of the Second Large Turbine but with the exception of immaterial punch list items approved by Lessor, and all contractors, materialmen and subcontractors have executed lien waivers satisfactory to Lessor with respect to work performed on the Facility, and the Facility with the Second Large Turbine has satisfactorily passed the Low Flow Performance Tests.

"Components" means appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature that from time to time may be incorporated or installed in or attached to the Site or incorporated into the Facility, including without limitation any spare parts that are included as part of the Facility.

"Condemning Authority" shall have the meaning as defined in Section 3.10 of the Construction Loan Agreement.

"Consent to Assignment" means each consent to assignment of a Related Document from Hydro-Flow or INE to Lessee and consent to assignment for security of such Related Agreement from Lessee to Lessor, executed by each party to the Related Documents.

"Construction Budget" has the meaning given to such term in Section 3(a)(xxxii) of the Financing Agreement.

"Construction Contract" means each of the contacts listed on Schedule III to the Financing Agreement as amended from time to time and each contract and agreement relating to construction on the Facility and each contract and agreement for the supply of materials or engineering services in connection with the Facility.

"Construction Costs" shall mean (i) amounts payable under the Construction Contracts, (ii) capitalized interest on the Construction Loans as computed monthly, (iii) fees and expenses of Lender, as provided in the

Fundamental Agreements, (iv) amounts due to repay BayBank under the BayBank Loan Agreement; (v) the Royalty Payment due to BayBank pursuant to and as defined in Section 1(a) of the Royalty Agreement, (vi) amounts paid to Mead under the Mead Note and the Mead Contract, (vii) the payment of $50,000 made to Mortenson; and (viii) such other reasonable costs, expenses and fees (including attorneys' fees) of Lessee incurred in connection with the Closings which are to occur on the First Lease Closing Date and the Second Lease Closing Date.

"Construction Escrow Account" shall mean the account for the deposit of Construction Loan proceeds and other moneys established pursuant to the Construction Escrow Agreement.

"Construction Escrow Agreement" shall mean the Construction Escrow Agreement, in the form of Exhibit Q to the Financing Agreement, between Lessee, Lessor and Account Holder, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Construction Loan" means each of the Loans made to Lessee by Lessor pursuant to the Construction Loan Agreement as contemplated by the Financing Agreement.

"Construction Loan Agreement" means the Construction Loan Agreement, dated as of the Construction Loan Closing Date, between Lessor and Lessee, and in the form of Exhibit A to the Financing Agreement as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Construction Loan Closing Date" means the Closing for the execution of the Construction Loan Agreement.

"Construction Loan Commitment" means the "Commitment" as such term is defined in the Construction Loan Agreement.

"Construction Loan Date" means, with respect to each Construction Loan, the date that such Construction Loan is deposited into the Construction Escrow Account.

"Construction Loan Expiration Date" shall mean the earlier of March 31, 1990 and the Second Lease Closing Date.

"Construction Loan Period" has the meaning given to such term in the Construction Loan Agreement.

"Construction Note" means the promissory note in the form of Appendix A to the Construction Loan Agreement issued by Lessee to Lessor.

"Construction Schedule" shall mean the schedule for constructing the Facility setting forth in reasonable detail the planned commencement and completion dates for each major phase of construction which schedule is attached as Schedule IV-C to the Financing Agreement, as the same may be adjusted with Lessor's consent from time to time.

"Contractors" means each of the major contractors for the construction on and the supply of materials to the Facility, including, without limitation, O & F Construction, S.E. Incorporated, Alcoa/ACPC, Inc., Bouvier Hydropower, Lapp Insulator Company, Montana Ekectric Supply, Sorenson Engineering, SSR Engineers, Inc., Taylor Lumber and Treating, Inc., Thompson Pipe & Steel and Delta Star.

"Controlled Group" means, with respect to any Person, all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with such Person, are treated as a single employer under Section 414(b) or 414(c) of the Code.

"Default" with respect to any agreement means any event that with notice or lapse of time, or both, would become an Event of Default under such agreement.

"Default Rate" means a per annum rate of interest equal to the Prime Rate plus three and one-half percent (3 1/2%), but in no event more than the maximum contract rate permitted under applicable law.

"Dimark" means The Dimark Company.

"Easements" means the easements listed on Schedule VI to the Financing Agreement, as such schedule is updated from time to time.

"Engineer's Certificate" means each certificate of the Independent Engineer delivered pursuant to Section 2.02 of the Construction Loan Agreement.

"EPA" means the federal Environmental Protection Agency or any successor agency thereto.

"ERISA" means the Employee Retirment Income Security Act of 1974, as amended.

"ERISA Plan" means, with respect to any Person, any employee benefit plan within the meaning of Section 3(3) of ERISA and any multiemployer plan within the meaning of Section 4001(a)(3) of ERISA, which covers employees of such Person or any of its Affiliates or any member of the Controlled Group.

"Escrow Account" means the Escrow Account for the payment of operating expenses with respect to the Facility, which Escrow Account is established pursuant to the Escrow Fund Agreement.

"Escrow Fund Agreement" means the Escrow Fund Agreement dated the First Lease Closing Date, in the form of Exhibit O to the Financing Agreement, between Lessor, Lessee and Account Holder, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Event of Default" means with respect to any agreement any of the events or conditions specified as such in the applicable section of such agreement.

"Event of Eminent Domain" means any compulsory transfer or taking by condemnation, eminent domain or exercise of a similar power, or transfer under threat of such compulsory transfer or taking, of any part of the Collateral by any agency, department, authority, commission, board, instrumentality or political subdivision of the State of Idaho, the United States or another government having jurisdiction.

"Excess Rent" has the meaning set forth in Section 5(b) of the Lease.

"Execution Date" means the date on which all of the parties to the Financing Agreement execute such agreement.

"Expiration Date" means the last day of the Term of the Lease.

"Facility" means the water powered facility for the generation of electrical energy located on the Site in Boundary County, Idaho (including without limitation the Transmission Line), sold to Lessor on the First Lease Closing Date and the Second Lease Closing Date, including without limitation any and all alterations and Components from time to time incorporated in or installed as part of such Facility and which, pursuant to Section 8 of the Lease, become the property of Lessor.

"Facility Income" means, for any period, all payments received during such period from Utility under the Power Purchase Agreement.

"Fair Market Rental Value" means an amount equal to the rental of the Leased Property that would be obtained in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease. Fair Market Rental Value shall, for purposes of Section 6 of the Lease, be determined on the basis that the Leased Property has been maintained in all respects in accordance with the provisions of the Lease (whether or not all or any part thereof is in fact in such condition), and otherwise Fair Market Rental Value shall be determined on an "as is, where is" basis.

"Fair Market Value" means an amount equal to the value that would be obtained in an arm's-length transaction between an informed and willing buyer-user (other than a buyer currently in possession or a used equipment dealer) and an informed and willing seller under no compulsion to sell. Fair Market Value shall, for purposes of Section 6 of the Lease, be determined on the basis that the Leased Property has been maintained in all respects in accordance with the provisions of the Lease (whether or not all or any part thereof is in fact in such condition), and otherwise Fair Market Value shall be determined on an "as is, where is" basis. In all cases Fair Market Value shall be determined assuming that the Facility and the Site are not encumbered by the Lease. For purposes of Section 6 of the Lease, costs of removal of the Facility from the Site shall not be a deduction from such value. No value

shall be ascribed (a) to the use of the Site other than for the purposes set out in the Site Lease or (b) to additions or improvements made by Lessee pursuant to Sections 8(c) or (d) of the Lease.

"Fee Property" has the meaning given to that term in the Lessee Fee Mortgage.

"FERC" means the Federal Energy Regulatory Commission or any successor agency thereto.

"FERC Counsel" means Bishop, Cook, Purcell & Reynolds.

"FERC License" means the FERC License for Project No. 8436 issued April 10, 1987 to INE, as amended from time to time.

"FERC License Amendment" means amendments to the FERC License which shall: (a) assign the FERC License to Lessee, (b) increase the permissable capacity of the Facility to 38.15 mW, (c) change the recreational facilities improvements requirements, (d) authorize the addition of a pygmy turbine to the Facility, and (e) change the period of flushing flow from 10 days to 3 days and change the level of flushing flow.

"FERC Recertification" means a recertification by FERC that the Facility is a QF with a generating capacity of 38.15 mW.

"Final Payment" has the meaning given to such term in Section 1(a)(ii) of the Financing Agreement.

"Financing Agreement" means the Financing Agreement dated as of [A], 1989, by and among Lessor, Lessee, the General Partners, INE and Hydro, as such may be amended, supplemented or modified from time to time in accordance with its terms.

"First Lease Closing Date" means the date of the first Closing for Sale Leaseback, which date shall be on or before March 31, 1990.

"FPA" means the Federal Power Act or any successor statute, each as amended.

"Fundamental Agreements" means, collectively, each of the Fundamental Construction Agreements and each of the Fundamental Lease Agreements.

"Fundamental Construction Agreements" means each of the agreements listed in Section 3(a)(i) of the Financing Agreement.

"Fundamental Lease Agreements" means each of the agreements listed in Section 3(b)(i) of the Financing Agreement.

"GAAP" means generally accepted accounting principles consistently applied.

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"General Partner" means each of APPC, PWPC, AWHI and "General Partners" means all of the General Partners collectively.

"General Partner Documents" has the meaning as defined in Section 4(c)(ii) of the Financing Agreement.

"General Partner Pledge and Security Agreement" means the General Partner Pledge and Security Agreement, dated as of the Construction Loan Closing Date, between each General Partner and Lessor in the form of Exhibit D to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Ground Lease" means the lease of the Site from Lessee to Lessor, dated as of the First Lease Closing Date in the form of Exhibit J to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Governmental Authorization" means any consent, right, exemption, concession, permit, license, authorization, certificate, order, franchise, determination, or approval of any federal, state, municipal or governmental department, commission, board, bureau, agency or instrumentality, including without limitation, the PUC, the FERC and the SEC, with respect to or in connection with the Facility or the Site.

"High-Flow Performance Tests" means the performance tests established by the Independent Engineer to measure the electrical generating capacity and capabilities of the Facility during periods of high water flow.

"Hydro-Flow" means Hydro-Flow, Inc., a Utah corporation.

"Hydro-Flow Documents" means the Hydro-Flow Pledge and Security Agreement, the Hydro-Flow Mortgage, the Assignment Agreement and each other document, instrument and agreement executed by Hydro-Flow in connection with the Overall Transaction.

"Hydro-Flow Parcel" has the meaning given to that term in the Hydro-Flow Mortgage.

"Hydro-Flow Pledge and Security Agreement" means the Hydro-Flow Pledge and Security Agreement dated as of the Construction Loan Closing Date, between Lessor and Hydro-Flow in the form of Exhibit F-1 to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Hydro-Flow Mortgage" shall mean the Indenture of Mortgage, Deed of Trust and Assignment of Rents, between Hydro-Flow, Lessor and a trustee, in the form of Exhibit F-2 to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

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"Indebtedness" shall mean all obligations of Lessee for borrowed money, all obligations of Lessee evidenced by bonds, debentures, notes or other similar instruments, all obligations of Lessee to pay the deferred purchase price of property, all lease obligations of Lessee that, in accordance with GAAP, are required to be capitalized on the books of a lessee, any obligation or liability of any Person secured by a Lien on any asset of Lessee, whether or not such obligation or liability is assumed, and all other obligations or liabilities of Lessee which are required to be shown as debt on the balance sheet of Lessee.

"Independent Engineer" means Ott Engineering, Inc.

"Initial Payment" has the meaning given to such term in Section 1(a)(ii) of the Financing Agreement.

"INE" means Idaho Natural Energy, Inc., an Idaho corporation.

"INE Documents" means the INE Security Agreement, the Assignment Agreement and each other document, instrument and agreement executed by INE in connection with the Overall Transaction.

"INE Security Agreement" means the INE Security Agreement, dated as of the Construction Loan Closing Date, between INE and Lessor in the form of Exhibit G to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Intercreditor Agreements" means the Yeates Intercreditor Agreement, the Plan Intercreditor Agreement and the YP&S Intercreditor Agreement.

"Lease" means the Facility and Site Lease, dated as of the First Lease Closing Date, between Lessor and Lessee in the form of Exhibit K to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Lease Payment Account" means the account established pursuant to the Lease Payment Agreement.

"Lease Payment Agreement" means the Lease Payment Reserve Agreement, dated as of the First Lease Closing Date, between Lessor, Lessee and Account Holder in the form of Exhibit P to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Leased Property" has the meaning set forth in Section 2 of the Lease.

"Lessee" means Smith Falls Hydropower, a Utah general partnership.

"Lessee Documents" has the meaning set forth in Section 4(b)(ii) of the Financing Agreement.

"Lessee Easement Mortgage" shall mean the Indenture of Mortgage, Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing between Lessee, Lessor and a trustee, in the form of Exhibit C to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Lessee Fee Mortgage" shall mean the Indenture of Mortgage, Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing between Lessee, Lessor and a trustee, in the form of Exhibit B to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Lessor" means Westinghouse Credit Corporation, a Delaware corporation.

"Lessor Lien" means any Lien arising as a result of (a) a claim against Lessor not related to the Overall Transactions, (b) taxes imposed against Lessor which are not indemnified against by Lessee pursuant to the Financing Agreement, the Lease or the Tax Indemnity Agreement or (c) a claim against Lessor arising out of the voluntary transfer by Lessor (without the consent of Lessee) of its interest in the Leased Property or any part thereof at any time no Default shall have occurred and be continuing, other than a transfer of any such interest pursuant to Section 11 or 13 of the Lease.

"Lessor's Cost" means the lesser of (a) the Fair Market Value of the Facility as set forth in the Appraisal or (b) $23,450,000.

"Lien" means any mortgage, pledge, lien, charge, attachment, levy, security interest or lease (including without limitation any conditional sale agreement, equipment trust agreement or other title retention agreement) or other encumbrance of whatsoever nature.

"Low-Flow Performance Tests" means the performance tests established by the Independent Engineer to measure the electrical generating capacity and capabilities of the Facility during periods of low water flow.

"Low Water Year" shall have the meaning as set forth in Exhibit C to the Revolving Credit Agreement.

"Major Maintenance Account" means the Major Maintenance Account Account for the payment of Major Maintenance Expenses with respect to the Facility, which Major Maintenance Account is established pursuant to the Escrow Fund Agreement.

"Major Maintenance Expenses" means periodic expenses for major repairs, replacements or overhauls of the Facility or the Components.

"maturity" shall mean, with respect to each Construction Loan or Revolving Loan, the maturity thereof, whether such maturity occurs on the Construction Loan Expiration Date or the Revolver Termination Date, as applicable, upon prepayment of the Construction Loans or the Revolving Loans, as applicable, or otherwise.

"May" means Gary E. May, a Utah resident.

"Mead Contract" means the Purchase Agreement and Related Closing Instructions dated as of October 14, 1988, between Hydro-Flow and Mead, as Hydro-Flow's rights and obligations under such Mead Contract have been assigned and delegated to Lessee pursuant to the Assignment Agreement.

"Mead Note" means the Promissory Note in the principal amount of $342,000 executed by Hydro-Flow in favor of Mead, as Hydro-Flow's obligations under such Mead Note have been delegated to Lessee pursuant to the Assignment Agreement.

"Mead Mortgage" means the real estate mortgage executed by Hydro-Flow in favor of Mead dated November 4. 1988, and recorded in the Official Records of Boundary Coundy, Idaho, on November 4, 1988, as Instrument Number 156832, as such Mead Mortgage was assigned by Hydro-Flow to the Partnership in connection with the Construction Loan Closing and as such Mead Mortgage was partially released by Mead in connection with the Construction Loan Closing.

"Monitoring Agreement" has the meaning given to that term in Section 9(c) of the Lease.

"Monitoring Consultant" has the meaning given to that term in Section 9(c) of the Lease.

"Mortenson" means Elizabeth Mortenson, a California resident.

"Mortgages" means the Lessee Fee Mortgage, the Lessee Easement Mortgage and the Hydro-Flow Mortgage.

"Net Economic Return" means Lessor's after-tax rate of return on investment and after-tax cash flow (computed in accordance with the multiple investment sinking fund method used by Lessor) which Lessor anticipates, as of the date of the Financing Agreement, that it would obtain from entering into the transactions contemplated by the Financing Agreement.

"NLI Agreement" means the Agreement for the Construction, Ownership, Operation and Maintenance of the Smith Falls Transmission Line, executed by Lessee and Northern Lights, Inc.

"NLI Easement" means the easement from NLI to Lessee granting to Lessee an easement to use NLI's existing easement along the route of the Transmission Line.

"Notes" means the Construction Note and the Revolving Note.

"Notice of Borrowing" shall have the meaning as defined in Section 1.01 of the Construction Loan Agreement.

"Notice of Revolver Borrowing" shall have the meaning as defined in Section 1.02(b) of the Revolving Loan Agreement.

"Obligations" shall mean and include, with respect to Lessee, any General Partner, any Shareholder, Hydro-Flow or INE, all loans, advances, debts, liabilities, and obligations, howsoever arising, owed by such Person to Lessor of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payments of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising pursuant to the terms of any of the Fundamental Agreements, including without limitation all interest, fees, charges, expenses, attorneys' fees and accountants' fees chargeable to such Person in connection with Lessor's dealings with such Person and payable by such Person thereunder.

"Operating Committee" has the meaning given to that term in Section 9(c) of the Lease.

"Operating Expenses" shall mean, with respect to any time period, the out-of-pocket operating and maintenance expenses paid or payable by Lessee (including payments of Rent and payments due under the Mead Note, the Operations and Maintenance Agreement and the Royalty Payment due pursuant to and as defined in Section 1(a) of the Royalty Agreement, but excluding other payments to Affiliates of Lessee) during such period.

"Operation and Maintenance Agreement" means an agreement for the operation and maintenance of the Facility between Lessee and Operator, in form and substance satisfactory to Lessor and Operator, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Operator" means Pacific West Power Service, Inc. or such other operator as is selected by Lessee and approved by Lessor.

"Outstanding Credit" means _____.

"Overall Transaction" has the meaning given to that term in recitals of the Financing Agreement.

"Partnership Agreement" means the Partnership Agreement of Smith Falls Hydropower dated as of December 29, 1988 by and among the General Partners as amended from time to time.

"Payment Date" has the meaning set forth in Section 18(a)(iii) of the Lease.

"Performance Bond" means each Performance Bond issued by each Surety.

"Performance Tests" means the Low-Flow Performance Tests and the High-Flow Performance Tests.

"Permits" means all of the Government Authorizations identified as "Permits" in Schedule V to the Financing Agreement.

"Permitted Liens" means (a) the respective rights of Lessor and a permitted sublessee or assignee as provided in the Lease, (b) Lessor Liens, (c) Liens for taxes either not yet due or being contested in good faith and by appropriate proceedings diligently conducted so long as such proceedings shall stay the enforcement thereof and the sale or forfeiture of the Facility, the Site or any part thereof, title thereto or any interest therein, (d) undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or employees' Liens or other like Liens arising in the ordinary course of business and securing obligations which are not delinquent or which shall have been bonded or the enforcement of which shall have been suspended (but only for the duration of such suspension), (e) only with respect to the Lessee Fee Mortgage, the Mead Mortgage, (f) rights of way, easements or other matters appearing of record, shown on the preliminary title report issued by the Title Company dated _____, 1989 (Order No. _____) and reasonably acceptable to Lessor, (g) liens of Utility on the Smith Falls Assets (as defined in the Agreement of Understanding) to secure Utility's purchase right under the Agreement of Understanding and (h) liens in favor of BayBank on the accounts and receivables of Lessee to secure BayBank's rights under the Royalty Agreement.

"Person" means an individual, a corporation, a partnership, an unincorporated organization, an association, a joint stock company, a joint venture, a trust, an estate, a government or any agency or political subdivision thereof, or other entity, whether acting in an individual, fiduciary, or other capacity.

"Plan Intercreditor Agreement" means the Intercreditor Agreement by and among Lessor, the Yeates Pipe and Supply Co. Profit Sharing Plan and May in the form of Exhibit H(3) to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Plans and Specifications" means the plans and specifications for the construction and design of the Facility, including any document describing the scope of work to be performed by the Contractors under the Construction Contracts or under any other contract or subcontract for the construction of the Facility (including the Transmission Line), all work drawings, engineering and construction schedules, project schedules, project monitoring systems, specifications status lists, material and procurement ledgers, drawings and drawing lists, manpower allocation documents, management and project procedures documents, project design criteria, and any other document referred to in the Constructions Contracts or any of the documents referred to in this definition.

"Pledged Stock" has the respective meaning given to such term in the Intercreditor Agreements.

"Power Purchase Agreement" means the Power Sales and Right to Purchase Agreement dated October 28, 1988, between INE and Hydro as seller and Utility as buyer, as such may be amended, supplemented or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Prime Rate" means the reference rate announced from time to time by Morgan Guaranty Bank as its prime rate.

"Project Manager" means Lessor's in house manager assigned to monitor the construction, operation and maintenance of the Facility.

"Project Policies" has the meaning given to such term in Section 3(a)(vii) of the Financing Agreement.

"Proposed Tax Law Change" means (a) a proposed change in the Code (other than a change in tax rates) contained in (i) a bill approved on or prior to the First Lease Closing Date by the Committee on Ways and Means of the House of Representatives of the United States or the Committee on Finance of the Senate of the United States or a committee of conference between two such houses, or (ii) suggested legislation published in written form and publicly supported on or prior to the First Lease Closing Date by the President of the United States or the Department of the Treasury or (b) a regulation issued in proposed form and published in the Federal Register on or prior to the First Lease Closing Date.

"Prudent Utility Practice" means, at any particular time, any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry at such time, or any of the practices, methods and acts which, in the exercise of reasonable judgement in light of the facts known at the time the decision is made, can be expected to accomplish the desired result at at reasonable cost consistent with good business practices, realiability, safety and expedition, and having due regard for the requirements of the current editions of the National Electrical Safety Code, the National Electric Code and other applicable electrical, safety and maintenance codes and standards, and any Applicable Law.

"PUC" means the Idaho Public Utilities Commission or any successor agency thereto.

"PUHCA" means the Public Utility Holding Company Act of 1935, or any successor statute, each as amended.

"PURPA" means, collectively, the Public Utility Regulatory Policies Act of 1978 or any successor statute thereto and Part 292 of Title 18 of the Code of Federal Regulations, both as amended.

"PWPC" shall mean Pacific West Power Corp., a Utah corporation.

"QF" means a "qualified small power production facility" as it applies to the Facility and as that term is defined and used in PURPA.

"RCRA" means the Resource Conservation and Recovery Act, as amended.

"Related Construction Documents" means the agreements listed in Section 3(a)(ii) of the Financing Agreement.

"Related Documents" means, collectively, the Related Construction Documents and the Related Lease Documents.

"Related Lease Documents" means the agreements listed in Sections 3(b)(ii) and 3(b)(iii) of the Financing Agreement.

"Renewal Term" means any of the five (5) year time periods during which the Term is extended pursuant to the provisions of Section 6(b) of the Lease.

"Rent" means, collectively and severally, Basic Rent, Excess Rent and Supplemental Rent.

"Rent Payment Date" means June 30 and December 30 of each year during the Term.

"Rent Reserve Fund" means the Rent Reserve Fund Account for the payment of Basic Rent, which Rent Reserve Fund Account is established pursuant to the Rent Reserve Agreement.

"Responsible Officer" means, with respect to the subject matter of any covenant, agreement or obligation of Lessee contained in the Lease, any corporate officer of, or other representative specifically authorized by, a General Partner with respect to Lessee who, in the normal performance of his or her operational responsibilities, would have knowledge of such matter and the requirements of the Lease with respect thereto.

"Request to Pay Construction Costs" means, with respect to a Construction Loan, a list of the Construction Costs to which such Construction Loan is to be applied, substantially in the form of Annex 5 to the Construction Loan Agreement, prepared in accordance with Section 2 of the Construction Loan Agreement and delivered to Account Holder in accordance with the terms of the Construction Escrow Agreement.

"Request to Pay Major Maintenance Costs" means a list of the Major Maintenance Costs incurred by Lessee and to be paid from the funds held in the Major Maintenance Account, substantially in the form of Annex IV to the Escrow Fund Agreement, prepared in accordance with Section 4 of the Escrow Fund Agreement and delivered to Account Holder in accordance with the terms of the Escrow Fund Agreement.

"Revolver Termination Date" means the last day of the Basic Term.

"Revolving Loan" means each of the Loans made to Lessee by Lessor pursuant to the Revolving Loan Agreement as contemplated by the Financing Agreement.

"Revolving Loan Agreement" means the Revolving Loan Agreement, dated as of the First Lease Closing Date, between Lessor and Lessee, in the form of Exhibit M to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Revolving Loan Commitment" has the meaning given to such term in the Revolving Loan Agreement.

"Revolving Loan Period" has the meaning given to such term in the Revolving Loan Agreement.

"Revolving Note" means the promissory note in the form of Appendix A to the Revolving Loan Agreement issued by Lessee to Lessor.

"Royalty Agreement" means the Royalty Agreement dated as of May __, 1989 betweey BayBank and Lessee.

"Sale Leaseback" has the meaning given to such term in the recitals to the Financing Agreement.

"SEC" means the Federal Securities and Exchange Commission or any successor agency thereto.

"Second Large Turbine" means one horizontal pelton turbine with stainless steel pelton runner (1640 mm. in diameter, with twin nozzles and twin deflectors, with an operating speed of 514 rpms).

"Second Lease Closing Date" means the date of the second Closing for Sale Leaseback, which date shall be on or before March 31, 1990.

"70 CFS Water Permit" is the permit to divert an additional 70 cubic feet per second of water for the generation of electricity by the Facility.

"Shareholder" means each shareholder of each of the General Partners and "Shareholders" means all of the Shareholders collectively.

"Shareholder Pledge Agreement" means the Shareholder Pledge Agreement, dated as of the Construction Loan Closing Date, between each Shareholder and Lessor in the form of Exhibit E to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Site" means the Fee Property and the Easements.

"Special Casualty Occurrence" has the meaning set forth in Section 11(c) of the Lease.

"Special Casualty Payment" means the payments due from Lessee in connection with a Special Casualty Occurrence pursuant to Section 11(c) of the Lease.

"Special Counsel" means Orrick, Herrington & Sutcliffe, San Francisco, California.

"State PUC Law" means the Idaho Public Utilities Law, Title 61, Chapter 1, Idaho Code, or any successor statute, each as amended.

"Substantial Completion" means the time when all construction on the Facility is complete and final, excepting the addition of the Second Large Turbine and with the exception of immaterial punch list items approved by Lessor, and all contractors, materialmen and subcontractors have executed lien waivers satisfactory to Lessor with respect to work performed on the Facility (except with respect to work to be performed to install the Second Large Turbine), and the Facility without the Second Large Turbine has satisfactorily passed the Low-Flow Performance Tests.

"Supplemental Rent" has the meaning set forth in Section 5(c) of the Lease.

"Surety" means each of The Continental Insurance Company, Highlands Insurance Company, United States Fidelity Guaranty Company and each other surety to deliver a Performance Bond in connection with a Construction Contract.

"Tax" means any and all fees (including without limitation documentation, license, recording, filing and registration fees), taxes (including, without limitation, income, gross receipts, ad valorem, value added, turnover, sales, stamp, use, personal property (tangible and intangible), stamp, leasing, lease, user, leasing use, excise, franchise, transfer, fuel, excess profits, occupational, interest equalization and other taxes), levies, imposts, duties, charges or withholdings of any nature whatsoever, together with any and all penalties, fines, additions to tax and interest thereon, whether or not such Tax shall be existing or hereinafter adopted. "Taxes" means every such Tax.

"Tax Indemnity Agreement" means the Tax Indemnity Agreement dated as of the First Lease Closing Date, by and between Lessor and Lessee, in the form of Exhibit L to the Financing Agreement, as such may from time to time be supplemented, amended or modified in accordance with its terms and Section 11 of the Financing Agreement.

"Tax Law Change" means a Proposed Tax Law Change which is enacted into law or, if a regulation, which is issued in final or temporary form, on or prior to the end of the 101st Congress.

"Term" means the Basic Term and all Renewal Terms, if any.

"Title Company" means Boundary Abstract Company, Ltd.

"Title Policy" means an ALTA lenders title insurance policy in a form satisfactory to Lessor and Special Counsel.

"Transaction Cost" has the meaning set forth in Section 6 of the Financing Agreement.

"Transmission Line" means the "Smith Falls Line" as defined in the NLI Agreement.

"Transmission Line Transfer Agreeemnt" means an agreeemnt by and among Lessor, Lessee and Northern Lights, Inc., relating to the transfer of the Transmission Line (including the Easements) to Northern Lights, Inc. as contemplated by the NLI Agreement, which agreement shall be in form and substance reasonably satisfactory to Lessor and Northern Lights, Inc.

"Utility" means the Eugene Water and Electric Board, an Oregon corporation.

"Water Permits" means all of the permits identified as "Water Permits" in Schedule V to the Financing Agreement.

"Wheeling Agreement" means the Transmission Agreement, Contract No. DE-MS79-88BP, between the United States of America Department of Energy, acting by and through the Bonneville Power Administration, the City of Eugene, Oregon, and Lessee.

"Yeates" means Charles Yeates, a Utah resident.

"Yeates Intercreditor Agreement" means the Intercreditor Agreement by and among Lessor, Yeates and May in the form of Exhibit H(1) to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"YP&S Intercreditor Agreement" means the Intercreditor Agreement by and among Lessor, the Yeates Pipe and Supply Co. and May in the form of Exhibit H(2) to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

SCHEDULE II

Description of Easements
For an Electrical Transmission Line

24T65R1.W

An easement created on the property described as:

An easement 100 feet in width for an electrical transmission line through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26), said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the north line of said Section Twenty-six (26) which is North 89 degrees 37' 58" East, 643.23 feet, from the northwest corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), thence South 00 degrees 26' 19" West, 1135.84 feet to the north boundary of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

43T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the SW 1/4 SW 1/4 of Section 35, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the west line of the SW 1/4 of the SW 1/4 of said Section 35, which is S00 03'49"E, 46.15 feet from the northwest corner of said SW 1/4 SW 1/4; thence N14 36'43"E, 47.56 feet, more or less, to the north line of said SW 1/4 SW 1/4, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

42T62RIE(S)

LEGAL DESCRIPTION

A parcel of land in the SE 1/4 of the SE 1/4 of Section 34, T 62 N, R 1 E of the Boise Meridian, Boundary County, Idaho; more particularly described as follows:

Beginning at a point on the east line of said SE 1/4 of the SE 1/4 which is N00°03'49"W, 91.59 feet from the southeast corner of said Section 34; thence N21°31'59"W, 43.58 feet; thence S89°33'38"E, 15.91 feet to the east line of said SE 1/4 of the SE 1/4; thence along said east line S00°03'49"E, 40.41 feet to the TRUE POINT OF BEGINNING.

41T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the SE 1/4 of the SE 1/4 of Section 34, T 62 N, R 1 E of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the east line of said SE 1/4 of the SE 1/4, which is N00° 03'49"W, 146.23 feet from the southeast corner of Section 34; thence N21° 31'59"W, 88.05 feet to a point; thence N00° 17'58"W, 267.13 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

40T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the SE 1/4 of the SE 1/4 of Section 34, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at a point on the east line of the SE 1/4 of the SE 1/4 of said Section 34, which is N00° 03'49"W, 495.00 feet from the southeast corner of Section 34; thence N89° 30'38"W, 35.33 feet to the TRUE POINT OF BEGINNING of this description; thence along said centerline N00° 17'58"W, 330.02 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

39T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the SE 1/4 of the SE 1/4 of Section 35, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at a point on the east line of the SE 1/4 of the SE 1/4 of said Section 34, which is N00°03'49"W, 825.00 feet from the southeast corner of Section 34; thence N89° 33'38"W, 34.69 feet to the TRUE POINT OF BEGINNING of this description; thence N00°17'58"W, 314.89 feet to a point; thence N14°36'43"E, 15.60 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

38T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the SE 1/4 of the SE 1/4 of Section 34, T 62 N, R 1 E, of the Boise Merdian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at a point on the east line of the SE 1/4 of the SE 1/4 of said Section 34, which is N00°03'49"W, 1155.00 feet from the southeast corner of said Section 34; thence N89°33'38"W, 32.03 feet to the TRUE POINT OF BEGINNING of this description; thence N14°36'43"E, 126.42 feet, more or less, to a point on the east line of said SE 1/4 of the SE 1/4, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

36T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width in the S 1/2 of the NW 1/4 of the SW 1/4 of Section 36, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at the southwest corner of the NW 1/4 of the SW 1/4 of said Section 36; thence S89°25'11"E, 12.05 feet to the TRUE POINT OF BEGINNING of this description; thence N14°36'43"E, 84.73 feet to a point; thence N00°39'28"E, 579.59 feet, more or less, to the north line of the S 1/2 of the NW 1/4 of the SW 1/4 of Section 36, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

35T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the N 1/2 of the NW 1/4 of the SW 1/4 of Section 35, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the south line of the N 1/2 of the NW 1/4 of the SW 1/4 of said Section 35, which is S89° 22'41"E, 40.82 feet from the southwest corner of said N 1/2 of the NW 1/4 of the SW 1/4, thence N00°39'28"E, 661.78 feet, more or less, to the north line of said N 1/2 of the NW 1/4 of the SW 1/4 and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

28T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through Block 9 of Eaton Townsite, in Section 26, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the line common to Block 9 of Eaton Townsite and the right of way of the Burlington Northern Railroad, which is N65°53'50"W, 5.17 feet from the southernmost corner of said Block 9; thence N49°26'41"E, 106.05 feet, more or less, to the northeasterly boundary of said Block 9, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries, and excepting therefrom any portion falling in a platted street or alleyway.

25T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through Government Lot Four (4) of Section 26, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the North line of Government Lot 1 which is N88° 48'55"W, 1240.70 feet from the Northwest corner of said Government Lot 4; thence S54° 48'00"E, 1069.75 feet; thence S55°39'46"W, 375.12 feet to the apparent high water line of the right bank of the Kootenai River, and the terminus of this centerline, with the sidelines of said strip being extended or shortened to intersect adjacent boundaries.

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22T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through a portion of the NE 1/4 of the SW 1/4 of Section 23, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the west line of the NE 1/4 of the SW 1/4 of said Section 23 which is S01 25'20"W, 452.79 feet from the northwest corner of said NE 1/4 SW 1/4; thence N44 24'41"E, 380.99 feet to the southerly right of way of the Union Pacific Railroad and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

20T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the SE 1/4 of the NW 1/4 of Section 23, T 62 N, R 1 E of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the west line of the SE 1/4 of the NW 1/4 of said Section 23; which is S 01 07'49"W, 643.75 feet from the northwest corner of said SE 1/4 of the NW 1/4; thence S17 08'10"E, 675.39 feet to the northerly right of way of the Union Pacific Railroad and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

19T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the SW 1/4 of the NW 1/4 of Section 23, T 62 N, R 1 E of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the east line of the SW 1/4 of the NW 1/4 of said Section 23 which is N01 07'49"E, 661.33 feet from the southeast corner of the SW 1/4 of the NW 1/4; thence N17 08'10"W, 673.91 feet to the north line of the SW 1/4 of the NW 1/4 and the terminus of this centerline; with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

15T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the SW 1/4 of the SW 1/4 of Section 14, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the south line of the SW 1/4 of the SW 1/4 of said Section 14, which is N89°53'02"E, 165.92 feet from the southwest corner of said SW 1/4 of the SW 1/4; thence N17°36'46"W, 177.04 feet to a point; thence N22°58'13"E, 819.69 feet, more or less, to the easterly right of way of U.S. Highway 95; thence continuing on and along said right of way N22°58'13"E, 434.31 feet, more or less, to the north boundary of the property described in Instrument Number 125407, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries, and excepting therefrom any portion of said strip, falling within the right of way of said U.S. Highway 95.

13T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the SW 1/4 of the SW 1/4 of Section 14, T 62 N, R 1 E, of the Boise Meridian, Bounary County, Idaho; said strip being 20 feet on each of the following described centerline:

Beginning at the point of intersection of the north line of the SW 1/4 of the SW 1/4 of said Section 14, and the easterly right of way of U.S. Highway 95, which is S89° 59'48"W, 744.51 feet from the northeast corner of said SW 1/4 of the SW 1/4; thence S22°58'13"W along said right of way, 304.66 feet, more or less, to the southerly boundary of the property described in Book 28 of Deeds, page 615, and the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries, and excepting therefrom any portion of said strip falling within the right of way of said U.S. Highway 95.

12T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the NW 1/4 of the SW 1/4 of Section 14, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at the point of intersection of the south line of the NW 1/4 of the SW 1/4 of said Section 14, and the easterly right of way of U.S. Highway 95, which is S89° 59'48"W, 744.51 feet from the southeast corner of said NW 1/4 of the SW 1/4; thence N22°58'13"E along said right of way, 597.40 feet, more or less, to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries, and excepting therefrom any portion of said strip falling within the said right of way of U.S. Highway 95.

11T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the NW 1/4 of the SW 1/4 of Section 14, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at the point of intersection of the south line of the NW 1/4 of the SW 1/4 of said Section 14 and the easterly right of way of U.S. Highway 95, which is S89° 59'48"W, 744.51 feet from the southeast corner of said NW 1/4 of the SW 1/4; thence N22°58'13"E along said right of way, 597.40 feet to the TRUE POINT OF BEGINNING of this description; thence N22° 58'13"E along said right of way, 618.91 feet, more or less, to the terminus of this description, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries, and excepting therefrom any portion of said strip falling within the right of way of U.S. Highway 95.

10T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the NW 1/4 of the SW 1/4 of Section 14, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at the point of intersection of the north line of the NW 1/4 of the SW 1/4 of said Section 14, and the easterly right of way of U.S. Highway 95, which is N89°57'43"W, 177.49 feet from the northeast corner of said NW 1/4 of the SW 1/4; thence S22°58'13"W along said right of way, 220.42 feet, more or less, to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries, and excepting therefrom any portion of said strip falling within the right of way of said Highway.

34T62RIE(S)

LEGAL DESCRIPTION

A strip of land 40 feet in width through the SW 1/4 of the NW 1/4 of Section 35, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the south line of the SW 1/4 of the NW 1/4 of said Section 35, which is S89° 20' 10"E, 49.15 feet from the southwest corner of said SW 1/4 of the NW 1/4; thence N00° 39' 28"E, 244.90 feet to a point; thence N01° 41' 14"E, 80.07 feet to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

BT62RIE

LEGAL DESCRIPTION

A strip of land 40 feet in width through the SE 1/4 of the SW 1/4 of Section 11, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at the point of intersection of the south line of the SE 1/4 of the SW 1/4 of said Section 11 and the westerly right of way of U.S. Highway 95, which is N89°42'52"W, 471.61 feet from the southeast corner of said SE 1/4 of the SW 1/4 ; thence N22°58'13"E along said right of way, 457.03 feet to the southerly boundary of the property described in Instrument Number 0156079; thence N89°42'52"W along said boundary, 9.57 feet to the TRUE POINT OF BEGINNING of this description; thence N22°58'13"E, 325.15 feet, more or less, to the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries, and excepting therefrom any portion of said strip falling within the right of way of U.S. Highway 95.

CT62RIE

LEGAL DESCRIPTION

A strip of land 40 feet in width through the S 1/2 of Section 11, T 62 N, R 1 E, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Commencing at the point of intersection of the west half of the south line of said Section 11 and the westerly right of way of U.S. Highway 95, which is N89°42'52"W, 471.61 feet from the South 1/4 Corner of Section 11; thence N22°58'13"E along said right of way, 785.79 feet to the north line of the parcel described in instrument # 0156079; thence N89°42'52"W along said north line 9.57 feet to the TRUE POINT OF BEGINNING of this description; thence N22°58'13"E, 679.54 feet to a point; thence N23° 00'00"E, 1440.28 feet, more or less, to a point on the east/west centerline of Section 11 and the south line of the parcel described in Book 23 of Deeds, page 232; said point being N89°43'26"W, 2002.24 feet, more or less, from the East 1/4 Corner of Section 11, and being the terminus of this centerline, with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries, and excepting therefrom any portion of said strip falling within the right of way of U.S. Highway 95.

1T62RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 NE 1/4 OF SECTION 11, T. 62 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THOSE PARCELS DESCRIBED IN BOOK 23 DEEDS, PAGE 232 AND BOOK 31 DEEDS, PAGE 493, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY BOUNDARY OF SAID PARCEL DESCRIBED IN BOOK 23 DEEDS, PAGE 232, SAID POINT BEING EAST, 675.2 FEET, MORE OR LESS, FROM THE C 1/4 CORNER OF SAID SECTION 11; THENCE N 22°06' E, TO THE NORTHERLY BOUNDARY OF SAID PARCEL DESCRIBED IN BOOK 31 DEEDS, PAGE 493 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING WEST, 0.7 FEET, MORE OR LESS, FROM THE NORTHWESTERLY RIGHT-OF-WAY LIMIT OF U.S. HIGHWAY 95; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN THE U.S. HIGHWAY 95 RIGHT-OF-WAY.

2T62RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 NE 1/4 OF SECTION 11, T. 62 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 35 DEEDS, PAGE 134, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY BOUNDARY OF SAID PARCEL DESCRIBED IN BOOK 35 DEEDS, PAGE 134, SAID POINT BEING WEST 0.7 FEET, MORE OR LESS, FROM THE NORTHWESTERLY RIGHT-OF-WAY LIMIT OF U.S. HIGHWAY 95; THENCE N 22°06' E TO THE NORTHERLY LINE OF SAID SW 1/4 NE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING EAST, 3.6 FEET, MORE OR LESS, FROM THE NORTHEASTERLY CORNER OF SAID PARCEL; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN THE U.S. HIGHWAY 95 RIGHT-OF-WAY.

3T62RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NE 1/4 OF SECTION 11, T. 62 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 9 INSTRUMENTS, PAGE 415, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID NW 1/4 NE 1/4 WHICH BEARS WEST, 115 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID NW 1/4 NE 1/4; THENCE N 22°06' E TO THE EASTERLY LINE OF SAID NW 1/4 NE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEARING NORTH, 280 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID NW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN THE U.S. HIGHWAY 95 RIGHT-OF-WAY.

4T62RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 NE 1/4 OF SECTION 11, T. 62 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 63 INSTRUMENTS, PAGE 231, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID NE 1/4 NE 1/4, SAID POINT BEING NORTH, 280 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID NE 1/4 NE 1/4; THENCE N 22°06' E, 719 FEET, MORE OR LESS; THENCE N 21°32' E, 406 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID NE 1/4 NE 1/4 AND THE TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEARING WEST, 894 FEET MORE OR LESS FROM THE NE CORNER OF SAID SECTION 11; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

5T62RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 SE 1/4 OF SECTION 2, T. 62 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 9 INSTRUMENTS, PAGE 415, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SE 1/4 SE 1/4, SAID POINT BEING WEST, 894 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 2; THENCE N 21°32' E, 1083 FEET, MORE OR LESS; THENCE N 10°03' E, 296 FEET, MORE OR LESS; THENCE N 03°38' E, 26 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SE 1/4 SE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING WEST, 448 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SE 1/4 SE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

7T62RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 NE 1/4 AND GOVERNMENT LOT 1 OF SECTION 2, T. 62 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 4 DEEDS, PAGE 421, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SE 1/4 NE 1/4, SAID POINT BEING WEST, 368 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 NE 1/4; THENCE N 03°38' E, 660 FEET, MORE OR LESS; THENCE N 01°35' W, 1994 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID GOVERNMENT LOT 1 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING WEST, 331 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 2; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

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1T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 SE 1/4 OF SECTION 35, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 34 INSTRUMENTS, PAGE 543, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SE 1/4 SE 1/4, SAID POINT BEING WEST 331 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 35; THENCE N 01°35' W, 32 FEET, MORE OR LESS; THENCE N 07°38' W, 356 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 34 INSTRUMENTS, PAGE 543 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 80° W, 4.8 FEET, MORE OR LESS, FROM THE NORTHEASTERLY CORNER OF SAID PARCEL; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

3T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 SE 1/4 OF SECTION 35, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 45 INSTRUMENTS, PAGE 527, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 45 INSTRUMENTS, PAGE 527, SAID POINT BEING N 34°17' W, 847 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 35; THENCE N 18°36' W, 82 FEET, MORE OR LESS; THENCE N 24°47' W, 218 FEET, MORE OR LESS, TO THE NORTHEASTERLY PROJECTION OF THE SOUTHEASTERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 21 INSTRUMENTS, PAGE 24, BOUNDARY COUNTY RECORDS AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 31°22' W, 1142 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 35; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

5T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 SE 1/4 AND NE 1/4 SE 1/4 OF SECTION 35, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 30 DEEDS, PAGE 23, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID NE 1/4 SE 1/4, SAID POINT BEING WEST, 754 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID NE 1/4 SE 1/4; THENCE N 24°47' W, 1065 FEET, MORE OR LESS; THENCE N 23°57' W, 370 FEET, MORE OR LESS; THENCE N 19°30' W, 7 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID NW 1/4 SE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING WEST, 22 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID NW 1/4 SE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY OR COUNTY ROAD RIGHT-OF-WAY.

6T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 NE 1/4 OF SECTION 35, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 34 DEEDS, PAGE 312, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SW 1/4 NE 1/4, SAID POINT BEING WEST, 22 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SW 1/4 NE 1/4; THENCE N 19°30'W, 1391 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SW 1/4 NE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING WEST, 487 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY AND COUNTY ROAD RIGHT-OF-WAY.

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7T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NE 1/4 OF SECTION 35, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THOSE PARCELS DESCRIBED IN BOOK 27 INSTRUMENTS, PAGES 176 AND 177, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID NW 1/4 NE 1/4, SAID POINT BEING WEST 487 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID NW 1/4 NE 1/4; THENCE N 19°30' W, 168 FEET, MORE OR LESS; THENCE N 31°18' W, 266 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 27 INSTRUMENTS, PAGE 176 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 35°04' E, 1131 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 14 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

8T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NE 1/4 OF SECTION 35, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 63 INSTRUMENTS, PAGE 469, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE POLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 63 INSTRUMENTS, PAGE 469, SAID POINT BEING S 35°04' E, 1131 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; THENCE N 31°18' W, 139 FEET, MORE OR LESS; THENCE N 39°02' W, 400 FEET, MORE OR LESS; THENCE N 28°18' W, 133 FEET, MORE OR LESS, TO THE EASTERLY PROJECTION OF THE NORTHERLY LINE OF SAID PARCEL AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 34°42' E, 462 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

9T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NE 1/4 OF SECTION 35, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 54 INSTRUMENTS, PAGE 321, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY PROJECTION OF THE SOUTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 54 INSTRUMENTS, PAGE 321, SAID POINT BEING S 34°42' E, 462 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; THENCE N 28°18' W, 275 FEET, MORE OR LESS, TO THE EASTERLY PROJECTION OF THE NORTHERLY LINE OF SAID PARCEL AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 43°55' E, 192 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

10T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NE 1/4 OF SECTION 35, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 48 INSTRUMENTS, PAGE 389, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY PROJECTION OF THE SOUTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 48 INSTRUMENTS, PAGE 389, SAID POINT BEING S 43°55' E, 192 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; THENCE N 28°18' W, 157 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING EAST, 59 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY AND COUNTY ROAD RIGHT-OF-WAY.

11T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 SW 1/4 OF SECTION 26, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 27 DEEDS, PAGE 473, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 27 DEEDS, PAGE 473, SAID POINT BEING NORTH, 110 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 SW 1/4; THENCE N 28°18' W, 63 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 10°23' W, 168 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 SW 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY RIGHT-OF-WAY.

12T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 SW 1/4 OF SECTION 26, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 52 INSTRUMENTS, PAGE 579, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 52 INSTRUMENTS, PAGE 579, SAID POINT BEING N 10°23' W, 168 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 SW 1/4; THENCE N 28°18' W, 6 FEET, MORE OR LESS; THENCE N 00°11' W, 1056 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 01°42' W, 1226 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 SW 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

13T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 NW 1/4, NE 1/4 SW 1/4, AND SE 1/4 SW 1/4 OF SECTION 26, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THOSE PARCELS DESCRIBED IN BOOK 52 INSTRUMENTS, PAGE 488 AND BOOK 14 INSTRUMENTS, PAGE 516, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 52 INSTRUMENTS, PAGE 488, SAID POINT BEING N 01°42' W, 1226 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 SW 1/4; THENCE N 00°11' W, 1460 FEET, MORE OR LESS; THENCE N 01°04' W, 578 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 14 INSTRUMENTS, PAGE 516 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 00°55' W, 3263 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 SW 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

15T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 SW 1/4, SW 1/4 SW 1/4, AND SE 1/4 SW 1/4 OF SECTION 23, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 18 INSTRUMENTS, PAGE 113, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SECTION 23, SAID POINT BEING WEST, 260 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 SW 1/4; THENCE N 23°12' W, 26 FEET; THENCE N 32°59' W, 247 FEET; THENCE N 41°44' W, 395 FEET; THENCE N 51°55' W, 396 FEET; THENCE N 52°53' W, 2076 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID SECTION 23 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING NORTH, 2047 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SECTION 23; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY AND COUNTY ROAD RIGHT-OF-WAY.

16T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 SE 1/4 OF SECTION 22, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 49 INSTRUMENTS, PAGE 113, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID SECTION 22, SAID POINT BEING SOUTH, 591 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID NE 1/4 SE 1/4; THENCE N 52°53' W, 448 FEET, MORE OR LESS, TO THE NORTHMOST CORNER OF SAID PARCEL DESCRIBED IN BOOK 49 INSTRUMENTS, PAGE 113 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 48°09' W, 479 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID NE 1/4 SE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

17T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 SE 1/4 OF SECTION 22, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 49 INSTRUMENTS, PAGE 302, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT BEING THE EASTMOST CORNER OF SAID PARCEL DESCRIBED IN BOOK 49 INSTRUMENTS, PAGE 302, SAID POINT BEARS S 48°09' W, 479 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID NE 1/4 SE 1/4; THENCE N 52°53' W, 530 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID NE 1/4 SE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING EAST, 553 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NE 1/4 SE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

18T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 NE 1/4 OF SECTION 22, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 22 DEEDS, PAGE 488, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SE 1/4 NE 1/4, SAID POINT BEING EAST, 553 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SE 1/4 NE 1/4, THENCE N 52°53' W, 693 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID SE 1/4 NE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING NORTH, 418 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SE 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

19T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 NE 1/4 OF SECTION 22, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 25 DEEDS, PAGE 270, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID SW 1/4 NE 1/4, SAID POINT BEING NORTH, 418 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SW 1/4 NE 1/4; THENCE N 52°53' W, 1491 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SW 1/4 NE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING EAST, 144 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID SW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

MICRO
DEC 13 1991

20T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NE 1/4 OF SECTION 22, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 60 INSTRUMENTS, PAGE 199, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID NW 1/4 NE 1/4, SAID POINT BEING EAST, 144 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID NW 1/4 NE 1/4; THENCE N 52°53' W, 180 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID NW 1/4 NE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING NORTH, 109 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID NW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

21T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 NW 1/4 OF SECTION 22, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 34 DEEDS, PAGE 353, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTELRY LINE OF SAID NE 1/4 NW 1/4, SAID POINT BEING NORTH, 109 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID NE 1/4 NW 1/4; THENCE N 52°53' W, 1671 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID NE 1/4 NW 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING SOUTH, 201 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NE 1/4 NW 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

22T63RIE

LEGAL DESCRIPTION:

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NW 1/4 OF SECTION 22, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 28 INSTRUMENTS, PAGE 193, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID NW 1/4 NW 1/4, SAID POINT BEING SOUTH, 201 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID NW 1/4 NW 1/4; THENCE N 52°53' W, 333 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SECTION 22 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING EAST, 1067 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID SECTION 22; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

23T63RIE

LEGAL DESCRIPTION:

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 SW 1/4 OF SECTION 15, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 3 INSTRUMENTS, PAGE 418, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SECTION 15, SAID POINT BEING EAST, 1067 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SECTION 15; THENCE N 52°53' W, 396 FEET; THENCE N 51°26' W, 852 FEET; THENCE N 15°50' W, 366 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID SECTION 15 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING NORTH, 1123 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SECTION 15; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY OR COUNTY ROAD RIGHT-OF-WAY.

2003

24T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 SE 1/4 AND SE 1/4 SE 1/4 OF SECTION 16, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 35 INSTRUMENTS, PAGE 206, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID SECTION 16, SAID POINT BEING NORTH, 1123 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 16; THENCE N 15°50' W, 181 FEET; THENCE N 00°37' W, 1342 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID NE 1/4 SE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING WEST, 43 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID NE 1/4 SE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY AND COUNTY ROAD RIGHT-OF-WAYS.

26T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 NE 1/4 OF SECTION 16, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 27 DEEDS, PAGE 385, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID NE 1/4 NE 1/4, SAID POINT BEING WEST, 44 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID NE 1/4 NE 1/4; THENCE N 00°37' W, 1333 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SECTION 16 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING WEST, 44 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 16; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY AND COUNTY ROAD RIGHT-OF-WAY.

REC'D 3 2007

27T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NE 1/4 AND E 1/2 E 1/2 OF SECTION 9, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 27 INSTRUMENTS, PAGE 516, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SECTION 9, SAID POINT BEING WEST, 44 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 9; THENCE N 00°37' W, 15 FEET; THENCE N 00°55' E, 1986 FEET; THENCE N 02°05' W, 397 FEET; THENCE N 14°36' W, 465 FEET; THENCE N 20°10' W, 1177 FEET; THENCE N 46°38' W, 467 FEET; THENCE N 43°58' W, 450 FEET; THENCE N 36°33' W, 939 FEET, MORE OR LESS; TO THE NORTHERLY LINE OF SAID SECTION 9 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING EAST, 962 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY AND COUNTY ROAD RIGHT-OF-WAY

28T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 SE 1/4 AND SW 1/4 SE 1/4 OF SECTION 4, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 5 INSTRUMENTS, PAGE 496, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SECTION 4, SAID POINT BEING EAST, 962 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SW 1/4 SE 1/4; THENCE N 36°33' W, 1070 FEET; THENCE N 01°02' E, 350 FEET; THENCE N 09°02' E, 385 FEET; THENCE N 12°09' E, 466 FEET, MORE OR LESS, TO THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 5 INSTRUMENTS, PAGE 496 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 13°29' E, 2103 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SW 1/4 SE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

MICRO...

SEP 23 2003

29T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 SE 1/4 OF SECTION 4, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 25 INSTRUMENTS, PAGE 599, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE POLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 25 INSTRUMENTS, PAGE 599, SAID POINT BEING N 13°29' E, 2103 FEET, MORE OR LESS, FROM THE SW CORNER OF THE SW 1/4 SE 1/4 OF SAID SECTION 4; THENCE N 12°09' E, 499 FEET; THENCE N 15°53' E, 126 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 13°21' E, 2727 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SW 1/4 SE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

31T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 NE 1/4 OF SECTION 4, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 28 DEEDS, PAGE 89, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE POLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SW 1/4 NE 1/4, SAID POINT BEING N 13°21' E, 2727 FEET, MORE OR LESS, FROM THE SW CORNER OF THE SW 1/4 SE 1/4 OF SAID SECTION 4; THENCE N 15°53' E, 325 FEET; THENCE N 55°07' E, 17 FEET, MORE OR LESS, TO THE WESTERLY LIMIT OF THE U.S. HIGHWAY 95 RIGHT-OF-WAY AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 13°50' E, 3065 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SW 1/4 SE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

32T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 NE 1/4 AND SE 1/4 NE 1/4 OF SECTION 4, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 2 INSTRUMENTS, PAGE 432, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE WESTERLY PROJECTION OF THE NORTHERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 32 INSTRUMENTS, PAGE 308, SAID POINT BEING S 37°40' W, 2509 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 4; THENCE N 34°19' E, 22 FEET; THENCE N 21°04' E, 515 FEET; THENCE N 17°34' E, 168 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 2 INSTRUMENTS, PAGE 432, AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 44°05' W, 1847 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

33T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN GOVERNMENT LOT 1 OF SECTION 4, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 34 INSTRUMENTS, PAGE 255, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID GOVERNMENT LOT 1, SAID POINT BEING S 44°05' W, 1847 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 4; THENCE N 17°34' E, 1141 FEET, MORE OR LESS, TO THE SOUTHERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 18 INSTRUMENTS, PAGE 76 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 75°43' W, 971 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

34T63RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN GOVERNMENT LOT 1 OF SECTION 4, T. 63 N., R. 1 E., BOISE MERIDIAN, IDAHO: BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 18 INSTRUMENTS, PAGE 76, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 18 INSTRUMENTS, PAGE 76, SAID POINT BEING S 75°43' W, 971 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 4; THENCE N 17°34' E, 251 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SECTION 4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING WEST, 865 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

2T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 SE 1/4 AND SE 1/4 SE 1/4 OF SECTION 28, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 30 DEEDS, PAGE 647, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SECTION 28, SAID POINT BEING WEST, 1248 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 28; THENCE N 09°31' W, 5 FEET; THENCE N 09°17' W, 664 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 30 DEEDS, PAGE 647 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 64°12'W, 1506 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 28; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

4T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 SE 1/4 OF SECTION 28, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 38 INSTRUMENTS, PAGE 517, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 38 INSTRUMENTS, PAGE 517, SAID POINT BEING N 46°13' W, 2038 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 28; THENCE N 08°14' W, 566 FEET; THENCE N 05°58' W, 1 FOOT, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 38°13' W, 2510 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 28; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

5T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 SE 1/4, SW 1/4 NE 1/4 AND NW 1/4 NE 1/4 OF SECTION 28, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 19 INSTRUMENTS, PAGE 224, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 19 INSTRUMENTS, PAGE 224, SAID POINT BEING N 38°13' W, 2510 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 28; THENCE N 05°58' W, 1957 FEET; THENCE N 16°38' W, 84 FEET, MORE OR LESS, TO A POINT IN THE CENTER OF BRUSH CREEK AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 35°09' E, 1567 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

6T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NE 1/4 OF SECTION 28, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 17 INSTRUMENTS, PAGE 180, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE POLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT IN THE CENTER OF BRUSH CREEK, BEING WESTERLY OF THE SOUTHWESTERLY CORNER OF THAT PARCEL DESCRIBED IN BOOK 17 INSTRUMENTS, PAGE 180, SAID POINT BEING S 35°09' E, 1567 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; THENCE N 16°38' W, 298 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 39°22' E, 1288 FEET, MORE OR LESS FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

9T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 NE 1/4 OF SECTION 20, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 46 INSTRUMENTS, PAGE 377, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID SECTION 20, SAID POINT BEING SOUTH, 568 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 20; THENCE N 49°46' W, 247 FEET, MORE OR LESS, TO THE NORTHWESTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 46 INSTRUMENTS, PAGE 377 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 24°45' W, 450 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 20; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

11T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 NE 1/4 OF SECTION 20, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THOSE PARCELS DESCRIBED IN BOOK 8 INSTRUMENTS, PAGE 355, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF THE EASTMOST PARCEL DESCRIBED IN BOOK 8 INSTRUMENTS, PAGE 355, SAID POINT BEING S 33°44' W, 436 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 20; THENCE N 49°46' W, 562 FEET; THENCE S 85°44' W, 166 FEET; THENCE N 50°01' W, 19 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SECTION 20 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING WEST, 851 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 20; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

10T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 NE 1/4 OF SECTION 20, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 30 DEEDS, PAGE 274, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 46 INSTRUMENTS, PAGE 377, SAID POINT BEING S 24°45' W, 450 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 20; THENCE N 49°46' W, 71 FEET, MORE OR LESS, TO THE SOUTHEASTERLY LINE OF THE EAST MOST PARCEL DESCRIBED IN BOOK 8 INSTRUMENTS, PAGE 355 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 33°44' W, 436 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 20; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

13T64RIE

LEGAL DESCRIPTION:

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 SE 1/4 OF SECTION 17, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 13 INSTRUMENTS, PAGE 574, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SECTION 17, SAID POINT BEING WEST, 851 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 17; THENCE N 50°01' W, 335 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 13 INSTRUMENTS, PAGE 574 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 79°01' W, 1128 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 17; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

12T64RIE

LEGAL DESCRIPTION: EASEMENT NO. 1

A STRIP OF LAND LOCATED IN THE SE 1/4 SE 1/4 OF SECTION 17, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 23 INSTRUMENTS, PAGE 426, BOUNDARY COUNTY, IDAHO RECORDS; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF THE SOUTH LINE OF SAID SECTION 17, SAID POINT BEING WE 640 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 17; THENCE WEST, 32 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 95; THENCE N 49°46 31 FEET ALONG SAID RIGHT-OF-WAY LINE; THENCE EAST, 32 FEET; THENCE S 49°46' E, 31 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION: EASEMENT NO. 2

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 SE 1/4 OF SECTION 17, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 23 INSTRUMENTS, PAGE 426, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 13 INSTRUMENTS, PAGE 574, SAID POINT BEING N 79°01' W, 1128 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 17; THENCE N 50°01' W, 261 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID SE 1/4 SE 1/4 AND TERMINUS OF THIS CENTERLI WITH SAID TERMINUS BEING N 73°41' W, 1363 FEET, MORE OR LESS, FROM THE SE COR OF SAID SECTION 17; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN U.S. HIGHWAY 95 RIGHT-OF-WAY.

14T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 SE 1/4 OF SECTION 17, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID SW 1/4 SE 1/4, SAID POINT BEING N 73°41 W, 1363 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 17; THENCE N 50°01' W, 185 FEET, THENCE N 47°11' W, 384 FEET; THENCE N 40°29' W, 486 FEET, MORE OR LESS, TO THE SOUTHERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 53 INSTRUMENTS, PAGE 241, BOUNDARY COUNTY, IDAHO RECORDS AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 61°03' W, 2339 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 17 WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

16T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 SE 1/4 OF SECTION 17, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 64 INSTRUMENTS, PAGE 61, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 64 INSTRUMENTS, PAGE 61, SAID POINT BEING N 59°26' W, 2530 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 17; THENCE N 40°29' W, 769 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID PARCEL AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 55°03' W, 3266 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 17; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

18T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 SW 1/4 OF SECTION 17, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 59 INSTRUMENTS, PAGE 420, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 59 INSTRUMENTS, PAGE 420, SAID POINT BEING N 54°04' W, 3496 FEET, MORE OR LESS; FROM THE SE CORNER OF SAID SECTION 17; THENCE N 40°29' W, 209 FEET, MORE OR LESS, TO THE NORTHEASTERLY PROJECTION OF THE NORTHWESTERLY LINE OF SAID PARCEL AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 53°19' W, 3699 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 17; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

17T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 SW 1/4 AND S 1/2 SE 1/4 NW 1/4 OF SECTION 17, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 21 INSTRUMENTS, PAGE 82, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID NE 1/4 SW 1/4, SAID POINT BEING N 55°03' W, 3266 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 17; THENCE N 40°29' W, 881 FEET; THENCE N 33°08' W, 582 FEET, THENCE N 42°38' W, 313 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID S 1/2 SE 1/4 NW 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 37°46' E, 2473 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID SECTION 17; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY OR WITHIN THAT PARCEL DESCRIBED IN BOOK 59 INSTRUMENTS, PAGE 420.

19T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 NW 1/4 AND N 1/2 SE 1/4 NW 1/4 OF SECTION 17, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 33 INSTRUMENTS, PAGE 421, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID N 1/2 SE 1/4 NW 1/4, SAID POINT BEING S 37°46' E, 2473 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID SECTION 17; THENCE N 42°38' W, 368 FEET; THENCE N 32°55' W, 329 FEET; THENCE N 00°57' W, 1 FOOT, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LIMIT OF STATE HIGHWAY NO. 1 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 37°39' E, 1778 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID SECTION 17; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN THAT PARCEL DESCRIBED IN BOOK 52 INSTRUMENTS, PAGE 31 OR WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

20T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 NW 1/4 AND N 1/2 SE 1/4 NW 1/4 OF SECTION 17, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 52 INSTRUMENTS, PAGE 31, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID N 1/2 SE 1/4 NW 1/4, SAID POINT BEING S 37°46' E, 2473 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID SECTION 17; THENCE N 42°38' W, 368 FEET; THENCE N 32°55' W, 329 FEET; THENCE 00°57' W, 1 FOOT, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LIMIT OF STATE HIGHWAY NO. 1 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 37°39' E, 1778 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID SECTION 17; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN THAT PARCEL DESCRIBED IN BOOK 33 INSTRUMENTS, PAGE 421 OR WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

21T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NW 1/4 OF SECTION 17, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 67 INSTRUMENTS, PAGE 265, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LIMIT OF STATE HIGHWAY NO. 1, SAID POINT BEING S 43°44' E, 1565 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID SECTION 17; THENCE N 00°57' W, 26 FEET; THENCE N 23°47' W, 328 FEET; THENCE N 20°26' W, 859 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SECTION 17 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING EAST, 649 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID SECTION 17; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

22T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 SW 1/4 OF SECTION 8, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 60 INSTRUMENTS, PAGE 239, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SECTION 8, SAID POINT BEING EAST, 649 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SECTION 8; THENCE N 20°26' W, 1107 FEET; THENCE N 20°44' W, 331 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SW 1/4 SW 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 06°10' E, 1355 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SECTION 8; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

RECEIVED
DEC 03 2013

23T64RIE

LEGAL DESCRIPTION:

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 SW 1/4 OF SECTION 8, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 51 INSTRUMENTS, PAGE 66, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID NW 1/4 SW 1/4, SAID POINT BEING N 06°10' E, 1355 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SECTION 8; THENCE N 20°44' W, 464 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID NW 1/4 SW 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING NORTH, 1781 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID SECTION 8; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

24T64RIE

LEGAL DESCRIPTION:

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 SE 1/4 OF SECTION 7, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 64 INSTRUMENTS, PAGE 372, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID SECTION 7, SAID POINT BEING NORTH, 1781 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 7; THENCE N 20°44' W, 724 FEET, THENCE N 20°09' W, 202 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID NE 1/4 SE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING WEST, 317 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID NE 1/4 SE 1/4, WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

26T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 NE 1/4 OF SECTION 7, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 67 INSTRUMENTS, PAGE 321, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID NE 1/4 NE 1/4, SAID POINT BEING S 29°52' W, 1520 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 7; THENCE N 20°09' W, 1404 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SECTION 7 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING WEST, 1241 FEET, MORE OR LESS, FROM THE NE CORNER OF SAID SECTION 7; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

27T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE S 1/2 SE 1/4 OF SECTION 6, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 25 INSTRUMENTS, PAGE 13, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SECTION 6, SAID POINT BEING WEST, 1241 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 6; THENCE N 20°09' W; 266 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 25 INSTRUMENTS, PAGE 13 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 79°23' W, 1356 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 6; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

RECEIVED
DEC 23 2003

29T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 SE 1/4 OF SECTION 6, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 34 DEEDS, PAGE 380, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF THE WESTMOST PARCEL DESCRIBED IN BOOK 33 INSTRUMENTS, PAGE 70, SAID POINT BEING N 64°57' W, 1633 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 6; THENCE N 17°24' W, 655 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SW 1/4 SE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 51°51' W, 2131 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 6; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

30T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 SE 1/4 OF SECTION 6, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 42 INSTRUMENTS, PAGE 245, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID NW 1/4 SE 1/4, SAID POINT BEING N 51°51' W, 2131 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 6; THENCE N 17°24' W, 500 FEET; THENCE N 19°37' W, 891 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID NW 1/4 SE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 12°41' E, 2698 FEET, MORE OR LESS, FROM THE NW CORNER OF THE NW 1/4 NE 1/4 OF SAID SECTION 6; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

31T64RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 NE 1/4 OF SECTION 6, T. 64 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 54 INSTRUMENTS, PAGE 208, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SW 1/4 NE 1/4, SAID POINT BEING S 12°41' E, 2698 FEET, MORE OR LESS, FROM THE NW CORNER OF THE NW 1/4 NE 1/4 OF SAID SECTION 6; THENCE N 19°37' W, 1397 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SW 1/4 NE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 05°21' E, 1322 FEET, MORE OR LESS FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

1T65RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 SW 1/4 AND SE 1/4 SW 1/4 OF SECTION 31, T. 65 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THOSE PARCELS DESCRIBED IN BOOK 36 INSTRUMENTS, PAGE 296, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF THE SOUTHMOST PARCEL DESCRIBED IN BOOK 36 INSTRUMENTS, PAGE 296, SAID POINT BEING N 33°55' W, 1297 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 SW 1/4; THENCE N 19°28' W, 228 FEET; THENCE N 31°52' W, 47 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF THE NORTHMOST PARCEL DESCRIBED IN BOOK 36 INSTRUMENTS, PAGE 296 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 31°47' W, 1565 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 SW 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

3T65RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN GOVERNMENT LOT 3 OF SECTION 31, T. 65 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 63 INSTRUMENTS, PAGE 241, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID GOVERNMENT LOT 3, SAID POINT BEING S 62°49' E, 1475 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID GOVERNMENT LOT 3; THENCE N 40°44' W, 889 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID GOVERNMENT LOT 3 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING EAST 732 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID GOVERNMENT LOT 3; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY OR WITHIN COUNTY ROAD RIGHT-OF-WAY.

2T65RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 SW 1/4 OF SECTION 31 T. 65 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 28 DEEDS, PAGE 184, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF THE NORTHMOST PARCEL DESCRIBED IN BOOK 36 INSTRUMENTS, PAGE 296, SAID POINT BEING N 31°47 W, 1565 FEET, MORE OR LESS, FROM THE SOUTH 1/4 CORNER OF SAID SECTION 31; THENCE N 31°52' W, 342 FEET; THENCE N 40°44' W, 472 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID NE 1/4 SW 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 62°49' E, 1475 FEET, MORE OR LESS, FROM THE WEST 1/4 CORNER OF SAID SECTION 31; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY OR WITHIN COUNTY ROAD RIGHT-OF-WAY.

4T65RIE

L E G A L D E S C R I P T I O N

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN GOVERNMENT LOT 2 OF SECTION 31, T. 65 N., R. 1 E., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 43 INSTRUMENTS, PAGE 343, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID GOVERNMENT LOT 2, SAID POINT BEING EAST, 732 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID GOVERNMENT LOT 2; THENCE N 40°44' W, 461 FEET, MORE OR LESS, TO THE SOUTHERLY PROJECTION OF THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 43 INSTRUMENTS, PAGE 343 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 51°03' E, 555 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID GOVERNMENT LOT 2; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

5T65RIE

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN GOVERNMENT LOT 2 OF SECTION 31, T. 65 N., R. 1 E., AND IN THE SE 1/4 NE 1/4 OF SECTION 36, T. 65 N., R. 1 W., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THOSE PARCELS DESCRIBED IN BOOK 66 INSTRUMENTS, PAGE 157, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY PROJECTION OF THE EASTERLY LINE OF THE EASTMOST PARCEL DESCRIBED IN BOOK 66 INSTRUMENTS, PAGE 157, SAID POINT BEING N 51°03' E, 555 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID GOVERNMENT LOT 2; THENCE N 40°44' W, 884 FEET, MORE OR LESS, TO THE NORTHWESTERLY LINE OF THE WESTMOST PARCEL DESCRIBED IN BOOK 66 INSTRUMENTS, PAGE 157 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 08°07' W, 1029 FEET, MORE OR LESS, FROM THE SW CORNER OF SAID GOVERNMENT LOT 2; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

1T65RIW

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 NE 1/4 OF SECTION 36, T. 65 N., R. 1 W., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 65 INSTRUMENTS, PAGE 171, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 65 INSTUMENTS, PAGE 171, SAID POINT BEING N 08°07' W, 1029 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 NE 1/4 OF SECTION 36; THENCE N 40°44' W, 393 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SE 1/4 NE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 16°58' W, 1377 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITH STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

2T65RIW

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NE 1/4 NE 1/4 OF SECTION 36, T. 65 N., R. 1 W., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 59 INSTRUMENTS, PAGE 482, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID NE 1/4 NE 1/4, SAID POINT BEING N 16°58' W, 1377 FEET, MORE OR LESS, FROM THE EAST 1/4 CORNER OF SAID SECTION 36; THENCE N 40°44' W, 490 FEET; THENCE N 47°23' W, 303 FEET; THENCE N 59°40' W, 407 FEET; THENCE N 65°27' W, 26 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID NE 1/4 NE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 68°19' E, 1420 FEET, MORE OR LESS, FROM THE NORTH 1/4 CORNER OF SAID SECTION 36; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

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3T65RIW

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NE 1/4 OF SECTION 36, T. 65 N., R. 1 W., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 59 INSTRUMENTS, PAGE 483, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID NW 1/4 NE 1/4, SAID POINT BEING S 68°19' E, 1420 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; THENCE N 65°27' W, 408 FEET, MORE OR LESS, TO THE SOUTHWESTERLY PROJECTION OF THE SOUTHEASTERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 65 INSTRUMENTS, PAGE 477 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING S 69°29' E, 1013 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

4T65RIW

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE NW 1/4 NE 1/4 OF SECTION 36, T 65 N., R. 1 W., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 65 INSTRUMENTS, PAGE 477, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHWESTERLY PROJECTION OF THE SOUTHEASTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 65 INSTRUMENTS, PAGE 477, SAID POINT BEING S 69°29' E, 1013 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; THENCE N 65°27' W, 854 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID SECTION 36 AND TERMINUS OF THIS CENTERLINE, WITH SAID TERMINUS BEING EAST, 172 FEET, MORE OR LESS, FROM THE NW CORNER OF SAID NW 1/4 NE 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

6T65RIW

LEGAL DESCRIPTION:

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 SW 1/4 OF SECTION 25, T. 65 N., R. 1 W., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 21 INSTRUMENTS, PAGE 442, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID SE 1/4 SW 1/4, SAID POINT BEING NORTH, 78 FEET, MORE OR LESS, FROM THE SOUTH 1/4 CORNER OF SAID SECTION 25; THENCE N 65°27' W, 174 FEET; THENCE N 62°57' W, 382 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 21 INSTRUMENTS, PAGE 207 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 56°56' W, 595 FEET, MORE OR LESS, FROM THE SOUTH 1/4 CORNER OF SAID SECTION 25; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY OR WITHIN THAT PARCEL II DESCRIBED IN BOOK 60 INSTRUMENTS, PAGE 442.

5T65RIW

LEGAL DESCRIPTION: EASEMENT NO. 1

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SW 1/4 SW 1/4 SE 1/4 OF SECTION 25, T. 65 N., R. 1 W., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS PARCEL I AS DESCRIBED IN BOOK 60 INSTRUMENTS, PAGE 442, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SECTION 25, SAID POINT BEIN(EAST, 172 FEET, MORE OR LESS, FROM THE SOUTH 1/4 CORNER OF SAID SECTION 25; THENCE N 65°27' W, 189 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID SW 1/4 SW 1/4 SE 1/4 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING NORTH, 78 FEET, MORE OR LESS, FROM THE SOUTH 1/4 CORNER OF SAID SECTION 25; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

LEGAL DESCRIPTION: EASEMENT NO. 2

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 SW 1/4 OF SECTION 25, T. 65 N., R. 1 W., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS PARCEL II AS DESCRIBED IN BOOK 60 INSTRUMENTS, PAGE 442, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID SE 1/4 SW 1/4, SAID POINT BEING NORTH, 78 FEET, MORE OR LESS, FROM THE SOUTH 1/4 CORNER OF SAID SECTION 25; THENCE N 65°27' W, 174 FEET; THENCE N 62°57' W, 382 FEET, MORE OR LESS, TO THE WESTERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 21 INSTRUMENTS, PAGE 207 AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 56°56' W, 595 FEET, MORE OR LESS, FROM THE SOUTH 1/4 CORNER OF SAID SECTION 25; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. : RIGHT-OF-WAY OR WITHIN THAT PARCEL DESCRIBED IN BOOK 21 INSTRUMENTS, PAGE 207.

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7T65RIW

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 SW 1/4 OF SECTION 25, T. 65 N., R. 1 W., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 32 INSTRUMENTS, PAGE 215, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE POLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 32 INSTRUMENTS, PAGE 215, SAID POINT BEING N 56°56' W, 595 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 SW 1/4; THENCE N 62°57' W, 458 FEET; THENCE N 50°00' W, 231 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID PARCEL AND TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 57°50' W, 1280 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SE 1/4 SW 1/4; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT ADJACENT BOUNDARIES; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY.

12T65RIW

L E G A L D E S C R I P T I O N :

A STRIP OF LAND 40 FEET IN WIDTH; LOCATED IN THE SE 1/4 SE 1/4 OF SECTION 23, T. 65 N., R. 1 W., BOISE MERIDIAN, IDAHO; BEING OVER AND ACROSS THAT PARCEL DESCRIBED IN BOOK 35 INSTRUMENTS, PAGE 546, BOUNDARY COUNTY, IDAHO RECORDS; SAID STRIP BEING 20 FEET EACH SIDE OF THE POLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID SECTION 23, SAID POINT BEING WEST, 383 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 23; THENCE N 18°27' W, 52 FEET TO THE TERMINUS OF THIS CENTERLINE; WITH SAID TERMINUS BEING N 82°45' W, 390 FEET, MORE OR LESS, FROM THE SE CORNER OF SAID SECTION 23; WITH SIDELINES OF SAID STRIP TO BE EXTENDED OR SHORTENED TO INTERSECT THE SOUTHERLY LINE OF SAID SECTION 23; EXCEPTING FROM SAID STRIP ANY LAND BEING WITHIN STATE HIGHWAY NO. 1 RIGHT-OF-WAY OR WITHIN COUNTY ROAD RIGHT-OF-WAY.

13T65RIW

LEGAL DESCRIPTION

A strip of land 40 feet in width in the SE 1/4 and the SE 1/4 SW 1/4 of Section 23, T65N, R1W, of the Boise Meridian, Boundary County, Idaho; more particularly described as follows:

The south 40 feet of said Section 23 from the westerly right of way of Idaho State Highway No. 1 to the west line of the SE 1/4 SW 1/4 of said Section 23.

15T65RIW

LEGAL DESCRIPTION

A strip of land 40 feet in width through the E 1/2 SW 1/4 of Section 22, T65N, R1W, of the Boise Meridian, Boundary County, Idaho; more particularly described as the south 40 feet of the E 1/2 SW 1/4 of said Section 22.

16T65RIW

LEGAL DESCRIPTION

A strip of land 40 feet in width through the W 1/2 SW 1/4 of Section 22, and the SE 1/4 SE 1/4 of Section 21 lying east of the abandoned Kootenai Valley Railroad centerline, all in T65N, R1W, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the east line of the W 1/2 SW 1/4 of said Section 22 which is 20 feet north of the southeast corner of the W 1/2 SW 1/4; thence N 89°37'20" W, parallel to the south line of the W 1/2 SW 1/4, 1330 feet more or less to the east line of said Section (20 feet north of the southeast corner of the Section); thence N 89°13'32" W, parallel to the south line of the SE 1/4 SE 1/4 of said Section 21, 467.98 feet, to the centerline

of the abandoned Kootenai Valley Railroad and the terminus of this centerline; with said sidelines to be extended or shortened to intersect adjacent boundaries.

17T65RIW

LEGAL DESCRIPTION

A strip of land 40 feet in width located in the S 1/2 SE 1/4 and the SE 1/4 SW 1/4 of Section 21, T65N, R1W, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the centerline of the abandoned Kootenai Valley Railroad and more particularly described as follows:

Beginning at a point on the south line of said Section 21 which is N 89 13'32" W, 445.05 feet from the southeast corner of the section; thence N 48 26'27" W, along the abandoned railroad centerline, 668.28 feet; thence on a curve to the left having a central angle of 24 41'12", with a radius of 1909.78 feet, for a distance of 822.86 feet; thence N 73 07'39" W, 1724.92 feet; thence, leaving the railroad centerline, S 35 12'21" W, 536.84 feet to the center of the crossdike between drainage districts #6 and #8, and the terminus of this centerline; with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

18T65RIW

LEGAL DESCRIPTION

A strip of land 40 feet in width in the SE 1/4 SW 1/4 of Section 21, T 65 N, R 1 W of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the west line of the SE 1/4 SW 1/4 which is N 0 47'58" E, 431.54 feet from the southwest corner of said SE 1/4 SW 1/4; thence N 38 12'58" E, 491.37 feet; thence N 35 12'21" E, 47.92 feet to the center of the crossdike between drainage districts #6 and #8, and the terminus of this centerline; with the sidelines to be extended or shortened to intersect the boundaries of the adjacent properties.

19T65RIW

LEGAL DESCRIPTION

A strip of land 40 feet in width located in the SW 1/4 SW 1/4 of Section 21, Government Lot 1 of Section 28 and Government Lot 1 of Section 29, all in T 65 N, R 1 W, of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the east line of the SW 1/4 SW 1/4 of said Section 21 which is N 0 47'58" E, 431.54 feet from the southeast corner of said SW 1/4 SW 1/4; thence S 38 12'58"W 56.39 feet; thence S 73 23'47" W, 380.71 feet; thence S 54 36'59"W, 137.38 feet; thence S 50 40'25" W, 163.63 feet; thence S 41 53'08" W, 1067.99 feet; thence S 41 22'16" W, 47.05 feet to the right bank of the Kootenai River and the terminus of this centerline; with the sidelines of said strip to be extended or shortened to intersect adjacent boundaries.

.IW

DESCRIPTION

A strip of land 40 feet in width through Government Lot , the NW 1/4 NE 1/4 of Section 25, T65N, R2W, of the Boise ian, Boundary County, Idaho; said strip being 20 feet on side of the following described centerline:

Beginning at a point on the east line of said Section which is S 00 01'47"W, 923.40 feet from the Northeast corner the section; thence N 62 57'24"W, 132.39 feet to a point; nce N 47 11'34"W, 758.65 feet to a point; thence 40 53'12"W, 436.14 feet to a point; thence N 89 52'40" W, allel to the north line of the section, - 1675.6 feet, more or s, to the west line of the NE 1/4 of Section 25 and the rminus of this centerline, with said centerline being south, 20 et, more or less from the North Quarter corner of said Section , with the sidelines of said strip to be extended or shortened intersect adjacent boundaries. The line on the north side of the operty will be placed so the poles are on the property line.

23T65RIW

EGAL DESCRIPTION

A strip of land 40 feet in width through the NW 1/4 of Section 25, the SW 1/4 of Section 24 and the SE 1/4 of Section 23, T65N, R2W of the Boise Meridian, Boundary County, Idaho; said strip being 20 feet on each side of the following described centerline:

Beginning at a point on the east line of the NW 1/4 of said Section 25 which is south 20 feet more or less from the North Quarter corner of the Section; thence N 89 52'40" W, parallel to the north line of the Section 20.00 feet to a point; thence N 00 01'47" E, 20.00 feet to a point on the north line of the Section; thence continuing N 00 01'47" E, 156.73 feet to a point; thence S 89 17'46" W, 1223.59 feet to a point; thence S 85 38'30" W, 1397 feet, more or less, to a point on the west line of Section 24 which north 30 feet, more or less, from the southwest corner of said Section 24; thence S 89 22'16"W, 1571.24 feet to a point; thence S 86 26'51" W, 413.7 feet, to a point on the south line of Section 23, which is N 89 37'58" E, 643.12 feet from the South Quarter corner of said Section 23 and the terminus of this centerline; with the sidelines of said strip being extended or shortened to intersect adjacent boundaries.

Recording Requested By And
When Recorded Mail to:

ORRICK, HERRINGTON & SUTCLIFFE
600 Montgomery Street
San Francisco, California 94111
Attention: Daniel R. Bedford, Esq.

Space above this line for recorder's use

INDENTURE OF MORTGAGE, DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING

(Lessee Fee Mortgage)

KNOW ALL MEN BY THESE PRESENTS:

THIS INDENTURE OF MORTGAGE, DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Indenture") is made as of the 25th day of May, 1989 by SMITH FALLS HYDROPOWER, a Utah general partnership having an office at 699 East South Temple, Suite 220, Salt Lake City, Utah 84102 (the "Grantor") and Chicago Title Insurance Company of Idaho, as Indenture Trustee (the "Indenture Trustee"), for the benefit of Westinghouse Credit Corporation, a Delaware corporation having an office at One Oxford Centre, Pittsburgh, PA 15219 (the "Beneficiary").

W I T N E S S E T H :

WHEREAS, Grantor has entered into a certain Financing Agreement dated as of May 25, 1989 (the "Financing Agreement") among Grantor, Beneficiary, American Pacific Power Corp., a Utah corporation ("APPC"), Pacific West Power Corp., a Utah corporation ("PWPC"), America West Hydro, Inc., a Utah corporation ("AWHI"), Hydro-Flow, Inc., a Utah corporation ("Hydro-Flow") and Idaho Natural Energy, Inc., an Idaho corporation ("INE"). APPC, PWPC and AWHI are sometimes each referred to herein as a "General Partner" and collectively, as the "General Partners." Capitalized terms not otherwise defined herein are used as defined in Schedule I hereto;

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EXHIBIT "B"

WHEREAS, the Obligations secured by this Indenture shall be in an original principal amount not greater than thirty million dollars ($30,000,000); and

WHEREAS, the Obligations secured by this Indenture shall terminate on the no later than forty (40) years after the date hereof;

WHEREAS, it is a condition to the obligation of Beneficiary to enter into the Overall Transaction that Grantor execute and deliver this Indenture;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and FOR THE PURPOSE OF SECURING the Obligations, as hereinafter defined (collectively, the "Obligations"), Grantor hereby irrevocably grants, bargains, sells, releases, conveys, warrants, assigns, transfers, mortgages, pledges, hypothecates, sets over and confirms unto the Indenture Trustee in trust for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, all of Grantor's right, title and interest in and to the following described property, now owned or hereafter acquired by Grantor and whether now existing or hereafter arising (the "Collateral"):

(a) That certain real property located in Boundary County, Idaho, and more particularly described in Schedule II attached hereto (the "Fee Property"), which is the location of a hydroelectric facility (the "Facility").

(b) That certain Ground Lease by and between Grantor and Beneficiary (the "Ground Lease").

(c) All covenants, agreements, rights, appurtenances, tenements, hereditaments, privileges, franchises and appendages of or relating to the Fee Property and any streets, roads or public places, easements or rights of way, any land laying within the right-of-way of any street, open or proposed, adjoining the Fee Property and any and all sidewalks, alleys, and strips and gores of land adjacent to or used in connection therewith, the diversion structure, the penstock and the transmission line associated with the Fee Property and the Facility.

(d) All development rights, air rights, water, water rights, water stock, ditches or ditch rights and reservoirs, reservoir rights and other rights of Grantor relating to the Facility or the Fee Property and any licenses that the Idaho Department of Water Resources or any other federal, state or municipal government, governmental agency or commission may issue in the future for the appropriation of water for the Facility.

(e) All present and future structures, buildings, improvements, appurtenances and fixtures of any kind on the Fee Property, including without limitation the Facility, and all building materials and building equipment of every kind (including, without limitation, all machinery, apparatus, equipment and fittings constituting fixtures) located on the Fee Property or attached to, contained in or used in any such buildings or

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in the Facility and other improvements, and all appurtenances and additions thereto and betterments, substitutions and replacements thereof (collectively, the "Improvements").

(f) All leases, subleases and subtenancies, occupancy agreements, and concessions (including the Ground Lease) affecting any of the Collateral, the Fee Property or the Improvements (collectively, the "Project Leases"), and all rents, royalties, income and profits arising from the Fee Property, the Improvements or the Project Leases and all production payments or other similar payments and all proceeds of the conversion, voluntary or involuntary, of the Collateral into cash or liquidated amounts or claims for the purposes and upon the terms and conditions hereinafter set forth, subject to the right, power and authority given to Grantor pursuant to Section 1.09 to collect and apply the same.

(g) All proceeds and claims arising on account of any damage to or taking of the Fee Property or Improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Fee Property or Improvements.

(h) All chattel paper of Grantor and all present and future amendments thereto.

(i) All accounts and deposit accounts of Grantor, including, without limitation, each account established pursuant to the Construction Escrow Agreement, the Lease Payment Agreement and the Escrow Fund Agreement and all goods repossessed or returned in connection therewith.

(j) All goods, machinery, equipment, fittings and fixtures of Grantor of every kind and nature whatsoever, including without limitation; all machinery, dies, blueprints, catalogues, computer hardware and software, tools, motors, vehicles, furniture and furnishings, together with all additions and accessions thereto and replacements therefor, related to the development and use of the Fee Property and the Improvements and any other business of Grantor.

(k) All general intangibles of Grantor, including without limitation all right, title and interest of Grantor in, to or arising out of (i) all contracts and agreements with respect to the Fee Property, the Facility and other Improvements, including, without limitation, the NLI Agreement, the NLI Easement, the Power Purchase Agreement, the Construction Contracts, the BPA Agreements, the Collection Agreement, the Transmission Line Transfer Agreement and the Wheeling Agreement and every other Related Document (the "Contracts"); (ii) all patents, trademarks, tradenames, good will, inventions, processes, distribution rights, common law and statutory copyrights, agreements, leases, royalties and judgments; (iii) all consents, rights, exemptions, concessions, permits, licenses, authorizations, certificates, orders, franchises, determinations and approvals of any federal, state, municipal or governmental department, commission, board, bureau, agency or instrumentality with respect to or in connection with the Facility, Fee Property and other Improvements, now existing or hereafter arising, including

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without limitation, the Permits, the Water Permits, the BPA Agreements, the Collection Agreement, the FERC License, the FERC License Amendment, the FERC Recertification, the FERC Waiver, the 70 CFS Water Permit and the Wheeling Agreement (the "Governmental Authorizations") to the extent such Governmental Authorizations can be assigned or subjected to security interests under applicable law, and any other rights necessary to own, operate, and use the Facility, now held or hereafter acquired; (iv) all warranties, guaranties and obligations of each and every contractor under all Construction Contracts, purchase orders, installation or supply agreements, guaranties and other contracts and agreements of whatever kind or character in respect thereof, now in existence or hereafter arising, including, without limitation, each Performance Bond (the "Warranty Agreements"); (v) all claims arising thereunder and all rights to compel performance of the terms of the Warranty Agreements, the Contracts and the Governmental Authorizations, all payments and refunds that any contractor may be required to make with respect to the Facility and any portion thereof under any Warranty Agreements, and all payments under the Contracts and the Governmental Authorizations; (vi) all names under or by which the Facility, Fee Property or other Improvements may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof; (vii) all books, records, and other information in whatever form and however stored, relating to the ownership, use and operation of the Facility, the Fee Property and other Improvements; and (viii) all goodwill in any way relating to the Facility, the Fee Property and other Improvements.

(l) All documents and instruments of Grantor, now owned or hereafter acquired by Grantor, including without limitation, documents of title, securities and all new, substituted and additional documents and instruments issued with respect thereto, all voting or other rights now or hereafter exercisable, all cash and noncash dividends, all goods repossessed or returned in connection therewith and all other property now or hereafter receivable with respect to any of the foregoing.

(m) All inventory, including, without limitation, all raw materials, component parts, work in progress or materials used or consumed in its business or in connection with the Facility, the Fee Property and other Improvements, goods held for sale or lease or to be furnished under a contract or service, goods so leased or furnished, and merchandise, and all equipment, including, without limitation, all furniture, fixtures, supplies, equipment, machinery, all other tangible personal property used in the operation of its business or in connection with the Facility, the Fee Property and other Improvements.

(n) All other property of Grantor now or hereafter in the possession, custody or control of Grantor, warehousemen, bailees or any other person and whether located at Grantor's place of business or elsewhere.

(o) All of Grantor's receivables and all monies and claims for money due or to become due and all securities, guaranties, warranties, indemnity agreements and insurance policies.

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(p) All of Grantor's title and interest in and to all real and immovable property or leaseholds, and all fixtures with respect thereto, together with any and all estates and interests therein, including but not limited to, all land, buildings and other erections, fixed plant, fixed equipment and all permits, rights, licenses, rents, benefits and other interests of any kind or nature whatsoever in or with respect to such real and immovable property or leaseholds.

(q) All accounts, contracts, contract rights, documents, instruments, general intangibles, chattel paper, and all ledger sheets, files and other documents relating to the property described in paragraphs (a) through (p) above.

(r) all improvements, replacements, substitutions, renewals, accessions or additions to all of the above-described real or personal property, and any and all products thereof, whether in the possession of Grantor, warehousemen, bailees or any other person and whether located at Grantor's place of business or elsewhere.

(s) all Proceeds of the foregoing.

For purposes of this Indenture, the term "Proceeds" includes whatever is receivable or received when the property referred to above or Proceeds is sold, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, and includes without limitation all rights to payment, including return premiums with respect to any insurance relating thereto.

TO HAVE AND TO HOLD the Collateral with all privileges and appurtenances thereunto belonging, to the Indenture Trustee and its successors and assigns for the benefit of Beneficiary and its successors and assigns, forever.

PROVIDED ALWAYS, that if the Obligations secured hereby shall be paid and performed in full and Grantor shall abide by and comply with each and every covenant contained herein, then this Indenture and the lien and estate hereby granted shall cease, terminate and be void.

The obligations secured by this Indenture (the "Obligations") shall consist of the following (each of the agreements listed below hereinafter referred to individually as an "Agreement" and collectively as the "Agreements"):

(a) any and all debts, obligations and liabilities of Grantor to Beneficiary under the Financing Agreement, the Construction Loan Agreement, the Construction Note, the Construction Escrow Agreement, this Indenture, the Lessee Easement Mortgage, the Ground Lease, the Lease, each Bill of Sale, the Lease Payment Agreement, the Escrow Fund Agreement, the Tax Indemnity Agreement, the Revolving Loan Agreement, the Revolving Note, the Agreement of Understanding, every other mortgage executed by Grantor in favor of Beneficiary, and each other instrument, document and agreement delivered or to

be delivered by Grantor pursuant hereto and thereto or in connection herewith and therewith and in connection with the Overall Transaction;

(b) any and all debts, obligations and liabilities of each Shareholder to Beneficiary under each of their respective Shareholder Pledge Agreements, the Intercrediter Agreement (if applicable) and each other instrument, document and agreement delivered or to be delivered by each Shareholder pursuant thereto or in connection therewith and in connection with the Overall Transaction;

(c) any and all debts, obligations and liabilities of each General Partner to Beneficiary under the Financing Agreement and under each of their respective General Partner Pledge and Security Agreements and each other instrument, document and agreement delivered or to be delivered by each General Partner pursuant thereto or in connection therewith and in connection with the Overall Transaction;

(d) any and all debts, obligations and liabilities of Hydro-Flow to Beneficiary under the Financing Agreement, the Hydro-Flow Mortgage and the Hydro-Flow Pledge Agreement and each other instrument, document and agreement delivered or to be delivered by Hydro-Flow pursuant thereto or in connection therewith and in connection with the Overall Transaction;

(e) any and all debts, obligations and liabilities of INE to Beneficiary under the Financing Agreement and the INE Security Agreement and each other instrument, document and agreement delivered or to be delivered by INE pursuant thereto or in connection therewith and in connection with the Overall Transaction;

and all amendments or extensions or renewals to the Agreements, whether now existing or hereafter arising, voluntary or involuntary, whether or not jointly owed with others, direct or indirect, absolute or contingent, liquidated or unliquidated, and whether or not from time to time decreased or extinguished and later increased, created or incurred.

TO PROTECT THE SECURITY OF THIS INDENTURE, GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

ARTICLE I

AGREEMENTS OF GRANTOR

1.01 Performance of Obligations Secured. Grantor covenants and agrees to pay promptly when due all sums due pursuant to the Obligations and to perform each and every agreement and condition contained in the Obligations and contained herein.

1.02 Title to Collateral. Grantor is, and shall hereafter remain, the owner of the Collateral free and clear of all voluntary or involuntary liens, encumbrances, attachments, security interests, purchase money security

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interests, assignments, mortgages, charges or other liens or encumbrances of any nature whatsoever, with the exceptions of (a) all interests in favor of Beneficiary, (b) the mortgage and security interest created herein, (c) liens for real estate taxes not yet due and payable and (d) all Permitted Liens.

1.03 Condemnation and Insurance Proceeds. The proceeds of any award or claim for damages, direct or consequential, in connection with any requisition, condemnation or other taking of or damage or injury to the Collateral, or any part thereof, or for conveyance in lieu of requisition or condemnation, payable to Grantor and assigned to the Indenture Trustee or to Beneficiary pursuant to this Indenture, shall prior to the First Lease Closing Date be paid and distributed as provided in the Construction Loan Agreement, and shall after the First Lease Closing Date be paid and distributed as provided in the Lease.

1.04 Security Agreement

(a) This Indenture is also a security agreement pursuant to the Idaho Uniform Commercial Code for (i) any and all items of personal property specified above as part of the Collateral that may be subject to a security interest pursuant to the Idaho Uniform Commercial Code and that are not real property, and (ii) any and all items of property specified above as part of the Collateral that constitute fixtures and may be subject to a security interest under the Idaho Uniform Commercial Code. To the extent that Grantor has any right, title or interest in such property, Grantor hereby grants Beneficiary a security interest in said property, and in all additions thereto, substitutions therefor, and proceeds thereof, for the purpose of securing the Obligations, and this Indenture constitutes a security agreement and financing statement, and is intended, when recorded, to create a perfected security interest in such property in favor of Beneficiary. Grantor agrees to execute and deliver on demand such security agreements, financing statements and other instruments as Beneficiary may reasonably request from time to time in order to impose a lien more specifically upon any of such property and to pay all recording and/or filing fees associated therewith. For purposes of treating this Indenture as a security agreement and financing statement, Beneficiary shall be deemed the secured party and Grantor shall be deemed the debtor.

(b) Grantor represents and warrants that (i) this Indenture has been duly authorized, executed and delivered by Grantor, and constitutes a valid and binding obligation of Grantor; (ii) as of the date hereof, Beneficiary will have a valid and perfected security interest in such of the Collateral as is subject to perfection by filing under the Idaho Uniform Commercial Code, subject to no Lien other than Permitted Liens or liens in favor of Beneficiary; (iii) the execution, delivery, performance and enforcement of this Indenture do not and will not contravene, or constitute a default under, any provision of applicable law or regulation or of Grantor's constituent documents or of any agreement, judgment, injunction, order, decree or other instrument binding upon Grantor or result in the creation or imposition of any lien (other than Permitted Liens or liens in favor of Beneficiary) upon any asset of Grantor; and (iv) Grantor has not performed any

acts which might prevent Beneficiary from enforcing any of the terms and conditions of this Indenture or which would limit Beneficiary in any such enforcement.

(c) Each item of Collateral consisting of accounts, instrument, chattel paper, general intangibles or other rights of payment of money (collectively, "Rights to Payment") is genuine and enforceable in accordance with its terms against the party obligated to pay the same (an "Account Debtor"), which terms have not been modified or waived in any respect or to any extent, and Grantor has no reason to believe that the Rights to Payment are not genuine or so enforceable.

(d) No person has any defense, setoff, claim or counterclaim against Grantor that can be asserted successfully against Beneficiary, whether in any proceeding to enforce Beneficiary's rights in the Collateral or otherwise.

1.05 Further Sales or Encumbrances. Except as otherwise expressly provided in the Fundamental Agreements, without the prior written consent of Beneficiary being first had and obtained, Grantor shall not sell, contract to sell, lease with option to purchase, convey, alienate, transfer, encumber, mortgage or otherwise dispose of all or any portion of the Collateral or any interest therein, whether voluntarily or involuntarily, by operation of law or otherwise.

1.06 Protection of Security.

(a) If any action or proceeding is commenced that affects Beneficiary's interest in the Collateral or any part thereof, including without limitation (i) eminent domain actions, (ii) actions under any federal, state or local statute regulating the the transportation, storage or release of hazardous substances, including without limitation the RCRA, CERCLA, the Federal Clean Water Act, as amended, 33 U.S.C. Section 1251 et seq., the Toxic Substance and Control Act, as amended, 15 U.S.C. Section 2601 et seq., the Federal Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq., the Idaho Hazardous Waste Management Act of 1983, as amended, Idaho Code Section 39-4401 et seq., the Idaho Enviromental Protection and Health Act of 1972, as amended, Idaho Code Section 39-101 et seq., the Idaho PCB Disposal Act of 1987, Idaho Code Section 39-6201 et seq., and the regulations issued under each of such statutes, or (iii) proceedings of any nature whatsoever under any federal, state or local law, whether now existing or hereafter enacted or amended, relating to bankruptcy, insolvency, arrangement, reorganization or other form of debtor relief, then Beneficiary may, but without obligation to do so and without notice to or demand upon Grantor, make such appearances, pay any such costs and take such action as Beneficiary deems reasonably necessary or appropriate to protect Beneficiary's interest, including without limitation payment of reasonable attorneys fees, entry upon the Facility or the Fee Property to make repairs or take other action to protect the security hereof, and payment, purchase, contest or compromise of any lien that in the reasonable judgment of Beneficiary appears to be prior or superior hereto. Any amounts disbursed by Beneficiary pursuant to this Section 1.06(a) shall be

part of the Obligations and secured by this Indenture and shall bear interest at the Default Rate.

(b) Grantor hereby irrevocably appoints Beneficiary as its attorney in fact so to do, but Beneficiary shall not be obligated to and shall incur no liability to Grantor or any third party for failure so to do, any act that Grantor is obligated by this Indenture to do, and to exercise such rights, powers and remedies as Grantor might exercise with respect to the Collateral, including without limitation Grantor's rights under the Project Leases. Anything to the contrary set forth in this Section 1.06(b) notwithstanding, Beneficiary agrees that it shall not exercise any of the rights or powers granted to or conferred on it pursuant to this Section 1.06(b) (other than the right to give notice of a default or an event of default under any of the Project Leases and the right to inspect the property leased thereunder) prior to an Event of Default pursuant to Article III hereof and except in connection with the exercise by Beneficiary of any of the rights and remedies of Beneficiary contained in the Construction Loan Agreement and the Lease. Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable. The powers conferred on Beneficiary hereunder and the Collateral are solely to protect its interests in the Collateral and shall not impose any duty upon Beneficiary to exercise any such powers. Beneficiary shall be accountable only for amounts that it actually receives as a result of the exercise of such powers and in no event shall Beneficiary or any of its officers, directors, employees or agents be responsible to Grantor for any act or failure to act.

(c) Nothing contained in this Indenture shall be construed to require Beneficiary to incur any expense, make any appearance, or take any other action. Neither this Indenture nor any action on the part of Beneficiary shall constitute an assumption by Beneficiary of any of the obligations of Grantor under any of the contracts or agreements constituting a part of the Collateral, and Grantor shall continue to be liable for all of its obligations thereunder.

1.07 Anti-merger. There shall be no merger of the leasehold estate created by the Ground Lease with the fee estate in the Fee Property by reason of any of those interests coming into common ownership, unless Beneficiary consents in writing. In the event of the exercise of any power of sale under this Indenture, Beneficiary shall have the right to sell the leasehold estate and the fee interest of Grantor separately or together at the election of Beneficiary.

1.08 Project Leases.

(a) Grantor agrees with respect to each Project Lease as follows:

(i) each Project Lease shall remain in full force and effect despite any merger of the interest of Grantor and any lessee thereunder; and

(ii) Grantor shall not grant any consent or approval provided for under any of the Project Leases without the prior written consent of Beneficiary.

(b) In connection with and limited to the exercise of any of its rights and remedies under this Indenture, Beneficiary shall be deemed to be a creditor of the lessee under each of the Project Leases with respect to any assignment for the benefit of creditors in any bankruptcy, arrangement, reorganization, insolvency, dissolution, receivership or other debtor relief proceedings affecting such lessee (without obligation on the part of Beneficiary, however, to file claims in such proceedings or otherwise pursue creditor's rights therein).

(c) Grantor shall not enter into any Project Lease without the prior written consent of Beneficiary, which consent shall not be unreasonably withheld. Each such Project Lease shall be in form and substance satisfactory to Beneficiary and, without limiting the generality of the foregoing, shall include a provision confirming that the Project Lease is subordinate to the lien of this Indenture and consenting to the assignment provided for herein of the Project Lease to Beneficiary. Grantor shall furnish Beneficiary, upon the request of Beneficiary, with copies of each and every Project Lease and any other information relative to each such Project Lease and the tenant thereunder. Grantor will take all action as may be requested by Beneficiary in furtherance of the rights of Beneficiary hereunder, including, without limitation, obtaining estoppel certificates and agreements (in form reasonably satisfactory to Beneficiary) from each tenant subordinating the Project Lease to the lien of this Indenture and consenting to the assignment of the Project Lease provided for herein.

1.09 Rents. Prior to an Event of Default under this Indenture, Grantor shall have a license to collect and receive all Rents (as defined in Article II). Beneficiary may terminate such license, at its sole option, without regard to the adequacy of its security hereunder and without notice to or demand upon Grantor, upon the occurrence of any Event of Default under this Indenture and may apply all Rents to payment of any Obligations. It is understood and agreed that neither the assignment of Rents to Beneficiary nor the exercise by Beneficiary of any of its rights or remedies hereunder shall be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or operation of any portion thereof, unless and until Beneficiary, in person or by agent, assumes actual possession thereof. Nor shall appointment of a receiver for the Collateral by any court at the request of Beneficiary or by agreement with Grantor, or the entering into possession of any part of the Collateral by such receiver, be deemed to make Beneficiary a mortgagee-in-possession or otherwise responsible or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or operation of any portion thereof.

1.10 Insurance. Prior to the First Lease Closing Date, Grantor shall purchase and maintain such insurance as is required under the Construction Loan Agreement and from and after the First Lease Closing Date, Grantor shall purchase and maintain in such insurance as is required under the Lease. The proceeds of such insurance prior to the First Lease Closing Date shall be distributed in accordance with the Construction Loan Agreement and the proceeds of such insurance from and after the First Lease Closing Date shall be distributed in accordance with the Lease.

1.11 Assignments of Policies Upon Foreclosure. In the event of foreclosure of the lien of this Indenture or other transfer of title or assignment of the Collateral in extinguishment, in whole or in part of the Obligations secured hereby, all right, title and interest of the Grantor in and to all policies of insurance required under Section 1.10 shall inure to the benefit of and pass to Beneficiary and the Successors in interest to Beneficiary or the purchaser or grantee of the Collateral or any part thereof.

1.12 No Financing Statements on File. Except for those to be terminated concurrently with the execution and delivery of the Lease, no effective financing statement or other instrument similar in effect covering all or any part of Grantor's interest in the Collateral is on file in any recording office, except such as may have been filed pursuant to this Indenture or pursuant to the documents evidencing Permitted Liens, or in favor of Beneficiary and except for the Mead Mortgage.

1.13 Notices, Etc. Grantor shall deliver to Beneficiary a copy of each demand, notice or document received or given by Grantor relating in any way to any Project Lease or Contract.

1.14 Place of Perfection; Records. Grantor shall give Beneficiary 30 days prior written notice before it changes the location of its chief place of business and chief executive office and shall at the expense of Grantor execute and deliver such instruments and documents as required to maintain a prior perfected security interest and as requested by Beneficiary. Grantor will hold and preserve such records and will permit representatives of Beneficiary at any time during normal business hours to inspect and make abstracts from such records.

1.15 Impositions. Grantor shall pay, before the imposition of any fine, penalty, interest or cost attached thereto, all taxes, assessments and other governmental or non-governmental charges or levies now or hereafter assessed or levied against the Collateral or upon the security interest provided for herein (except for liens for taxes and assessments not then delinquent) as well as pay, or cause to be paid, all claims for labor, materials or supplies which, if unpaid, might become a Lien (other than a Permitted Lien) on the Collateral or any part thereof, and will exhibit receipts showing payment of any of the foregoing.

1.16 Litigation. There is no suit, action, proceeding, or, to the knowledge of Grantor, any investigation presently pending or threatened against Grantor, or any of the Collateral, which, if determined adversely, would have a material adverse effect upon Grantor or the Collateral.

1.17 Further Assurances.

(a) Grantor shall execute, acknowledge and deliver, from time to time, such further instruments as Beneficiary or the Indenture Trustee may reasonably require to accomplish the purposes of this Indenture.

(b) Grantor, immediately upon the execution and delivery of this Indenture, and thereafter from time to time, shall cause this Indenture, any security agreement, mortgage or deed of trust supplemental hereto and each instrument of further assurance to be filed, registered or recorded and refiled, re-registered or re-recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and perfect the lien or estate of this Indenture upon the Collateral.

(c) Grantor shall pay all filing, registration and recording fees, all refiling, re-registration and re-recording fees, and all expenses incident to the execution, filing, recording and acknowledgment of this Indenture, any security agreement, mortgage or deed of trust supplemental hereto and any instrument of further assurance, and all Federal, State, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery, filing and recording of the Construction Loan Note, the Revolving Note, this Indenture, any security agreement, mortgage or deed of trust supplemental hereto or any instruments of further assurance.

1.18 Fixture Filing. This Indenture constitutes a financing statement filed as fixture filing in the Official Records of the County Recorder of the county in which the Collateral is located with respect to any and all fixtures included within the term "Collateral" as used herein and with respect to any goods or other personal property that may now be or hereafter become such fixtures.

1.19 Limitations of Use. Grantor shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses that may be made of the Fee Property and the Improvements or any part thereof that would have a material adverse effect on the value of the Fee Property or the Improvements. Grantor shall comply with the provisions of licenses, agreements and private covenants, conditions and restrictions that at any time are applicable to the Collateral.

1.20 Actions to Protect Collateral. If Grantor shall fail to (a) effect the insurance required by Section 1.10, (b) make any payments required hereunder or (c) perform or observe any of its other covenants or agreements hereunder, Beneficiary may, without obligation to do so, and upon notice to Grantor (except in an emergency) effect or pay the same. All sums, including reasonable attorneys' fees, so expended or expended to sustain the lien or estate of this Indenture or its priority, or to protect or enforce any of the rights hereunder, or to recover any indebtedness secured hereby, shall be a lien on the Collateral, shall be deemed to be added to the indebtedness secured by this Indenture, and shall be paid by Grantor within ten (10) days

after demand therefor, together with interest thereon at the Default Rate. In any action or proceeding to foreclose this Indenture as a deed of trust or to recover or collect the Obligations, the provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

1.21 Waivers.

(a) The obligations of Grantor under this Indenture and Beneficiary's security interest in the Collateral shall remain in full force and effect until all Obligations shall have been paid and performed in full and shall not be released, discharged or terminated for any reason whatsoever, including, without limitation, the following: (i) the waiver by Beneficiary of the performance or observance by Grantor, any General Partner, any Shareholder, Hydro-Flow or INE of any Obligations; (ii) the extension to Grantor of any additional credit facilities, any changes in the amount of the Rent, the change by Beneficiary of the interest rate in the Construction Loan Agreement, the Revolving Credit Agreement or any other credit facilities extended to Grantor or the extension of time for payment by Grantor, any General Partner, any Shareholder, Hydro-Flow or INE of any Obligations or of the time for performance by Grantor, any General Partner, any Shareholder, Hydro-Flow or INE of any other Obligations under or arising out of or account of any of the Agreements, or the extension or renewal of any of the Agreements; (iii) any failure, omission or delay of Beneficiary to enforce, assert or exercise any right, power or remedy conferred on Beneficiary in this Indenture or any of the other Agreements or any action on the part of Beneficiary granting extension or indulgence in any form; (iv) any transfer or assignment by Grantor, any General Partner, any Shareholder, Hydro-Flow or INE or Beneficiary of its interest, or any part thereof, into any of the "Collateral" or "Pledged Collateral," as defined in each of the Agreements; (v) any compromise, settlement, release, renewal, extension, indulgence, change in or waiver or modification of any of the Obligations or the release or discharge of Grantor, any General Partner, any Shareholder, Hydro-Flow or INE from the performance or observance of any of the Obligations by operation of law; (vi) the voluntary or involuntary liquidation, dissolution, sale, or other disposition of all or substantially all the assets and liabilities of, or the voluntary or involuntary receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or adjustment of, or any other similar proceeding affecting Grantor, any General Partner, any Shareholder, Hydro-Flow or INE or the disaffirmance of any of the Agreements in any such proceeding; (vii) any merger, consolidation, or any other reorganization of Grantor, any General Partner, any Shareholder, Hydro-Flow or INE, or any sale or disposition, whether directly or indirectly of any of the assets of Grantor, any General Partner, any Shareholder, Hydro-Flow or INE; (viii) to the extent permitted by applicable law, the invalidity of any of the Agreements; (ix) the default of Grantor under this Indenture; (x) any impairment of Grantor's rights of subrogation by virtue of Beneficiary's actions; or (xi) any other circumstance which might otherwise constitute a legal or equitable defense or discharge of Grantor.

(b) Grantor specifically agrees that it shall not be necessary or required in order to enforce its obligations hereunder that there be, and Grantor specifically waives: (i) any notice of the acceptance of this Indenture or of the performance or nonperformance by Grantor, any General Partner, any Shareholder, Hydro-Flow or INE of any of the Agreements; (ii) demand for payment or performance from Grantor, any General Partner, any Shareholder, Hydro-Flow or INE; (iii) presentment for payment upon Grantor, any General Partner, any Shareholder, Hydro-Flow or INE or the making of any protest; (iv) notice of the amount of Obligations outstanding at any time; (v) notice of nonpayment or failure to perform on the part of Grantor, any General Partner, any Shareholder, Hydro-Flow or INE; (vi) and any other circumstance which otherwise might constitute a legal and equitable defense or discharge of Grantor. Grantor specifically agrees that it shall not be necessary or required, and that it shall not be entitled to require, that Beneficiary file suit or proceed to obtain or assert a claim for personal judgment against Grantor, any General Partner, any Shareholder, Hydro-Flow or INE for any Obligations or make any effort at collection of any Obligations from Grantor, any General Partner, any Shareholder, Hydro-Flow or INE or foreclose against or seek to realize upon any security now or hereafter existing for the Obligations or file suit or proceed to obtain or assert a claim for personal judgment against any other party liable for any Obligations or make any effort at collection of any Obligations from any other party or exercise or assert any other right or remedy to which any of them is or may be entitled in connection with the Obligations or any security or other guarantee therefor or assert or file any claim against the assets of Grantor, any General Partner, any Shareholder, Hydro-Flow or INE or any other Person liable for the Obligations or any part thereof, before or as a condition of enforcing its rights against Grantor under this Indenture.

(c) Until all Obligations have been paid and performed in full, Grantor shall have no right of subrogation to, and waives, to the fullest extent permitted by law, any right to enforce any remedy which Beneficiary now has or may hereafter have against Grantor, any General Partner, any Shareholder, Hydro-Flow or INE in respect of the Obligations, and Grantor waives any benefit of, and any right to participate in, any security, whether real or personal property, now or hereafter held by Beneficiary for the Obligations. Until all Obligations have been paid and performed in full, Grantor shall not seek reimbursement from any General Partner, any Shareholder, Hydro-Flow or INE or any of their respective assets. Grantor assumes the responsibility for being and keeping itself informed of the financial condition of every General Partner, every Shareholder, Hydro-Flow and INE and of all other circumstances bearing upon the risk of nonpayment of the Obligations which diligent inquiry would reveal, and agrees that Beneficiary shall have no duty to advise Grantor of information known to it regarding such condition or any such circumstances.

ARTICLE II

ASSIGNMENTS OF RENTS, ISSUES AND PROFITS

2.01 Assignment of Rents, Issues and Profits. Grantor hereby assigns and transfer to Beneficiary the rents, revenues, issues, profits, royalties, income and benefits derived from the Fee Property and the Improvements (collectively, the "Rents"), and hereby gives to and confers upon Beneficiary the right, power and authority to collect the same. Grantor irrevocably appoints Beneficiary its true and lawful attorney-in-fact, at the option of Beneficiary at any time and from time to time following the occurrence of an Event of Default, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of the Grantor or otherwise, for the Rents and apply the same to the Obligations; provided, however, that Grantor shall have the right to collect the Rents at any time prior to the occurrence of an Event of Default. The foregoing assignment of Rents is intended to be an absolute assignment from Grantor to Beneficiary and not merely the passing of a security interest. The Rents are assigned absolutely by Grantor to Beneficiary subject only to the terms of this Indenture.

2.02 Collection Upon Event of Default. To the extent permitted by law, upon the occurrence of any Event of Default, Beneficiary may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Obligations enter upon and take possession of the Fee Property or the Improvements or any part thereof, in its own name, sue for or otherwise collect the Rents including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, to the payment of the Obligations, and in such order as Beneficiary may determine. The collection of the Rents or the entering upon and taking possession of the Fee Property or the Improvements or any part thereof, or the application thereof as aforesaid, shall not cure or waive any Event of Default or notice thereof or invalidate any act done in response to such Event of Default or pursuant to notice thereof.

2.03 Warranty Enforcement. Until an Event of Default shall occur under this Indenture, Grantor may deal with the Collateral and exercise all rights and powers that it would otherwise be entitled to exercise in connection therewith. Without limiting the generality of the foregoing, Beneficiary agrees that, prior an Event of Default under this Indenture, Grantor shall have the full right, power and authority to exercise and enforce all Contracts, Governmental Authorizations and Warranty Agreements, including without limitation (i) all claims arising thereunder, (ii) any and all rights to compel performance of the terms of the Contracts, Governmental Authorizations and Warranty Agreements, and (iii) all payments and refunds that any contractor may be required to make with respect to the Collateral and any portion thereof under any Warranty Agreement and all payments under the Contracts, Governmental Authorizations and Warranty Agreements.

ARTICLE III

EVENTS OF DEFAULT AND REMEDIES

3.01 Event of Default. An Event of Default shall be deemed to have occurred under this Indenture upon the occurrence of any of the following events: (a) an "Event of Default" under and as defined in the Construction Loan Agreement, the Lease or any of the other Fundamental Agreements; (b) Grantor shall fail to discharge any Lien on the Collateral or the priority of the security interest in the Collateral granted herein shall be otherwise impaired in any material respect within ten (10) Business Days after the existence thereof or impairment thereof shall have first become known to Grantor (unless Grantor shall be contesting the same in good faith with due diligence and by appropriate proceedings but only so long as such proceedings do not in Beneficiary's opinion, involve any risk of the sale, forfeiture or loss of any Collateral, title thereto or any interest therein); (c) Grantor shall fail to observe or perform any other obligation to be observed or performed by it under this Indenture and such failure shall continue unremedied for a period of thirty (30) days after written notice thereof to Grantor by Beneficiary, provided that such period shall be extended to one hundred twenty (120) days so long as (i) such Event of Default is curable other than by the payment of money, (ii) Grantor diligently pursues such cure and completes the cure within such extended period days and (iii) the cure does not, in Beneficiary's opinion, involve any risk of the sale, forfeiture or loss of any of the Collateral, title thereto or interest therein; (d) any representation, warranty or certificate made or furnished by Grantor to Beneficiary in connection with this Indenture and the Financing Agreement or as an inducement to Beneficiary to enter into this Indenture or the Financing Agreement, or in any separate statement or document to be delivered hereunder or thereunder to Beneficiary, shall prove to be materially false, incorrect or incomplete in any material respect when made; or (e) a judgment creditor of Grantor shall obtain possession of any of the Collateral by any means, including, but not limited to, levy, distraint, replevin or self help.

3.02 Default Remedies.

(a) If an Event of Default shall have occurred this Indenture may, to the extent permitted by law, be enforced either as a deed of trust or as a mortgage at the option of Beneficiary, and the Indenture Trustee or Beneficiary may exercise any right, power or remedy permitted to it hereunder, under the Construction Loan Agreement, the Lease and any other Fundamental Agreement or by law, and, without limiting the generality of the foregoing, Beneficiary may, personally or by its agents, to the extent permitted by law:

(i) enter and take possession of the Collateral or any part thereof, exclude Grantor and all persons claiming through Grantor whose claims are junior to this Indenture, wholly or partly therefrom, and use, operate, manage and control the same either in the name of Grantor or otherwise as Beneficiary shall deem best, and upon such entry, from time to time at the expense of Grantor and the Collateral, make all such

repairs, replacements, alterations, additions or improvements to the Collateral or any part thereof as Beneficiary may deem proper and, whether or not Beneficiary has so entered and taken possession of the Collateral or any part thereof, collect and receive all the rents and profits and apply the same, to the extent permitted by law, to the payment of all expenses which Beneficiary may be authorized to make under this Indenture, the remainder to be applied to the payment of the Obligations until the same shall have been repaid in full. If Beneficiary demands or attempts to take possession of the Collateral or any portion thereof in the exercise of any rights hereunder, Grantor shall promptly turn over and deliver complete possession thereof to Beneficiary; and

(ii) with or without entry, if Beneficiary shall deem it advisable:

(x) sell the Collateral at a sale or sales held at such place or places and time or times and upon such notice and otherwise in such manner as may be required by law, or, in the absence of any such requirement, as Beneficiary may deem appropriate and from time to time adjourn any such sale by announcement at the time and place specified for such sale or for such adjourned sale without further notice, except such as may be required by law;

(y) proceed to protect and enforce its rights under this Indenture, by suit for specific performance of any covenant contained herein or in any Fundamental Agreement or in aid of the execution of any power granted herein or in any Fundamental Agreement, or for the foreclosure of this Indenture (as a mortgage or otherwise) and the sale of the Collateral under the judgment or decree of a court of competent jurisdiction, or for the enforcement of any other right as Beneficiary shall deem most effectual for such purpose, provided, that in the event of a sale, by foreclosure or otherwise, of less than all of the Collateral, this Indenture shall continue as a lien on, and security interest in, the remaining portion of the Collateral; or

(z) exercise any or all of the remedies available to a secured party under the applicable Uniform Commercial Code, including, without limitation:

(1) either personally or by means of a court appointed receiver, take possession of all or any of the personal property included in the Collateral (the "Personal Property") and exclude therefrom Grantor and all persons claiming under Grantor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Grantor in respect of the Personal Property or any part thereof; if Beneficiary demands or attempts to take possession of the Personal Property in the exercise of any

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rights hereunder, Grantor shall promptly turn over and deliver complete possession thereof to Beneficiary;

(2) without notice to or demand upon Grantor, make such payments and do such acts as Beneficiary may deem necessary to protect its security interest in the Personal Property, including, without limitation, paying, purchasing, contesting or compromising any encumbrance which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority paying all expenses incurred in connection therewith;

(3) require Grantor to assemble the Personal Property or any portion thereof, at a place designated by Beneficiary and reasonably convenient to both parties, and promptly to deliver the Personal Property to Beneficiary, or an agent or representative designated by it; Beneficiary, and its agents and representatives, shall have the right to enter upon the premises and property of Grantor to exercise Beneficiary's rights hereunder;

(4) sell, lease or otherwise dispose of the Personal Property, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as the Beneficiary may determine (Beneficiary may be a purchaser at any such sale); and

(5) unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give Grantor at least 10 days' prior notice of the time and place of any sale of the Personal Property or other intended disposition thereof.

(b) If an Event of Default shall have occurred, Beneficiary, to the extent permitted by law, shall be entitled, as a matter of right, to the appointment of a receiver of the Collateral, without notice or demand, and without regard to the adequacy of the security for the indebtedness secured hereby or the solvency of Grantor. Grantor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry and shall continue as such and exercise all such powers until the date of confirmation of sale of the Collateral, unless such receivership is sooner terminated.

(c) If an Event of Default shall have occurred, Grantor shall, to the extent permitted by law, pay monthly in advance to Beneficiary, or to any receiver appointed at the request of Beneficiary to collect rents, the fair and reasonable rental value for the use and occupancy of the Fee Property and the Improvements or of such part thereof as may be in the possession of Grantor. Upon default in the payment thereof, Grantor shall vacate and

surrender possession of the Fee Property and the Improvements to Beneficiary or such receiver, and upon a failure so to do may be evicted by summary proceedings.

(d) In any sale under any provision of this Indenture or pursuant to any judgment or decree of court, the Collateral, to the extent permitted by law, may be sold in one or more parcels or as an entirety and in such order as Beneficiary may elect, without regard to the right of Grantor or any person claiming under Grantor to the marshalling of assets. The purchaser at any such sale shall take title to the Collateral or the part thereof so sold free and discharged of the estate of Grantor therein, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary, may purchase at any such sale. Upon the completion of any such sale by virtue of this Section 3.02, the Indenture Trustee shall execute and deliver to the purchaser an appropriate instrument which shall effectively transfer all of Grantor's and the Indenture Trustee's estate, right, title, interest, property, claim and demand in and to the Collateral or portion thereof so sold, but without any covenant or warranty, express or implied. Beneficiary is hereby irrevocably appointed the attorney-in-fact of Grantor in its name and stead to make all appropriate transfers and deliveries of the Collateral or any portions thereof so sold and, for that purpose, Beneficiary may execute all appropriate instruments of transfer, and may substitute one or more persons with like power, Grantor hereby ratifying and confirming all that said attorneys or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, Grantor shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Beneficiary, for such purpose, and as may be designated in such request. Any sale or sales made under or by virtue of this Indenture, to the extent not prohibited by law, shall operate to divest all the estate, right, title, interest, property, claim and demand whatsoever, whether at law or in equity, of Grantor in and to the Collateral, or any portions thereof so sold, and shall be a perpetual bar both at law and in equity against Grantor and against any and all persons claiming or who may claim the same, or any part thereof, by, through or under Grantor. The powers and agency herein granted are coupled with an interest and are irrevocable.

(e) All rights of action under the Fundamental Agreements and this Indenture may be enforced by Beneficiary or the Indenture Trustee without the possession of the Construction Note, the Lease or the Revolving Loan Note and without the production thereof at any trial or other proceeding relative thereto. Any such suit or proceeding instituted by the Indenture Trustee shall be brought in its name and as trustee of an express trust, and any recovery of judgment shall, subject to the rights of the Indenture Trustee, be for the benefit of Beneficiary.

3.03 Application of Proceeds.

(a) The proceeds of any sale made either under the power of sale hereby given or under a judgment, order or decree made in any action to

foreclose or to enforce this Indenture shall, to the extent permitted by law, be applied:

(i) first, to the payment of all costs and expenses of such sale, including the Indenture Trustee's and Beneficiary's attorneys' fees;

(ii) second, to the payment of all charges, expenses and advances incurred or made by the Indenture Trustee or Beneficiary in order to protect the lien and estate of this Indenture or the security afforded hereby;

(iii) third, to the payment in full of the portion of the Obligations representing interest, including, without limitation, any interest due under the Agreements;

(iv) fourth, to the payment of all other Obligations; and

after payment in full of all Obligations any surplus remaining shall be paid to Grantor or to whosoever may be lawfully entitled to receive the same.

(b) No sale or other disposition of all or any part of the Collateral pursuant to Section 3.02 shall be deemed to relieve Grantor of its obligations under the Obligations except to the extent the proceeds thereof are applied to the payment of the Obligations. If the proceeds of sale, collection or other realization of or upon the Collateral are insufficient to cover the costs and expenses of such realization and the payment in full of the Obligations, Grantor shall remain liable for any deficiency.

3.04 Right to Sue. The Indenture Trustee and Beneficiary, or either of them, shall have the right from time to time to sue for any sums required to be paid by Grantor under the terms of this Indenture as the same become due, without regard to whether or not the Obligations shall be, or have become, due and without prejudice to the right of the Indenture Trustee or Beneficiary thereafter to bring any action or proceeding of foreclosure or any other action upon the occurrence of any Event of Default existing at the time such earlier action was commenced.

3.05 Remedies Cumulative.

(a) No right or remedy herein conferred upon or reserved to the Indenture Trustee or Beneficiary is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy under this Indenture, or now or hereafter existing, upon the occurrence and during the continuance of an Event of Default; the failure of the Indenture Trustee or Beneficiary to insist at any time upon the strict observance or performance of any of the provisions of this Indenture, or to exercise any right or remedy provided for herein, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof.

(b) The Indenture Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of the Obligations and any of the obligations of Grantor hereunder and to exercise all rights and powers under this Indenture or any laws now or hereafter in force, notwithstanding that some or all of the obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise; neither the acceptance of this Indenture nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect the Indenture Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by the Indenture Trustee or Beneficiary, it being stipulated that the Indenture Trustee and Beneficiary, and each of them, shall be entitled to enforce this Indenture and any other security now or hereafter held by Beneficiary in such order and manner as Beneficiary, in its sole discretion, may determine; every power or remedy given by the Fundamental Agreements or this Indenture to Beneficiary or to which Beneficiary is otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Beneficiary, and Beneficiary may pursue inconsistent remedies.

3.06 Waiver of Stay, Extension, Moratorium Laws; Equity of Redemption. To the extent permitted by law, Grantor shall not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any applicable present or future stay, extension or moratorium law, which may affect observance or performance of the provisions of this Indenture; nor claim, take or insist upon any benefit or advantage of any present or future law providing for the valuation or appraisal of the Collateral or any portion thereof prior to any sale or sales thereof which may be made under or by virtue of Section 3.02; and Grantor, to the extent that it lawfully may, hereby waives all benefit or advantage of any such law or laws. Grantor for itself and all who may claim under it, hereby waives, to the extent permitted by applicable law, any and all rights and equities of redemption from sale under the power of sale created hereunder or from sale under any order or decree of foreclosure of this Indenture and (if an Event of Default shall have occurred) all notice or notices of seizure, and all right to have the Collateral marshalled upon any foreclosure hereof. Neither the Indenture Trustee nor Beneficiary shall be obligated to pursue or exhaust its rights or remedies as against any other part of the Collateral and Grantor hereby waives any right or claim of right to have the Indenture Trustee or Beneficiary proceed in any particular order.

3.07 No Waiver. No failure to exercise, nor any delay in exercising or any course of dealing in respect of any right, power or remedy hereunder by the Indenture Trustee or Beneficiary shall operate as a waiver thereof, nor shall any single or partial exercise by the Indenture Trustee or Beneficiary of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

ARTICLE IV

THE INDENTURE TRUSTEE

4.01 Acceptance by Indenture Trustee. The Indenture Trustee accepts this trust when this Indenture, duly executed and acknowledged, is made a public record as provided by law.

4.02 Compensation. The Indenture Trustee waives any statutory fee and shall accept reasonable compensation from Beneficiary in lieu thereof for any services rendered by it in accordance with the terms hereof. Grantor shall pay all costs, fees and expenses of the Indenture Trustee, its agents and counsel in connection with the performance of the Indenture Trustee's duties hereunder, including without limitation reasonable and actual attorneys' fees and the cost of any trustee's sale guaranty or other title insurance coverage ordered in connection with any foreclosure proceedings hereunder.

4.03 Action in Accordance with Instructions. Upon receipt by the Indenture Trustee of instructions from Beneficiary at any time or from time to time, the Indenture Trustee shall (a) give any notice or direction or exercise any right, remedy or power hereunder or in respect of any part or all of the Collateral as shall be specified in such instructions and (b) approve as satisfactory all matters required by the terms hereof to be satisfactory to the Indenture Trustee or to Beneficiary. The Indenture Trustee may, but need not, take any of such actions in the absence of such instructions. At any time or from to time, upon request of Beneficiary and presentation of this Indenture for endorsement, and without affecting the liability of any person for payment of the Obligations, the Indenture Trustee may, upon such request, reconvey all or any part of the Collateral, consent to the making of any map or plat thereof, join in granting any easement thereon, or join in any extension agreement or any agreement subordinating the lien and estate hereof.

4.04 Resignation. The Indenture Trustee may resign at any time upon giving not less than 60 days' prior notice to Beneficiary, but shall continue to act as trustee until its successor shall have been qualified and appointed pursuant to Section 4.05.

4.05 Successor Indenture Trustee. In the event of the death, removal, resignation or refusal or inability of the Indenture Trustee to act, or for any reason, at any time, Beneficiary shall have the irrevocable power, with or without cause, without notice of any kind, and without applying to any court, to select and appoint a successor trustee. Each such appointment and substitution shall be made by notice to Grantor, the Indenture Trustee and successor trustee and by recording notice of such in each office in which this Indenture is recorded. Such notice shall be executed and acknowledged by Beneficiary and shall contain reference to this Indenture and when so recorded shall be conclusive proof of proper appointment of the successor trustee. Such successor shall not be required to give bond for the faithful performance of its duties unless required by Beneficiary.

ARTICLE V

MISCELLANEOUS

5.01 Severability. Any provision of this Indenture which is prohibited or unenforceable in any jurisdiction, shall be, only as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability, but all the remaining provisions of this Indenture shall remain valid.

5.02 Addresses for Notices. All notices or other communications required or permitted to be given hereunder shall be in writing, shall be addressed as provided below and shall be considered as properly given (i) if delivered in person, (ii) if sent by overnight delivery service (including, without limitation, Federal Express, ETA, Emery, Purolator, DHL, Air Borne or similar overnight delivery services), (iii) in the event overnight delivery services are not readily available, if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested or (iv) if sent by prepaid telegram, facsimile copy or by telex and confirmed. Notice given in any manner shall be effective upon receipt by the addressee; provided, however, that if any notice is tendered to an addressee and the delivery thereof is refused by such addressee, such notice shall be effective upon such tender. For the purposes of notice, the addresses of the parties shall be as set forth below; provided, however, that any party shall have the right to change its address for notice hereunder to any other location within the continental United States by giving of thirty (30) days' notice to the other parties in the manner set forth hereinabove. The initial addresses of the parties hereto are as follows:

(1) Lessor:
Westinghouse Credit Corporation
One Oxford Centre
Pittsburg, Pennsylvania 15219
Attention: Manager, Administration,
Major Industries
Finance Group

(2) Grantor:
Smith Falls Hydropower
c/o American Pacific Power Corp.
699 East South Temple, Suite 220
Salt Lake City, Utah 84102
Attn: David Van Otten

5.03 Grantor Not Released. Extension of the time for payment or modification of the terms of payment of any sums secured by this Indenture granted by Beneficiary to any successor in interest of Grantor shall not operate to release, in any manner, the liability of the original Grantor. Beneficiary shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify the terms of payment of the sums secured by the Indenture by reason of any demand made by the original Grantor. Without affecting the liability of any person, including Grantor, for the payment of any Obligations secured hereby, or the

lien of this Indenture on the remainder of the Collateral for the full amount of any such Obligation and liability unpaid, Beneficiary is empowered as follows: Beneficiary may from time to time and without notice (a) release any person liable for the payment of any of the Obligations, (b) extend the time of payment of any of the Obligations, (c) accept additional real or personal property of any kind as security therefor, whether evidenced by deeds of trust, mortgages, security agreements, or any other instruments of security, (d) alter, substitute or release any property securing the Obligations, (e) consent to the making of any map or plat of the Collateral or any part thereof, (f) join in granting any easement or creating any restriction thereon, (g) join in any subordination or other agreement affecting this Indenture or the lien or charge hereof, or (h) reconvey, without any warranty, all or part of the Collateral.

5.04 Inspection. Beneficiary may at any reasonable time or times make or cause to be made entry upon and inspection of the Collateral or any part thereof in person or by agent.

5.05 Statute of Limitations. The pleading of any statute of limitations as a defense to any and all Obligations secured by this Indenture is hereby waived to the fullest extent permitted by law.

5.06 Interpretation. Wherever used in this Indenture, unless the context otherwise indicates a contrary intent, or unless otherwise specifically provided herein, the word "Grantor" shall mean and include Grantor and any subsequent owner or owners of the Collateral, and the word "Beneficiary" shall mean and include not only the original Beneficiary hereunder but also any future assignees or transferees which are Lessor under the Construction Loan Agreement and the Lease. In this Indenture, the use of the word "including" shall not be deemed to limit the generality of the term or clause to which it has reference, whether or not nonlimiting language (such as "without limitation," or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term, or matter. The captions and headings of the Articles and Sections of this Indenture are for convenience only and are not to be used to interpret, define, or limit the provisions hereof.

5.07 Consent; Delegation to Sub-agents. Any waiver, permit, consent or approval by Beneficiary of any Event of Default or breach of any provision, condition or covenant of this Indenture or any of the Agreements must be in writing and shall be effective only to the extent it is set forth in writing. No waiver of a specific breach or Event of Default shall operate as a waiver of any other breach or Event of Default or of the same breach or Event of Default occurring at a later time. Wherever a power of attorney is conferred upon Beneficiary hereunder, it is understood and agreed that such power is conferred with full power of substitution, and Beneficiary may elect in its sole discretion to exercise such power itself or to delegate such power, or any part thereof, to one or more sub-agents.

5.08 Successors and Assigns. This Indenture shall be binding upon and shall inure to the benefit of Beneficiary and Grantor and their respective successors and assigns; provided, however, that Grantor may not assign or transfer its rights or obligations under this Indenture except in connection with a transfer of Grantor's rights and obligations under the Construction Loan Agreement and the Lease. Beneficiary reserves the right to sell, assign or transfer all or any part of, or any interest in, Beneficiary's rights and obligations under this Indenture; provided, however, that Beneficiary shall only assign its rights and obligations in this Indenture and the Collateral to a person or entity which posesses significant experience and expertise in financing and owning hydroelectric projects similar in nature, size and value to the Facility. In connection therewith, Beneficiary may disclose all documents and information which Beneficiary now or hereafter may have relating to Grantor or its business.

5.09 Amendments. This Indenture may not be altered or amended except by an agreement in writing signed by Beneficiary and Grantor. In the event that Beneficiary at any time or from time to time dispenses with any one or more of the requirements specified in this Indenture, such dispensation may be revoked by Beneficiary at any time and shall not be deemed to constitute a waiver of any such requirements subsequent thereto.

5.10 Continuing Security Interest. This Indenture shall create a continuing security interest in the Collateral and shall remain in full force and effect until fulfillment of all Obligations.

5.11 Fees and Expenses. Grantor will reimburse Beneficiary for all costs and expenses, including, but not limited to, (i) all costs incurred in connection with the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Collateral, and (ii) reasonable attorneys' fees and expenses expended or incurred by Beneficiary in collecting any sum which becomes due Beneficiary under this Indenture, or in the protection, preservation and enforcement of any and all rights of Beneficiary in connection with this Indenture, including, without limitation, the fees and costs incurred in a bankruptcy proceeding.

5.12 Conflict with Construction Loan Agreement and Lease. If there shall occur any conflict between the express provisions of this Indenture and the express provisions of the Construction Loan Agreement or the Lease, the terms of the Construction Loan Agreement or the Lease, as applicable, shall govern.

5.13 Reconveyance by Indenture Trustee. Beneficiary shall notify the Indenture Trustee of the payment in full or the assignment of the Obligations and shall surrender this Indenture to the Indenture Trustee for cancellation and retention. Upon receipt of such notification and upon payment and performance by the Grantor of the Indenture Trustee's expenses, the Indenture Trustee (and, if required by law, the Beneficiary) shall release the lien of this Indenture, without warranty or covenant, any portion of the Collateral then held hereunder to the Grantor or upon the request of the Grantor and at the Grantor's expense.

5.14 Invalidity of Certain Provisions. If the lien or estate of this Indenture is invalid or unenforceable as to any part of the Collateral, the unsecured portion of such indebtedness shall be completely paid prior to the payment of the remaining and secured or partially secured portion thereof, and all payments made on such indebtedness, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion thereof that is not secured or fully secured by the lien or estate of this Indenture.

5.15 One of a Number of Indentures. This Indenture is given as security together with certain other indentures which collectively cover the Collateral. A copy of all such indenture instruments (including this Indenture) are on file with Grantor and with Beneficiary and are available for inspection during normal business hours upon reasonable advance request therefor. A default with respect to any such indenture instrument (including this Indenture) shall constitute a default under all such indenture instruments (including this Indenture).

5.16 Scope of Liability. Notwithstanding any other provision of this Indenture or any of the other Fundamental Agreements, there shall be no recourse against the General Partners, Hydro-Flow, the Shareholders or any of their respective Affiliates, stockholders, officers, directors or employees, for any liability to Beneficiary arising in connection with any breach or default under this Indenture except to the extent the same is enforced against Grantor or the Collateral (and the "Collateral" as defined in the other Collateral Documents), and Beneficiary shall look solely to Grantor and the Collateral (and the "Collateral" as defined in the other Collateral Documents) in enforcing rights and obligations under and in connection with this Indenture, provided, however, that foregoing provisions of this Section 5.16 shall not:

(a) Constitute a waiver, release or discharge of any of the indebtedness under, or of any of the terms, covenants, conditions or provisions of, this Indenture or any other Fundamental Agreement, and the same shall continue until fully paid, discharged, observed, or performed;

(b) Limit or restrict the right of Beneficiary to name Grantor or any other Person as a defendant in any action or suit for a judicial foreclosure or for the exercise of any other remedy under or with respect to this Indenture, the Collateral Documents or any other Fundamental Agreement, or for injunction or specific performance; or

(c) In any way limit or restrict any right or remedy of Beneficiary (or any assignee or beneficiary thereof or successor thereto) with respect to, and Grantor and any other party hereto shall remain fully liable to the extent that it would otherwise be liable for, any fraud, misrepresentation or misappropriation of Facility revenues, Proceeds or any other earnings, revenues, rents, issues, profits or proceeds from or of the Collateral (and the "Collateral" as defined in the other Collateral Documents) that should or would have been paid as provided herein or paid or delivered to Beneficiary

(or any assignee or beneficiary thereof or successor thereto) towards any payment required under this Indenture or any other Fundamental Agreement.

5.17 Counterparts. This Indenture may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Indenture by signing any such counterpart.

5.18 Governing Law. This Indenture shall be governed by and construed under the laws of the State of Idaho.

1294F

IN WITNESS WHEREOF, the undersigned general partners have executed this Indenture the day and year first hereinabove written.

SMITH FALLS HYDROPOWER
by its general partners

AMERICAN PACIFIC POWER CORP.

David B. Van Otten
President

PACIFIC WEST POWER CORP.,

By _____
Gary E. May
President

AMERICA WEST HYDRO CORP.,

By _____
R. Fred Moss
President

1294F
Lessee Fee Mortgage

IN WITNESS WHEREOF, the undersigned general partners have executed this Indenture the day and year first hereinabove written.

SMITH FALLS HYDROPOWER
by its general partners

AMERICAN PACIFIC POWER CORP.

David B. Van Otten
President

PACIFIC WEST POWER CORP.,

By _____
Gary E. May
President

AMERICA WEST HYDRO CORP.,

By _____
R. Fred Moss
President

1294F
Lessee Fee Mortgage

STATE OF UTAH)

) ss.

COUNTY OF SALT LAKE)

On this 23rd day of May, 1989 before the undersigned, a Notary Public in and for said State of Utah, personally appeared David B. Van Otten, personally known to me or proved to me on the basis of satisfactory evidence to be the President of Ameican Pacific Power Corp., a Utah corporation ("APPC"), the corporation known to me or proved to me on the basis of satisfactory evidence to be the general partner of Smith Falls Hydropower, a Utah general partnership (the "Partnership"), the general partnership that executed the within instrument, and acknowledged to me that he executed the within instrument on behalf of PWPC, and further acknowledged to me that PWPC executed the within instrument on behalf of the Partnership, and further acknowledged to me that the Partnership executed the within instrument.

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

Notary Public in and for said State
of Salt Lake City, Utah

[SEAL]

* * * My Commission Expires
April 27, 1990

1294F

Lessee Fee Mortgage

STATE OF IDAHO)
) ss.
COUNTY OF BOUNDER)

On this 19th day of May, 1989 before the undersigned, a Notary Public in and for said State of IDAHO, personally appeared Gary E. May, personally known to me or proved to me on the basis of satisfactory evidence to be the President of Pacific West Power Corp., a Utah corporation ("PWPC"), the corporation known to me or proved to me on the basis of satisfactory evidence to be the general partner of Smith Falls Hydropower, a Utah general partnership (the "Partnership"), the general partnership that executed the within instrument, and acknowledged to me that he executed the within instrument on behalf of PWPC, and further acknowledged to me that PWPC executed the within instrument on behalf of the Partnership, and further acknowledged to me that the Partnership executed the within instrument.

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

Notary Public in and for said State of IDAHO
Exp: 10/8/94

[SEAL] * * *

1294F

Lessee Fee Mortgage

STATE OF IDAHO)
) ss.
COUNTY OF BONNER)

On this 19th day of May, 1989 before the undersigned, a Notary Public in and for said State of IDAHO, personally appeared R. Fred Moss, personally known to me or proved to me on the basis of satisfactory evidence to be the President of America West Hydro, Inc., a Utah corporation ("AWHI"), the corporation known to me or proved to me on the basis of satisfactory evidence to be the general partner of Smith Falls Hydropower, a Utah general partnership (the "Partnership"), the general partnership that executed the within instrument, and acknowledged to me that he executed the within instrument on behalf of AWHI, and further acknowledged to me that AWHI executed the within instrument on behalf of the Partnership, and further acknowledged to me that the Partnership executed the within instrument.

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

Notary Public in and for said State of IDAHO

[SEAL] * * * Exp: 10/8/94

1294F

Lessee Fee Mortgage

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Recording Requested By And
When Recorded Mail to:

ORRICK, HERRINGTON & SUTCLIFFE
600 Montgomery Street
San Francisco, California 94111
Attention: Daniel R. Bedford, Esq.

Space above this line for recorder's use

INDENTURE OF MORTGAGE, DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING

(Hydro-Flow Mortgage)

KNOW ALL MEN BY THESE PRESENTS:

THIS INDENTURE OF MORTGAGE, DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Indenture") is made as of the 25th day of May, 1989 by HYDRO-FLOW, INC., a Utah corporation having an office at 699 East South Temple, Suite 220, Salt Lake City, Utah 84102 (the "Grantor") and Chicago Title Insurance Company of Idaho, as Indenture Trustee (the "Indenture Trustee"), for the benefit of Westinghouse Credit Corporation, a Delaware corporation having an office at One Oxford Centre, Pittsburgh, PA 15219 (the "Beneficiary").

W I T N E S S E T H :

WHEREAS, Grantor has entered into a certain Financing Agreement dated as of May 25, 1989 (the "Financing Agreement") among Grantor, Beneficiary, Smith Falls Hydropower, a Utah general partnership ("Lessee"), American Pacific Power Corp., a Utah corporation ("APPC"), Pacific West Power Corp., a Utah corporation ("PWPC"), America West Hydro, Inc., a Utah corporation ("AWHI") and Idaho Natural Energy, Inc., an Idaho corporation ("INE"), pursuant to which Beneficiary has agreed to finance a 38.15 (gross) megaWatt hydroelectric power facility located in Boundary County, Idaho (the "Facility"). APPC, PWPC and AWHI are sometimes each referred to herein as a "General Partner" and collectively, as the "General Partners." Capitalized terms not otherwise defined herein are used as defined in Schedule I hereto;

WHEREAS, the Obligations secured by this Indenture shall be in an original principal amount not greater than thirty million dollars ($30,000,000); and

EXHIBIT "C"

WHEREAS, the this Indenture shall terminate no later than forty (40) years after the date hereof.

WHEREAS, it is a condition to the obligation of Beneficiary to enter into the Overall Transaction that Grantor execute and deliver this Indenture;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and FOR THE PURPOSE OF SECURING the Obligations, as hereinafter defined (collectively, the "Obligations"), Grantor hereby irrevocably grants, bargains, sells, releases, conveys, warrants, assigns, transfers, mortgages, pledges, hypothecates, sets over and confirms unto the Indenture Trustee in trust for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, all of Grantor's right, title and interest in and to the following described property, now owned or hereafter acquired by Grantor and whether now existing or hereafter arising (the "Collateral"):

(a) That certain real property located in Boundary County, Idaho, and more particularly described in Schedule II attached hereto (the "Hydro-Flow Parcel"), which is adjacent or near to the property which is the site of the Facility.

(b) All covenants, agreements, rights, appurtenances, tenements, hereditaments, privileges, franchises and appendages of or relating to the Hydro-Flow Parcel and any streets, roads or public places, easements or rights of way, any land laying within the right-of-way of any street, open or proposed, adjoining the Hydro-Flow Parcel and any and all sidewalks, alleys, and strips and gores of land adjacent to or used in connection therewith.

(c) All development rights, air rights, water, water rights, water stock, ditches or ditch rights and reservoirs, reservoir rights and other rights of Grantor relating to the Hydro-Flow Parcel or the Facility and any licenses that the Idaho Department of Water Resources or any other federal, state or municipal government, governmental agency or commission may issue in the future for the appropriation of water for the Hydro-Flow Parcel or the Facility.

(d) All present and future structures, buildings, improvements, appurtenances and fixtures of any kind on the Hydro-Flow Parcel, and all building materials and building equipment of every kind (including, without limitation, all machinery, apparatus, equipment and fittings constituting fixtures) located on the Hydro-Flow Parcel or attached to, contained in or used in any such buildings and other improvements, and all appurtenances and additions thereto and betterments, substitutions and replacements thereof (collectively, the "Improvements").

(e) All leases, subleases and subtenancies, occupancy agreements, and concessions affecting any of the Collateral, the Hydro-Flow Parcel, Improvements or Facility (collectively, the "Project Leases"), and all rents, royalties, income and profits arising from the Hydro-Flow Parcel, Improvements, Facility or the Project Leases and all production payments or

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other similar payments and all proceeds of the conversion, voluntary or involuntary, of the Collateral into cash or liquidated amounts or claims for the purposes and upon the terms and conditions hereinafter set forth, subject to the right, power and authority given to Grantor pursuant to Section 1.09 to collect and apply the same.

(f) All proceeds and claims arising on account of any damage to or taking of the Hydro-Flow Parcel, Improvements or Facility or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Hydro-Flow Parcel, Improvements or Facility.

(g) All chattel paper of Grantor with respect to the Facility and all present and future amendments thereto.

(h) All accounts and deposit accounts of Grantor held in connection with the Facility and all goods repossessed or returned in connection therewith.

(i) All goods, machinery, equipment, fittings and fixtures of Grantor of every kind and nature whatsoever used in connection with the Improvements or the Facility, including without limitation; all machinery, dies, blueprints, catalogues, computer hardware and software, tools, motors, vehicles, furniture and furnishings, together with all additions and accessions thereto and replacements therefor, related to the development and use of the Hydro-Flow Parcel and the Improvements or the Facility.

(j) All general intangibles of Grantor, including without limitation all right, title and interest of Grantor in, to or arising out of (i) all contracts and agreements with respect to the Hydro-Flow Parcel, Improvements and Facility and every other Related Document (the "Contracts"); (ii) all patents, trademarks, tradenames, good will, inventions, processes, distribution rights, common law and statutory copyrights, agreements, leases, royalties and judgments with respect to the Hydro-Flow Parcel, Improvements and Facility; (iii) all consents, rights, exemptions, concessions, permits, licenses, authorizations, certificates, orders, franchises, determinations and approvals of any federal, state, municipal or governmental department, commission, board, bureau, agency or instrumentality with respect to or in connection with the Hydro-Flow Parcel, Improvements and Facility now existing or hereafter arising (the "Governmental Authorizations") to the extent such Governmental Authorizations can be assigned or subjected to security interests under Applicable Law, and any other rights necessary to own, operate, and use the Hydro-Flow Parcel, Improvements and Facility, now held or hereafter acquired; (iv) all warranties, guaranties and obligations of each and every contractor under all Construction Contracts, purchase orders, installation or supply agreements, guaranties and other contracts and agreements of whatever kind or character in respect thereof with respect to the Hydro-Flow Parcel, Improvements and Facility, now in existence or hereafter arising, including, without limitation, each Performance Bond (the "Warranty Agreements"); (v) all claims arising thereunder and all rights to compel performance of the terms of the Warranty Agreements, the Contracts and the Government Authorizations, all payments and refunds that any contractor may be required to make with respect

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to the Hydro-Flow Parcel, Improvements and Facility, and all payments under the Contracts; (vi) all names under or by which the Hydro-Flow Parcel, Improvements or Facility may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof; (vii) all books, records, and other information in whatever form and however stored, relating to the ownership, use and operation of the Hydro-Flow Parcel, Improvements and Facility; and (viii) all goodwill in any way relating to the Hydro-Flow Parcel, Improvements and Facility.

(k) All documents and instruments of Grantor, now owned or hereafter acquired by Grantor with respect to the Hydro-Flow Parcel, Improvements and Facility, including without limitation, documents of title, securities and all new, substituted and additional documents and instruments issued with respect thereto, all voting or other rights now or hereafter exercisable, all cash and noncash dividends, all goods repossessed or returned in connection therewith and all other property now or hereafter receivable with respect to any of the foregoing.

(l) All inventory, including, without limitation, all raw materials, component parts, work in progress or materials used or consumed in connection with the Hydro-Flow Parcel, Improvements and Facility, goods held for sale or lease or to be furnished under a contract or service, goods so leased or furnished, and merchandise, and all equipment, including, without limitation, all furniture, fixtures, supplies, equipment, machinery, all other tangible personal property used in the operation or in connection with the Hydro-Flow Parcel, Improvements and Facility.

(m) All other property of Grantor with respect to the Hydro-Flow Parcel, Improvements and Facility now or hereafter in the possession, custody or control of Grantor, warehousemen, bailees or any other person and whether located at Grantor's place of business or elsewhere.

(n) All of Grantor's receivables and all monies and claims for money due or to become due and all securities, guaranties, warranties, indemnity agreements and insurance policies with respect to the Hydro-Flow Parcel, Improvements and Facility.

(o) All of Grantor's title and interest in and to all real and immovable property or leaseholds, and all fixtures with respect thereto, together with any and all estates and interests therein, including but not limited to, all land, buildings and other erections, fixed plant, fixed equipment and all permits, rights, licenses, rents, benefits and other interests of any kind or nature whatsoever in or with respect to such real and immovable property or leaseholds with respect to the Hydro-Flow Parcel, Improvements and Facility.

(p) All accounts, contracts, contract rights, documents, instruments, general intangibles, chattel paper, and all ledger sheets, files and other documents relating to the property described in paragraphs (a) through (o) above.

(q) all improvements, replacements, substitutions, renewals, accessions or additions to all of the above-described real or personal property, and any and all products thereof, whether in the possession of Grantor, warehousemen, bailees or any other person and whether located at Grantor's place of business or elsewhere.

(r) all Proceeds of the foregoing.

For purposes of this Indenture, the term "Proceeds" includes whatever is receivable or received when the property referred to above or Proceeds is sold, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, and includes without limitation all rights to payment, including return premiums with respect to any insurance relating thereto.

TO HAVE AND TO HOLD the Collateral with all privileges and appurtenances thereunto belonging, to the Indenture Trustee and its successors and assigns for the benefit of Beneficiary and its successors and assigns, forever.

PROVIDED ALWAYS, that if the Obligations secured hereby shall be paid and performed in full and Grantor shall abide by and comply with each and every covenant contained herein, then this Indenture and the lien and estate hereby granted shall cease, terminate and be void.

The obligations secured by this Indenture (the "Obligations") shall consist of the following (each of the agreements listed below hereinafter referred to individually as an "Agreement" and collectively as the "Agreements"):

(a) any and all debts, obligations and liabilities of Grantor to Beneficiary under the Financing Agreement, this Indenture and the Pledge Agreement between Grantor and Beneficiary and each other instrument, document and agreement delivered or to be delivered by Grantor pursuant hereto or thereto or in connection herewith or therewith and in connection with the Overall Transaction;

(b) any and all debts, obligations and liabilities of Lessee to Beneficiary under the Financing Agreement, the Construction Loan Agreement, the Construction Note, the Construction Escrow Agreement, the the Lessee Fee Mortgage, the Lessee Easement Mortgage, the Ground Lease, the Lease, each Bill of Sale, the Lease Payment Agreement, the Escrow Fund Agreement, the Tax Indemnity Agreement, the Revolving Loan Agreement, the Revolving Note, the Agreement of Understanding, every other mortgage executed by Lessee in favor of Beneficiary, and each other instrument, document and agreement delivered or to be delivered by Lessee pursuant thereto or in connection therewith and in connection with the Overall Transaction;

(c) any and all debts, obligations and liabilities of each Shareholder to Beneficiary under each of their respective Shareholder Pledge Agreements, the Intercrediter Agreement (if applicable) and each other

instrument, document and agreement delivered or to be delivered by each Shareholder pursuant thereto or in connection therewith and in connection with the Overall Transaction;

(d) any and all debts, obligations and liabilities of each General Partner to Beneficiary under the Financing Agreement and under each of their respective General Partner Pledge and Security Agreements and each other instrument, document and agreement delivered or to be delivered by each General Partner pursuant thereto or in connection therewith and in connection with the Overall Transaction;

(e) any and all debts, obligations and liabilities of INE to Beneficiary under the Financing Agreement and the INE Security Agreement and each other instrument, document and agreement delivered or to be delivered by INE pursuant thereto or in connection therewith and in connection with the Overall Transaction;

and all amendments or extensions or renewals to the Agreements, whether now existing or hereafter arising, voluntary or involuntary, whether or not jointly owed with others, direct or indirect, absolute or contingent, liquidated or unliquidated, and whether or not from time to time decreased or extinguished and later increased, created or incurred.

TO PROTECT THE SECURITY OF THIS INDENTURE, GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

ARTICLE I

AGREEMENTS OF GRANTOR

1.01 Performance of Obligations Secured. Grantor covenants and agrees to pay promptly when due all sums due pursuant to the Obligations and to perform each and every agreement and condition contained in the Obligations and contained herein.

1.02 Title to Collateral. Grantor is, and shall hereafter remain, the owner of the Collateral free and clear of all voluntary or involuntary liens, encumbrances, attachments, security interests, purchase money security interests, assignments, mortgages, charges or other liens or encumbrances of any nature whatsoever, with the exceptions of (a) all interests in favor of Beneficiary, (b) the mortgage and security interest created herein, (c) liens for real estate taxes not yet due and payable, (d) all Permitted Liens and, (e) with respect to the Facility or items of Collateral which relate to the Facility, the interest in favor of Lessee pursuant to the Assignment Agreement.

1.03 Environmental Representation and Warranty. Grantor hereby represents and warrants that no release, emission or discharge into the environment of hazardous substances, as defined under CERCLA, hazardous waste as defined under the RCRA, air pollutants as defined under the Federal Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., as amended, or pollutants as

defined under the Federal Clean Water Act, as amended, 33 U.S.C. § 1251 et seq., as amended, or any other substance prohibited by or reportable under the Toxic Substance and Control Act, as amended, 15 U.S.C. Section 2601 et seq., the Idaho Hazardous Waste Management Act of 1983, as amended, Idaho Code Section 39-4401 et seq., the Idaho Enviromental Protection and Health Act of 1972, as amended, Idaho Code Section 39-101 et seq., the Idaho PCB Disposal Act of 1987, Idaho Code Section 39-6201 et seq., and the regulations issued under each of such statutes, has in the past or is presently occurring in excess of federal, state or local permitted releases or reportable quantities, or other concentrations, standards or limitations under the foregoing laws or any state law governing the protection of health and the environment or under any other federal, state or local laws or regulations in connection with any operations or processes relating to the Hydro-Flow Parcel or the Improvements; the Improvements and Grantor's use and proposed use thereof are not and will not be in violation of any environmental, occupational safety and health or other law now in effect.

1.04 Condemnation and Insurance Proceeds. The proceeds of any award or claim for damages, direct or consequential, in connection with any requisition, condemnation or other taking of or damage or injury to the Collateral, or any part thereof, or for conveyance in lieu of requisition or condemnation, payable to Grantor and assigned to the Indenture Trustee or to Beneficiary pursuant to this Indenture, shall inure to the benefit of Beneficiary and pass to the successors in interest of Beneficiary.

1.05 Security Agreement

(a) This Indenture is also a security agreement pursuant to the Idaho Uniform Commercial Code for (i) any and all items of personal property specified above as part of the Collateral that may be subject to a security interest pursuant to the Idaho Uniform Commercial Code and that are not real property, and (ii) any and all items of property specified above as part of the Collateral that constitute fixtures and may be subject to a security interest under the Idaho Uniform Commercial Code. To the extent that Grantor has any right, title or interest in such property, Grantor hereby grants Beneficiary a security interest in said property, and in all additions thereto, substitutions therefor, and proceeds thereof, for the purpose of securing the Obligations, and this Indenture constitutes a security agreement and financing statement, and is intended, when recorded, to create a perfected security interest in such property in favor of Beneficiary. Grantor agrees to execute and deliver on demand such security agreements, financing statements and other instruments as Beneficiary may reasonably request from time to time in order to impose a lien more specifically upon any of such property and to pay all recording and/or filing fees associated therewith. For purposes of treating this Indenture as a security agreement and financing statement, Beneficiary shall be deemed the secured party and Grantor shall be deemed the debtor.

(b) Grantor represents and warrants that (i) this Indenture has been duly authorized, executed and delivered by Grantor, and constitutes a valid and binding obligation of Grantor; (ii) as of the date hereof,

Beneficiary will have a valid and perfected security interest in such of the Collateral as is subject to perfection by filing under the Idaho Uniform Commercial Code, subject to no Lien other than Permitted Liens or liens in favor of Beneficiary; (iii) the execution, delivery, performance and enforcement of this Indenture do not and will not contravene, or constitute a default under, any provision of applicable law or regulation or of Grantor's constituent documents or of any agreement, judgment, injunction, order, decree or other instrument binding upon Grantor or result in the creation or imposition of any lien (other than Permitted Liens or liens in favor of Beneficiary) upon any asset of Grantor; and (iv) Grantor has not performed any acts which might prevent Beneficiary from enforcing any of the terms and conditions of this Indenture or which would limit Beneficiary in any such enforcement.

(c) Each item of Collateral consisting of accounts, instrument, chattel paper, general intangibles or other rights of payment of money (collectively, "Rights to Payment") is genuine and enforceable in accordance with its terms against the party obligated to pay the same (an "Account Debtor"), which terms have not been modified or waived in any respect or to any extent, and Grantor has no reason to believe that the Rights to Payment are not genuine or so enforceable.

(d) No person has any defense, setoff, claim or counterclaim against Grantor that can be asserted successfully against Beneficiary, whether in any proceeding to enforce Beneficiary's rights in the Collateral or otherwise.

1.06 Further Sales or Encumbrances. Except as otherwise expressly provided in the Fundamental Agreements, without the prior written consent of Beneficiary being first had and obtained, Grantor shall not sell, contract to sell, lease with option to purchase, convey, alienate, transfer, encumber, mortgage or otherwise dispose of all or any portion of the Collateral or any interest therein, whether voluntarily or involuntarily, by operation of law or otherwise.

1.07 Protection of Security.

(a) If any action or proceeding is commenced that affects Beneficiary's interest in the Collateral or any part thereof, including without limitation (i) eminent domain actions, (ii) actions under any federal, state or local statute regulating the the transportation, storage or release of hazardous substances, including without limitation the RCRA, CERCLA, the Federal Clean Water Act, as amended, 33 U.S.C. Section 1251 et seq., the Toxic Substance and Control Act, as amended, 15 U.S.C. Section 2601 et seq., the Federal Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq., the Idaho Hazardous Waste Management Act of 1983, as amended, Idaho Code Section 39-4401 et seq., the Idaho Environmental Protection and Health Act of 1972, as amended, Idaho Code Section 39-101 et seq., the Idaho PCB Disposal Act of 1987, Idaho Code Section 39-6201 et seq., and the regulations issued under each of such statutes, or (iii) proceedings of any nature whatsoever under any federal, state or local law, whether now existing or hereafter enacted or

amended, relating to bankruptcy, insolvency, arrangement, reorganization or other form of debtor relief, then Beneficiary may, but without obligation to do so and without notice to or demand upon Grantor, make such appearances, pay any such costs and take such action as Beneficiary deems reasonably necessary or appropriate to protect Beneficiary's interest, including without limitation payment of reasonable attorneys fees, entry upon the Facility or the Hydro-Flow Parcel to make repairs or take other action to protect the security hereof, and payment, purchase, contest or compromise of any lien that in the reasonable judgment of Beneficiary appears to be prior or superior hereto. Any amounts disbursed by Beneficiary pursuant to this Section 1.07(a) shall be part of the Obligations and secured by this Indenture and shall bear interest at the Default Rate.

(b) Grantor hereby irrevocably appoints Beneficiary as its attorney in fact so to do, but Beneficiary shall not be obligated to and shall incur no liability to Grantor or any third party for failure so to do, any act that Grantor is obligated by this Indenture to do, and to exercise such rights, powers and remedies as Grantor might exercise with respect to the Collateral, including without limitation Grantor's rights under the Project Leases. Anything to the contrary set forth in this Section 1.07(b) notwithstanding, Beneficiary agrees that it shall not exercise any of the rights or powers granted to or conferred on it pursuant to this Section 1.07(b) (other than the right to give notice of a default or an event of default under any of the Project Leases and the right to inspect the property leased thereunder) prior to an Event of Default pursuant to Article III hereof. Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable. The powers conferred on Beneficiary hereunder and the Collateral are solely to protect its interests in the Collateral and shall not impose any duty upon Beneficiary to exercise any such powers. Beneficiary shall be accountable only for amounts that it actually receives as a result of the exercise of such powers and in no event shall Beneficiary or any of its officers, directors, employees or agents be responsible to Grantor for any act or failure to act.

(c) Nothing contained in this Indenture shall be construed to require Beneficiary to incur any expense, make any appearance, or take any other action. Neither this Indenture nor any action on the part of Beneficiary shall constitute an assumption by Beneficiary of any of the obligations of Grantor under any of the contracts or agreements constituting a part of the Collateral, and Grantor shall continue to be liable for all of its obligations thereunder.

1.08 Intentionally Omitted.

1.09 Project Leases.

(a) Grantor agrees with respect to each Project Lease as follows:

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(i) each Project Lease shall remain in full force and effect despite any merger of the interest of Grantor and any lessee thereunder; and

(ii) Grantor shall not grant any consent or approval provided for under any of the Project Leases without the prior written consent of Beneficiary.

(b) In connection with and limited to the exercise of any of its rights and remedies under this Indenture, Beneficiary shall be deemed to be a creditor of the lessee under each of the Project Leases with respect to any assignment for the benefit of creditors in any bankruptcy, arrangement, reorganization, insolvency, dissolution, receivership or other debtor relief proceedings affecting such lessee (without obligation on the part of Beneficiary, however, to file claims in such proceedings or otherwise pursue creditor's rights therein).

(c) Grantor shall not enter into any Project Lease without the prior written consent of Beneficiary, which consent shall not be unreasonably withheld. Each such Project Lease shall be in form and substance satisfactory to Beneficiary and, without limiting the generality of the foregoing, shall include a provision confirming that the Project Lease is subordinate to the lien of this Indenture and consenting to the assignment provided for herein of the Project Lease to Beneficiary. Grantor shall furnish Beneficiary, upon the request of Beneficiary, with copies of each and every Project Lease and any other information relative to each such Project Lease and the tenant thereunder. Grantor will take all action as may be requested by Beneficiary in furtherance of the rights of Beneficiary hereunder, including, without limitation, obtaining estoppel certificates and agreements (in form reasonably satisfactory to Beneficiary) from each tenant subordinating the Project Lease to the lien of this Indenture and consenting to the assignment of the Project Lease provided for herein.

1.10 Rents. Prior to an Event of Default under this Indenture, Grantor shall have a license to collect and receive all Rents (as defined in Article II). Beneficiary may terminate such license, at its sole option, without regard to the adequacy of its security hereunder and without notice to or demand upon Grantor, upon the occurrence of any Event of Default under this Indenture and may apply all Rents to payment of any Obligations. It is understood and agreed that neither the assignment of Rents to Beneficiary nor the exercise by Beneficiary of any of its rights or remedies hereunder shall be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or operation of any portion thereof, unless and until Beneficiary, in person or by agent, assumes actual possession thereof. Nor shall appointment of a receiver for the Collateral by any court at the request of Beneficiary or by agreement with Grantor, or the entering into possession of any part of the Collateral by such receiver, be deemed to make Beneficiary a mortgagee-in-possession or otherwise responsible or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or operation of any portion thereof.

1.11 Insurance. Grantor shall purchase and maintain such insurance as is customarily maintained by owners of property similar to the Hydro-Flow Parcel and the Improvements situated at similar locations and otherwise as required by Applicable Law. Upon request, Grantor shall furnish Beneficiary with reasonable evendence of the insurance required pursuant to this Section 1.11

1.12 Assignments of Policies Upon Foreclosure. In the event of foreclosure of the lien of this Indenture or other transfer of title or assignment of the Collateral in extinguishment, in whole or in part of the Obligations secured hereby, all right, title and interest of the Grantor in and to all policies of insurance required under Section 1.11 shall inure to the benefit of Beneficiary and pass to the successors in interest of Beneficiary or the purchaser or grantee of the Collateral or any part thereof.

1.13 No Financing Statements on File. Except for those to be terminated concurrently with the execution and delivery of the Lease, no effective financing statement or other instrument similar in effect covering all or any part of Grantor's interest in the Collateral is on file in any recording office, except such as may have been filed pursuant to this Indenture or pursuant to the documents evidencing Permitted Liens, or in favor of Beneficiary.

1.14 Notices, Etc. Grantor shall deliver to Beneficiary a copy of each demand, notice or document received or given by Grantor relating in any way to any Project Lease or Contract.

1.15 Place of Perfection; Records. Grantor shall give Beneficiary 30 days prior written notice before it changes the location of its chief place of business and chief executive office and shall at the expense of Grantor execute and deliver such instruments and documents as required to maintain a prior perfected security interest and as requested by Beneficiary. Grantor will hold and preserve such records and will permit representatives of Beneficiary at any time during normal business hours to inspect and make abstracts from such records.

1.16 Impositions. Grantor shall pay, before the imposition of any fine, penalty, interest or cost attached thereto, all taxes, assessments and other governmental or non-governmental charges or levies now or hereafter assessed or levied against the Collateral or upon the security interest provided for herein (except for liens for taxes and assessments not then delinquent) as well as pay, or cause to be paid, all claims for labor, materials or supplies which, if unpaid, might become a Lien (other than a Permitted Lien) on the Collateral or any part thereof, and will exhibit receipts showing payment of any of the foregoing.

1.17 Litigation. There is no suit, action, proceeding, or, to the knowledge of Grantor, any investigation presently pending or threatened against Grantor, or any of the Collateral, which, if determined adversely, would have a material adverse effect upon Grantor or the Collateral.

1.18 Further Assurances.

(a) Grantor shall execute, acknowledge and deliver, from time to time, such further instruments as Beneficiary or the Indenture Trustee may reasonably require to accomplish the purposes of this Indenture.

(b) Grantor, immediately upon the execution and delivery of this Indenture, and thereafter from time to time, shall cause this Indenture, any security agreement, mortgage or deed of trust supplemental hereto and each instrument of further assurance to be filed, registered or recorded and refiled, re-registered or re-recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and perfect the lien or estate of this Indenture upon the Collateral.

(c) Grantor shall pay all filing, registration and recording fees, all refiling, re-registration and re-recording fees, and all expenses incident to the execution, filing, recording and acknowledgment of this Indenture, any security agreement, mortgage or deed of trust supplemental hereto and any instrument of further assurance, and all Federal, State, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery, filing and recording of this Indenture, any security agreement, mortgage or deed of trust supplemental hereto or any instruments of further assurance.

1.19 Fixture Filing. This Indenture constitutes a financing statement filed as fixture filing in the Official Records of the County Recorder of the county in which the Collateral is located with respect to any and all fixtures included within the term "Collateral" as used herein and with respect to any goods or other personal property that may now be or hereafter become such fixtures.

1.20 Limitations of Use. Grantor shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses that may be made of the Hydro-Flow Parcel and the Improvements or any part thereof that would have a material adverse effect on the value of the Hydro-Flow Parcel or the Improvements. Grantor shall comply with the provisions of licenses, agreements and private covenants, conditions and restrictions that at any time are applicable to the Collateral.

1.21 Hazardous Substances. Grantor shall not release, emit or discharge into the environment hazardous substances, as defined under CERCLA, or hazardous waste, as defined under the RCRA, or air pollutants as defined under the Clean Air Act, as amended, or pollutants as defined under the Clean Water Act, as amended, in excess of federally permitted releases or reportable quantities, or other concentrations, standards or limitations under the foregoing laws, Applicable Law or any state law governing the protection of health and the environment or under any other federal, state or local laws, regulations or Governmental Authorizations in connection with the construction, power generation and transmission, waste disposal or any other operations or processes relating to the Hydro-Flow Parcel or the

Improvements. Grantor shall not, except in accordance with Applicable Law, (i) store or dispose, or allow the storage or disposal, of any hazardous substance on or in the Hydro-Flow Parcel or the Improvements or (ii) transport or arrange for the transportation of any hazardous substance to or from the Hydro-Flow Parcel. If Beneficiary reasonably believes that there may be the presence or the possible presence of any hazardous substance on or in the Hydro-Flow Parcel or the Improvements in violation of Applicable Law, Grantor shall, upon the written request of Beneficiary and at Grantor's cost, take any and all actions necessary to reasonably assure Beneficiary that no hazardous substance is stored or disposed on or in the Hydro-Flow Parcel or the Improvements in violation of Applicable Law. Grantor shall promptly notify Beneficiary in writing of any release or threatened release of any hazardous substance at or from the Hydro-Flow Parcel or the Improvements, or of any notice of a release or threatened release of any hazardous substance, or for the costs for the cleanup thereof (including, without limitation by assessment, containment or removal), received by Grantor or by any Person for whose conduct Grantor is or may be responsible from any federal, state or other governmental authority. To the extent allowable by law or contract, Grantor shall indemnify and hold Beneficiary harmless from, and defend Beneficiary against, any and all claims, demands and liabilities, including reasonable attorneys' fees, of whatever nature relating to or in any way arising due to the release, emission or discharge into the environment of hazardous substances, hazardous waste, air pollutants or water pollutants, as defined above, by Grantor or any prior owner or user of the Hydro-Flow Parcel and the Improvements or arising out of Grantor's failure to observe the covenants contained in this Section 1.21. The indemnities contained herein shall survive the expiration or other termination of this Indenture.

1.22 Actions to Protect Collateral. If Grantor shall fail to (a) effect the insurance required by Section 1.11, (b) make any payments required hereunder or (c) perform or observe any of its other covenants or agreements hereunder, Beneficiary may, without obligation to do so, and upon notice to Grantor (except in an emergency) effect or pay the same. All sums, including reasonable attorneys' fees, so expended or expended to sustain the lien or estate of this Indenture or its priority, or to protect or enforce any of the rights hereunder, or to recover any indebtedness secured hereby, shall be a lien on the Collateral, shall be deemed to be added to the indebtedness secured by this Indenture, and shall be paid by Grantor within ten (10) days after demand therefor, together with interest thereon at the Default Rate. In any action or proceeding to foreclose this Indenture as a deed of trust or to recover or collect the Obligations, the provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

1.23 Waivers.

(a) The obligations of Grantor under this Indenture and Beneficiary's security interest in the Collateral shall remain in full force and effect until all Obligations shall have been paid and performed in full and shall not be released, discharged or terminated for any reason whatsoever, including, without limitation, the following: (i) the waiver by Beneficiary

of the performance or observance by Grantor, any General Partner, any Shareholder, Lessee or INE of any Obligations; (ii) the extension to Lessee of any additional credit facilities, any changes in the amount of the Rent, the change by Beneficiary of the interest rate in the Construction Loan Agreement, the Revolving Credit Agreement or any other credit facilities extended to Grantor or the extension of time for payment by Lessee, any General Partner, any Shareholder, Grantor or INE of any Obligations or of the time for performance by Grantor, any General Partner, any Shareholder, Lessee or INE of any other Obligations under or arising out of or account of any of the Agreements, or the extension or renewal of any of the Agreements; (iii) any failure, omission or delay of Beneficiary to enforce, assert or exercise any right, power or remedy conferred on Beneficiary in this Indenture or any of the other Agreements or any action on the part of Beneficiary granting extension or indulgence in any form; (iv) any transfer or assignment by Grantor, any General Partner, any Shareholder, Lessee or INE or Beneficiary of its interest, or any part thereof, into any of the "Collateral," as defined in each of the Agreements; (v) any compromise, settlement, release, renewal, extension, indulgence, change in or waiver or modification of any of the Obligations or the release or discharge of Grantor, any General Partner, any Shareholder, Lessee or INE from the performance or observance of any of the Obligations by operation of law; (vi) the voluntary or involuntary liquidation, dissolution, sale, or other disposition of all or substantially all the assets and liabilities of, or the voluntary or involuntary receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or adjustment of, or any other similar proceeding affecting Grantor, any General Partner, any Shareholder, Lessee or INE or the disaffirmance of any of the Agreements in any such proceeding; (vii) any merger, consolidation, or any other reorganization of Grantor, any General Partner, any Shareholder, Lessee or INE, or any sale or disposition, whether directly or indirectly of any of the assets of Grantor, any General Partner, any Shareholder, Lessee or INE; (viii) to the extent permitted by applicable law, the invalidity of any of the Agreements; (ix) the default of Grantor under this Indenture; (x) any impairment of Grantor's rights of subrogation by virtue of Beneficiary's actions; or (xi) any other circumstance which might otherwise constitute a legal or equitable defense or discharge of Grantor.

(b) Grantor specifically agrees that it shall not be necessary or required in order to enforce its obligations hereunder that there be, and Grantor specifically waives: (i) any notice of the acceptance of this Indenture or of the performance or nonperformance by Grantor, any General Partner, any Shareholder, Lessee or INE of any of the Agreements; (ii) demand for payment or performance from Grantor, any General Partner, any Shareholder, Lessee or INE; (iii) presentment for payment upon Grantor, any General Partner, any Shareholder, Lessee or INE or the making of any protest; (iv) notice of the amount of Obligations outstanding at any time; (v) notice of nonpayment or failure to perform on the part of Grantor, any General Partner, any Shareholder, Lessee or INE; and (vi) and any other circumstance which otherwise might constitute a legal or equitable defense or discharge of Grantor. Grantor specifically agrees that it shall not be necessary or required, and that it shall not be entitled to require, that Beneficiary file

suit or proceed to obtain or assert a claim for personal judgment against Grantor, any General Partner, any Shareholder, Lessee or INE for any Obligations or make any effort at collection of any Obligations from Grantor, any General Partner, any Shareholder, Lessee or INE or foreclose against or seek to realize upon any security now or hereafter existing for the Obligations or file suit or proceed to obtain or assert a claim for personal judgment against any other party liable for any Obligations or make any effort at collection of any Obligations from any other party or exercise or assert any other right or remedy to which any of them is or may be entitled in connection with the Obligations or any security or other guarantee therefor or assert or file any claim against the assets of Grantor, any General Partner, any Shareholder, Lessee or INE or any other Person liable for the Obligations or any part thereof, before or as a condition of enforcing its rights against Grantor under this Indenture.

(c) Until all Obligations have been paid and performed in full, Grantor shall have no right of subrogation to, and waives, to the fullest extent permitted by law, any right to enforce any remedy which Beneficiary now has or may hereafter have against any General Partner, any Shareholder, Lessee or INE in respect of the Obligations, and Grantor waives any benefit of, and any right to participate in, any security, whether real or personal property, now or hereafter held by Beneficiary for the Obligations. Until all Obligations have been paid and performed in full, Grantor shall not seek reimbursement from any General Partner, any Shareholder, Lessee or INE or any of their respective assets. Grantor assumes the responsibility for being and keeping itself informed of the financial condition of every General Partner, every Shareholder, Lessee and INE and of all other circumstances bearing upon the risk of nonpayment of the Obligations which diligent inquiry would reveal, and agrees that Beneficiary shall have no duty to advise Grantor of information known to it regarding such condition or any such circumstances.

ARTICLE II

ASSIGNMENTS OF RENTS, ISSUES AND PROFITS

2.01 Assignment of Rents, Issues and Profits. Grantor hereby assigns and transfer to Beneficiary the rents, revenues, issues, profits, royalties, income and benefits derived from the Hydro-Flow Parcel and the Improvements (collectively, the "Rents"), and hereby gives to and confers upon Beneficiary the right, power and authority to collect the same. Grantor irrevocably appoints Beneficiary its true and lawful attorney-in-fact, at the option of Beneficiary at any time and from time to time following the occurrence of an Event of Default, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of the Grantor or otherwise, for the Rents and apply the same to the Obligations; provided, however, that Grantor shall have the right to collect the Rents at any time prior to the occurrence of an Event of Default. The foregoing assignment of Rents is intended to be an absolute assignment from Grantor to Beneficiary and not merely the passing of a security interest. The Rents are assigned absolutely by Grantor to Beneficiary subject only to the terms of this Indenture.

2.02 Collection Upon Event of Default. To the extent permitted by law, upon the occurrence of any Event of Default, Beneficiary may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Obligations enter upon and take possession of the Hydro-Flow Parcel or the Improvements or any part thereof, in its own name, sue for or otherwise collect the Rents including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, to the payment of the Obligations, and in such order as Beneficiary may determine. The collection of the Rents or the entering upon and taking possession of the Hydro-Flow Parcel or the Improvements or any part thereof, or the application thereof as aforesaid, shall not cure or waive any Event of Default or notice thereof or invalidate any act done in response to such Event of Default or pursuant to notice thereof.

2.03 Warranty Enforcement. Until an Event of Default shall occur under this Indenture, Grantor may deal with the Collateral and exercise all rights and powers that it would otherwise be entitled to exercise in connection therewith. Without limiting the generality of the foregoing, Beneficiary agrees that, prior an Event of Default under this Indenture, Grantor shall have the full right, power and authority to exercise and enforce all Contracts, Government Authorizations and Warranty Agreements including without limitation (i) all claims arising thereunder, (ii) any and all rights to compel performance of the terms of the Contracts, Government Authorizations and Warranty Agreements and (iii) all payments and refunds that any contractor may be required to make with respect to the Collateral and any portion thereof under the Contracts, Government Authorizations and Warranty Agreements.

ARTICLE III

EVENTS OF DEFAULT AND REMEDIES

3.01 Event of Default. An Event of Default shall be deemed to have occurred under this Indenture upon the occurrence of any of the following events: (a) an "Event of Default" under and as defined in the Construction Loan Agreement, the Lease or any of the other Fundamental Agreements; (b) Grantor shall fail to discharge any Lien on the Collateral or the priority of the security interest in the Collateral granted herein shall be otherwise impaired in any material respect within ten (10) Business Days after the existence thereof or impairment thereof shall have first become known to Grantor (unless Grantor shall be contesting the same in good faith with due diligence and by appropriate proceedings but only so long as such proceedings do not in Beneficiary's opinion, involve any risk of the sale, forfeiture or loss of any Collateral, title thereto or any interest therein); (c) Grantor shall fail to observe or perform any other obligation to be observed or performed by it under this Indenture and such failure shall continue unremedied for a period of thirty (30) days after written notice thereof to Grantor by Beneficiary, provided that such period shall be extended to one hundred twenty (120) days so long as (i) such Event of Default is curable other than by the payment of money, (ii) Grantor diligently pursues such cure

and completes the cure within such extended period and (iii) the cure does not, in Beneficiary's opinion, involve any risk of the sale, forfeiture or loss of any of the Collateral, title thereto or interest therein; (d) any representation, warranty or certificate made or furnished by Grantor to Beneficiary in connection with this Indenture and the Financing Agreement or as an inducement to Beneficiary to enter into this Indenture or the Financing Agreement, or in any separate statement or document to be delivered hereunder or thereunder to Beneficiary, shall prove to be materially false, incorrect or incomplete in any material respect when made; or (e) a judgment creditor of Grantor shall obtain possession of any of the Collateral by any means, including, but not limited to, levy, distraint, replevin or self help.

3.02 Default Remedies.

(a) If an Event of Default shall have occurred, this Indenture may, to the extent permitted by law, be enforced either as a deed of trust or as a mortgage at the option of Beneficiary, and the Indenture Trustee or Beneficiary may exercise any right, power or remedy permitted to it hereunder, under the Construction Loan Agreement, the Lease and any other Fundamental Agreement or by law, and, without limiting the generality of the foregoing, Beneficiary may, personally or by its agents, to the extent permitted by law:

(i) enter and take possession of the Collateral or any part thereof, exclude Grantor and all persons claiming through Grantor whose claims are junior to this Indenture, wholly or partly therefrom, and use, operate, manage and control the same either in the name of Grantor or otherwise as Beneficiary shall deem best, and upon such entry, from time to time at the expense of Grantor and the Collateral, make all such repairs, replacements, alterations, additions or improvements to the Collateral or any part thereof as Beneficiary may deem proper and, whether or not Beneficiary has so entered and taken possession of the Collateral or any part thereof, collect and receive all the rents and profits and apply the same, to the extent permitted by law, to the payment of all expenses which Beneficiary may be authorized to make under this Indenture, the remainder to be applied to the payment of the Obligations until the same shall have been repaid in full. If Beneficiary demands or attempts to take possession of the Collateral or any portion thereof in the exercise of any rights hereunder, Grantor shall promptly turn over and deliver complete possession thereof to Beneficiary; and

(ii) with or without entry, if Beneficiary shall deem it advisable:

(x) sell the Collateral at a sale or sales held at such place or places and time or times and upon such notice and otherwise in such manner as may be required by law, or, in the absence of any such requirement, as Beneficiary may deem appropriate and from time to time adjourn any such sale by announcement at the time and place specified for such sale or for such adjourned sale without further notice, except such as may be required by law;

(y) proceed to protect and enforce its rights under this Indenture, by suit for specific performance of any covenant contained herein or in any Fundamental Agreement or in aid of the execution of any power granted herein or in any Fundamental Agreement, or for the foreclosure of this Indenture (as a mortgage or otherwise) and the sale of the Collateral under the judgment or decree of a court of competent jurisdiction, or for the enforcement of any other right as Beneficiary shall deem most effectual for such purpose, provided, that in the event of a sale, by foreclosure or otherwise, of less than all of the Collateral, this Indenture shall continue as a lien on, and security interest in, the remaining portion of the Collateral; or

(z) exercise any or all of the remedies available to a secured party under the applicable Uniform Commercial Code, including, without limitation:

(1) either personally or by means of a court appointed receiver, take possession of all or any of the personal property included in the Collateral (the "Personal Property") and exclude therefrom Grantor and all persons claiming under Grantor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Grantor in respect of the Personal Property or any part thereof; if Beneficiary demands or attempts to take possession of the Personal Property in the exercise of any rights hereunder, Grantor shall promptly turn over and deliver complete possession thereof to Beneficiary;

(2) without notice to or demand upon Grantor, make such payments and do such acts as Beneficiary may deem necessary to protect its security interest in the Personal Property, including, without limitation, paying, purchasing, contesting or compromising any encumbrance which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority paying all expenses incurred in connection therewith;

(3) require Grantor to assemble the Personal Property or any portion thereof, at a place designated by Beneficiary and reasonably convenient to both parties, and promptly to deliver the Personal Property to Beneficiary, or an agent or representative designated by it; Beneficiary, and its agents and representatives, shall have the right to enter upon the premises and property of Grantor to exercise Beneficiary's rights hereunder;

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(4) sell, lease or otherwise dispose of the Personal Property, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as the Beneficiary may determine (Beneficiary may be a purchaser at any such sale); and

(5) unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give Grantor at least 10 days' prior notice of the time and place of any sale of the Personal Property or other intended disposition thereof.

(b) If an Event of Default shall have occurred, Beneficiary, to the extent permitted by law, shall be entitled, as a matter of right, to the appointment of a receiver of the Collateral, without notice or demand, and without regard to the adequacy of the security for the indebtedness secured hereby or the solvency of Grantor. Grantor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry and shall continue as such and exercise all such powers until the date of confirmation of sale of the Collateral, unless such receivership is sooner terminated.

(c) If an Event of Default shall have occurred, Grantor shall, to the extent permitted by law, pay monthly in advance to Beneficiary, or to any receiver appointed at the request of Beneficiary to collect rents, the fair and reasonable rental value for the use and occupancy of the Hydro-Flow Parcel and the Improvements or of such part thereof as may be in the possession of Grantor. Upon default in the payment thereof, Grantor shall vacate and surrender possession of the Hydro-Flow Parcel and the Improvements to Beneficiary or such receiver, and upon a failure so to do may be evicted by summary proceedings.

(d) In any sale under any provision of this Indenture or pursuant to any judgment or decree of court, the Collateral, to the extent permitted by law, may be sold in one or more parcels or as an entirety and in such order as Beneficiary may elect, without regard to the right of Grantor or any person claiming under Grantor to the marshalling of assets. The purchaser at any such sale shall take title to the Collateral or the part thereof so sold free and discharged of the estate of Grantor therein, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary, may purchase at any such sale. Upon the completion of any such sale by virtue of this Section 3.02, the Indenture Trustee shall execute and deliver to the purchaser an appropriate instrument which shall effectively transfer all of Grantor's and the Indenture Trustee's estate, right, title, interest, property, claim and demand in and to the Collateral or portion thereof so sold, but without any covenant or warranty, express or implied. Beneficiary is hereby irrevocably appointed the attorney-in-fact of Grantor in its name and stead to make all appropriate transfers and deliveries of the Collateral or any portions thereof so sold

and, for that purpose, Beneficiary may execute all appropriate instruments of transfer, and may substitute one or more persons with like power, Grantor hereby ratifying and confirming all that said attorneys or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, Grantor shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Beneficiary, for such purpose, and as may be designated in such request. Any sale or sales made under or by virtue of this Indenture, to the extent not prohibited by law, shall operate to divest all the estate, right, title, interest, property, claim and demand whatsoever, whether at law or in equity, of Grantor in and to the Collateral, or any portions thereof so sold, and shall be a perpetual bar both at law and in equity against Grantor and against any and all persons claiming or who may claim the same, or any part thereof, by, through or under Grantor. The powers and agency herein granted are coupled with an interest and are irrevocable.

(e) All rights of action under the Fundamental Agreements and this Indenture may be enforced by Beneficiary or the Indenture Trustee without the possession of the Construction Note, the Lease or the Revolving Loan Note and without the production thereof at any trial or other proceeding relative thereto. Any such suit or proceeding instituted by the Indenture Trustee shall be brought in its name and as trustee of an express trust, and any recovery of judgment shall, subject to the rights of the Indenture Trustee, be for the benefit of Beneficiary.

3.03 Application of Proceeds.

(a) The proceeds of any sale made either under the power of sale hereby given or under a judgment, order or decree made in any action to foreclose or to enforce this Indenture shall, to the extent permitted by law, be applied:

(i) first, to the payment of all costs and expenses of such sale, including the Indenture Trustee's and Beneficiary's attorneys' fees;

(ii) second, to the payment of all charges, expenses and advances incurred or made by the Indenture Trustee or Beneficiary in order to protect the lien and estate of this Indenture or the security afforded hereby;

(iii) third, to the payment in full of the portion of the Obligations representing interest, including, without limitation, any interest due under the Agreements;

(iv) fourth, to the payment of all other Obligations; and

after payment in full of all Obligations any surplus remaining shall be paid to Grantor or to whosoever may be lawfully entitled to receive the same.

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(b) No sale or other disposition of all or any part of the Collateral pursuant to Section 3.02 shall be deemed to relieve Grantor of its obligations under the Obligations except to the extent the proceeds thereof are applied to the payment of the Obligations.

3.04 Right to Sue. The Indenture Trustee and Beneficiary, or either of them, shall have the right from time to time to sue for any sums required to be paid by Grantor under the terms of this Indenture as the same become due, without regard to whether or not the Obligations shall be, or have become, due and without prejudice to the right of the Indenture Trustee or Beneficiary thereafter to bring any action or proceeding of foreclosure or any other action upon the occurrence of any Event of Default existing at the time such earlier action was commenced.

3.05 Remedies Cumulative.

(a) No right or remedy herein conferred upon or reserved to the Indenture Trustee or Beneficiary is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy under this Indenture, or now or hereafter existing, upon the occurrence and during the continuance of an Event of Default; the failure of the Indenture Trustee or Beneficiary to insist at any time upon the strict observance or performance of any of the provisions of this Indenture, or to exercise any right or remedy provided for herein, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof.

(b) The Indenture Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of the Obligations and any of the obligations of Grantor hereunder and to exercise all rights and powers under this Indenture or any laws now or hereafter in force, notwithstanding that some or all of the obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise; neither the acceptance of this Indenture nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect the Indenture Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by the Indenture Trustee or Beneficiary, it being stipulated that the Indenture Trustee and Beneficiary, and each of them, shall be entitled to enforce this Indenture and any other security now or hereafter held by Beneficiary in such order and manner as Beneficiary, in its sole discretion, may determine; every power or remedy given by the Fundamental Agreements or this Indenture to Beneficiary or to which Beneficiary is otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Beneficiary, and Beneficiary may pursue inconsistent remedies.

3.06 Waiver of Stay, Extension, Moratorium Laws; Equity of Redemption. To the extent permitted by law, Grantor shall not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any applicable present or future stay, extension or moratorium

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law, which may affect observance or performance of the provisions of this Indenture; nor claim, take or insist upon any benefit or advantage of any present or future law providing for the valuation or appraisal of the Collateral or any portion thereof prior to any sale or sales thereof which may be made under or by virtue of Section 3.02; and Grantor, to the extent that it lawfully may, hereby waives all benefit or advantage of any such law or laws. Grantor for itself and all who may claim under it, hereby waives, to the extent permitted by applicable law, any and all rights and equities of redemption from sale under the power of sale created hereunder or from sale under any order or decree of foreclosure of this Indenture and (if an Event of Default shall have occurred) all notice or notices of seizure, and all right to have the Collateral marshalled upon any foreclosure hereof. Neither the Indenture Trustee nor Beneficiary shall be obligated to pursue or exhaust its rights or remedies as against any other part of the Collateral and Grantor hereby waives any right or claim of right to have the Indenture Trustee or Beneficiary proceed in any particular order.

3.07 No Waiver. No failure to exercise, nor any delay in exercising or any course of dealing in respect of any right, power or remedy hereunder by the Indenture Trustee or Beneficiary shall operate as a waiver thereof, nor shall any single or partial exercise by the Indenture Trustee or Beneficiary of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

ARTICLE IV

THE INDENTURE TRUSTEE

4.01 Acceptance by Indenture Trustee. The Indenture Trustee accepts this trust when this Indenture, duly executed and acknowledged, is made a public record as provided by law.

4.02 Compensation. The Indenture Trustee waives any statutory fee and shall accept reasonable compensation from Beneficiary in lieu thereof for any services rendered by it in accordance with the terms hereof. Grantor shall pay all costs, fees and expenses of the Indenture Trustee, its agents and counsel in connection with the performance of the Indenture Trustee's duties hereunder, including without limitation reasonable and actual attorneys' fees and the cost of any trustee's sale guaranty or other title insurance coverage ordered in connection with any foreclosure proceedings hereunder.

4.03 Action in Accordance with Instructions. Upon receipt by the Indenture Trustee of instructions from Beneficiary at any time or from time to time, the Indenture Trustee shall (a) give any notice or direction or exercise any right, remedy or power hereunder or in respect of any part or all of the Collateral as shall be specified in such instructions and (b) approve as satisfactory all matters required by the terms hereof to be satisfactory to the Indenture Trustee or to Beneficiary. The Indenture Trustee may, but need

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not, take any of such actions in the absence of such instructions. At any time or from to time, upon request of Beneficiary and presentation of this Indenture for endorsement, and without affecting the liability of any person for payment of the Obligations, the Indenture Trustee may, upon such request, reconvey all or any part of the Collateral, consent to the making of any map or plat thereof, join in granting any easement thereon, or join in any extension agreement or any agreement subordinating the lien and estate hereof.

4.04 Resignation. The Indenture Trustee may resign at any time upon giving not less than 60 days' prior notice to Beneficiary, but shall continue to act as trustee until its successor shall have been qualified and appointed pursuant to Section 4.05.

4.05 Successor Indenture Trustee. In the event of the death, removal, resignation or refusal or inability of the Indenture Trustee to act, or for any reason, at any time, Beneficiary shall have the irrevocable power, with or without cause, without notice of any kind, and without applying to any court, to select and appoint a successor trustee. Each such appointment and substitution shall be made by notice to Grantor, the Indenture Trustee and successor trustee and by recording notice of such in each office in which this Indenture is recorded. Such notice shall be executed and acknowledged by Beneficiary and shall contain reference to this Indenture and when so recorded shall be conclusive proof of proper appointment of the successor trustee. Such successor shall not be required to give bond for the faithful performance of its duties unless required by Beneficiary.

ARTICLE V

MISCELLANEOUS

5.01 Severability. Any provision of this Indenture which is prohibited or unenforceable in any jurisdiction, shall be, only as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability, but all the remaining provisions of this Indenture shall remain valid.

5.02 Addresses for Notices. All notices or other communications required or permitted to be given hereunder shall be in writing, shall be addressed as provided below and shall be considered as properly given (i) if delivered in person, (ii) if sent by overnight delivery service (including, without limitation, Federal Express, ETA, Emery, Purolator, DHL, Air Borne or similar overnight delivery services), (iii) in the event overnight delivery services are not readily available, if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested or (iv) if sent by prepaid telegram, facsimile copy or by telex and confirmed. Notice given in any manner shall be effective upon receipt by the addressee; provided, however, that if any notice is tendered to an addressee and the delivery thereof is refused by such addressee, such notice shall be effective upon such tender. For the purposes of notice, the addresses of the parties shall be as set forth below; provided, however, that any party shall

have the right to change its address for notice hereunder to any other location within the continental United States by giving of thirty (30) days' notice to the other parties in the manner set forth hereinabove. The initial addresses of the parties hereto are as follows:

(1) Lessor: Westinghouse Credit Corporation
One Oxford Centre
Pittsburg, Pennsylvania 15219
Attention: Manager, Administration,
Major Industries
Finance Group

(2) Grantor: Hydro-Flow, Inc.
699 East South Temple, Suite 220
Salt Lake City, Utah 84102
Attn: David Van Otten

5.03 Grantor Not Released. Extension of the time for payment or modification of the terms of payment of any sums secured by this Indenture granted by Beneficiary to any successor in interest of Grantor shall not operate to release, in any manner, the liability of the original Grantor. Beneficiary shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify the terms of payment of the sums secured by the Indenture by reason of any demand made by the original Grantor. Without affecting the liability of any person, including Grantor, for the payment of any Obligations secured hereby, or the lien of this Indenture on the remainder of the Collateral for the full amount of any such Obligation and liability unpaid, Beneficiary is empowered as follows: Beneficiary may from time to time and without notice (a) release any person liable for the payment of any of the Obligations, (b) extend the time of payment of any of the Obligations, (c) accept additional real or personal property of any kind as security therefor, whether evidenced by deeds of trust, mortgages, security agreements, or any other instruments of security, (d) alter, substitute or release any property securing the Obligations, (e) consent to the making of any map or plat of the Collateral or any part thereof, (f) join in granting any easement or creating any restriction thereon, (g) join in any subordination or other agreement affecting this Indenture or the lien or charge hereof, or (h) reconvey, without any warranty, all or part of the Collateral.

5.04 Inspection. Beneficiary may at any reasonable time or times make or cause to be made entry upon and inspection of the Collateral or any part thereof in person or by agent.

5.05 Statute of Limitations. The pleading of any statute of limitations as a defense to any and all Obligations secured by this Indenture is hereby waived to the fullest extent permitted by law.

5.06 Interpretation. Wherever used in this Indenture, unless the context otherwise indicates a contrary intent, or unless otherwise specifically provided herein, the word "Grantor" shall mean and include

Grantor and any subsequent owner or owners of the Collateral, and the word "Beneficiary" shall mean and include not only the original Beneficiary hereunder but also any future assignees or transferees which are Lessor under the Construction Loan Agreement and the Lease. In this Indenture, the use of the word "including" shall not be deemed to limit the generality of the term or clause to which it has reference, whether or not nonlimiting language (such as "without limitation," or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term, or matter. The captions and headings of the Articles and Sections of this Indenture are for convenience only and are not to be used to interpret, define, or limit the provisions hereof.

5.07 Consent; Delegation to Sub-agents. Any waiver, permit, consent or approval by Beneficiary of any Event of Default or breach of any provision, condition or covenant of this Indenture or any of the Agreements must be in writing and shall be effective only to the extent it is set forth in writing. No waiver of a specific breach or Event of Default shall operate as a waiver of any other breach or Event of Default or of the same breach or Event of Default occurring at a later time. Wherever a power of attorney is conferred upon Beneficiary hereunder, it is understood and agreed that such power is conferred with full power of substitution, and Beneficiary may elect in its sole discretion to exercise such power itself or to delegate such power, or any part thereof, to one or more sub-agents.

5.08 Successors and Assigns. This Indenture shall be binding upon and shall inure to the benefit of Beneficiary and Grantor and their respective successors and assigns. Beneficiary reserves the right to sell, assign or transfer all or any part of, or any interest in, Beneficiary's rights and obligations under this Indenture. In connection therewith, Beneficiary may disclose all documents and information which Beneficiary now or hereafter may have relating to Grantor or its business.

5.09 Amendments. This Indenture may not be altered or amended except by an agreement in writing signed by Beneficiary and Grantor. In the event that Beneficiary at any time or from time to time dispenses with any one or more of the requirements specified in this Indenture, such dispensation may be revoked by Beneficiary at any time and shall not be deemed to constitute a waiver of any such requirements subsequent thereto.

5.10 Continuing Security Interest. This Indenture shall create a continuing security interest in the Collateral and shall remain in full force and effect until fulfillment of all Obligations.

5.11 Fees and Expenses. Grantor will reimburse Beneficiary for all costs and expenses, including, but not limited to, (i) all costs incurred in connection with the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Collateral, and (ii) reasonable attorneys' fees and expenses expended or incurred by Beneficiary in collecting any sum which becomes due Beneficiary under this Indenture, or in the protection, preservation and enforcement of any and all rights of Beneficiary

in connection with this Indenture, including, without limitation, the fees and costs incurred in a bankruptcy proceeding.

5.12 Conflict with Financing Agreement. If there shall occur any conflict between the express provisions of this Indenture and the express provisions of the Financing Agreement, the terms of the Financing Agreement shall govern.

5.13 Reconveyance by Indenture Trustee. Beneficiary shall notify the Indenture Trustee of the payment and performance in full or the assignment of the Obligations and shall surrender this Indenture to the Indenture Trustee for cancellation and retention. Upon receipt of such notification and upon payment by the Grantor of the Indenture Trustee's expenses, the Indenture Trustee (and, if required by law, the Beneficiary) shall release the lien of this Indenture, without warranty or covenant, any portion of the Collateral then held hereunder to the Grantor or upon the request of the Grantor and at the Grantor's expense.

5.14 Invalidity of Certain Provisions. If the lien or estate of this Indenture is invalid or unenforceable as to any part of the Collateral, the unsecured portion of such indebtedness shall be completely paid prior to the payment of the remaining and secured or partially secured portion thereof, and all payments made on such indebtedness, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion thereof that is not secured or fully secured by the lien or estate of this Indenture.

5.15 One of a Number of Indentures. This Indenture is given as security together with certain other indentures which collectively cover the Collateral. A copy of all such indenture instruments (including this Indenture) are on file with Grantor and with Beneficiary and are available for inspection during normal business hours upon reasonable advance request therefor. A default with respect to any such indenture instrument (including this Indenture) shall constitute a default under all such indenture instruments (including this Indenture).

5.16 Scope of Liability. Notwithstanding any other provision of this Indenture or any of the other Fundamental Agreements, there shall be no recourse against Grantor, the General Partners, Hydro-Flow, the Shareholders or any of their respective Affiliates, stockholders, officers, directors or employees, for any liability to Beneficiary arising in connection with any breach or default under this Indenture except to the extent the same is enforced against Lessee or the Collateral (and the "Collateral" as defined in the other Collateral Documents), and Beneficiary shall look solely to Lessee and the Collateral (and the "Collateral" as defined in the other Collateral Documents) in enforcing rights and obligations under and in connection with this Indenture, provided, however, that foregoing provisions of this Section 5.16 shall not:

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(a) Constitute a waiver, release or discharge of any of the indebtedness under, or of any of the terms, covenants, conditions or provisions of, this Indenture or any other Fundamental Agreement, and the same shall continue until fully paid, discharged, observed, or performed;

(b) Limit or restrict the right of Beneficiary to name Grantor or any other Person as a defendant in any action or suit for a judicial foreclosure or for the exercise of any other remedy under or with respect to this Indenture, the Collateral Documents or any other Fundamental Agreement, or for injunction or specific performance; or

(c) In any way limit or restrict any right or remedy of Beneficiary (or any assignee or beneficiary thereof or successor thereto) with respect to, and Grantor and any other party hereto shall remain fully liable to the extent that it would otherwise be liable for, any fraud, misrepresentation or misappropriation of Facility revenues, Proceeds or any other earnings, revenues, rents, issues, profits or proceeds from or of the Collateral (and the "Collateral" as defined in the other Collateral Documents) that should or would have been paid as provided herein or paid or delivered to Beneficiary (or any assignee or beneficiary thereof or successor thereto) towards any payment required under this Indenture or any other Fundamental Agreement.

5.17 Counterparts. This Indenture may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Indenture by signing any such counterpart.

5.18 Governing Law. This Indenture shall be governed by and construed under the laws of the State of Idaho.

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IN WITNESS WHEREOF, the undersigned has executed this Indenture the day and year first hereinabove written.

HYDRO-FLOW, INC.

By _____
David B. Van Otten
President

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Hydro-Flow Mortgage

STATE OF UTAH)
)
) ss.
)
COUNTY OF SALT LAKE)

On this 23rd day of May, 1989 before the undersigned, a Notary Public in and for said State of Utah, personally appeared David B. Van Otten, personally known to me or proved to me on the basis of satisfactory evidence to be the President of Hydro-Flow, Inc., a Utah corporation ("Hydro-Flow"), and acknowledged to me that Hydro-Flow executed the within instrument pursuant to authority duly given by its by-laws or the board of directors.

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

Notary Public in and for said State of Salt Lake City, Utah

[SEAL]

*** My Commission Expires: April 27, 1990

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Hydro-Flow Mortgage

SCHEDULE I

DEFINITIONS

"Account Holder" means First Security Bank of Utah, N.A.

"Affiliate" of any Person means any other Person controlling, controlled by or under direct or indirect common control with such Person. For the purposes of this definition, "control," when used with respect to any specified Person, means the power to direct the management or policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Agreement of Understanding" means the letter agreement between Lessor, Lessee and Utility, in the form of Exhibit N to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"APPC" means American Pacific Power Corp., a Utah corporation.

"Applicable Law" means (a) all applicable federal, state and local statutes, regulations, ordinances and codes, including, without limitation, the Code, the FPA, the PUHCA and the State PUC Law, (b) the Idaho Hazardous Waste Management Act of 1983, as amended, Idaho Code section 39-4401, et seq., the Idaho Environmental Protection and Health Act of 1972, as amended, Idaho Code section 39-101, et seq., the Idaho PCB Disposal Act of 1987, Idaho Code section 39-6201, et seq., and the regulations issued under each of such statutes and (c) all other applicable lawful rules, regulations, interpretations and orders of any commissions, boards or other legislative, executive, judicial or other governmental bodies or officers having power to regulate or supervise the Facility or the Site.

"Appraisal" means a written appraisal (which appraisal shall include component cost segregation) from an Appraiser and in form and substance satisfactory to Lessor stating that, among other things, Lessor's Cost does not exceed the Fair Market Value of the Facility, the estimated residual value of the Facility at the end of the Basic Term will be at least 20% of Lessor's Cost (without regard to inflation or deflation), the Basic Term will not exceed 80% of the economic life of the Facility and the Facility is not limited use property (within the meaning of Revenue Procedure 75-21, 1975-1 C.B. 715, or any other applicable successor statute, regulation, revenue procedure, information release or published Internal Revenue Service policy) and setting forth the economic life of the Facility.

"Appraiser" means a reputable, independent appraiser (who is not a manufacturer of equipment used to generate electrical energy) qualified and experienced in the appraisal of facilities or equipment used for the hydrological generation of electrical energy.

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"Assignment Agreement" means the Asset Sale Agreement between Lessee, Hydro-Flow and INE in the form of Exhibit R to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Authorized Investments" means the investments specified in Schedule I to the Construction Escrow Agreement, the Escrow Fund Agreement and the Lease Payment Agreement.

"AWHI" means America West Hydro, Inc., a Utah corporation.

"Base Case Projections" means a projection of operating results for the Facility over a period ending no sooner than December 31, 2009, showing at a minimum Lessee's reasonable good faith estimates, as of the Construction Loan Closing Date, of revenues, operating expenses, debt service coverage ratios and sources and uses of proceeds over the forecast period, which projection is attached as Schedule IV-B to the Financing Agreement, as the same may be adjusted with Lessor's consent from time to time.

"Basic Rent" means, with respect to any Rent Payment Date during the Basic Term, an amount equal to the Basic Rent Factor set forth opposite such Rent Payment Date on Schedule III annexed to the Lease multiplied by Lessor's Cost, and, with respect to any Rent Payment Date during a Renewal Term, an amount determined as provided in Section 6(b) of the Lease.

"Basic Rent Factor" means the applicable figure set forth on Schedule III annexed to the Lease.

"Basic Term" means the period beginning on the First Lease Closing Date and expiring on the twentieth anniversary of the First Lease Closing Date.

"BayBank" means BayBank Boston, N.A., a national banking association.

"BayBank Loan Agreement" means the Amended and Restated Revolving Loan Facility Agreement dated as of May 3, 1989, among INE, Hydro-Flow and BayBank.

"BayBank Termination Agreement" means the BayBank Boston, N.A. Agreement Regarding Assignments and Loan Agreement Obligations executed by BayBank in connection with the Construction Loan Closing.

"Bill of Sale" means a Bill of Sale, dated as of a Lease Closing Date, and executed by Lessee by which ownership of the property specified therein is to be transferred to Lessor.

"BPA Agreements" means the BPA O&M Agreement, the Breaker Agreement, and the BPA Construction Reimbursement Agreement.

"BPA Construction Reimbursement Agreement" means the Customer Agreement to be executed between Lessee and BPA pursuant to the Wheeling Agreement.

"BPA O&M Agreement" means the agreement to be executed between BPA and Lessee regarding the operation and maintenance of the substation to be constructed to interconnect the Transmission Line with the BPA transmission system.

"Breaker Agreement" means the agreement to be executed between BPA and Lessee regarding the rental of a gas breaker from BPA to Lessee.

"Business Day" means any day other than a Saturday or a Sunday or a day on which commercial banking institutions in Salt Lake City, Utah, or in New York, New York, are authorized or required by law to be closed. Any reference in the Fundamental Agreements to "days" (unless Business Days are specified) shall mean calendar days.

"Casualty Loss Payment Date" means the thirtieth day (or the last day of such month if such month is February) of the first month following the date on which (a) Lessee should have notified Lessor of a Casualty Occurrence pursuant to Section 11(b)(i) of the Lease or (b) the Lease terminates pursuant to Section 11(c)(i) of the Lease.

"Casualty Loss Value" means (a) as of any date during the Basic Term the amount determined by multiplying the appropriate percentage on Schedule III annexed to the Lease by Lessor's Cost, and (b) as of any date during a Renewal Term, the amount determined pursuant to Section 6(b) of the Lease.

"Casualty Occurrence" has the meaning set forth in Section 11(b)(i) of the Lease.

"Casualty Payment" has the meaning set forth in Section 11(b)(ii) of the Lease.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., as amended.

"Certificate of Delivery and Acceptance" means either Certificate of Delivery and Acceptance, dated as of a the First Lease Closing Date or the Second Lease Closing Date, executed by Lessee in accordance with the terms of Section 3 of the Lease.

"Closing" shall mean each Closing described in Section 2 of the Financing Agreement.

"Code" means the Internal Revenue Code of 1986, as amended, or any successor tax code thereto.

"Collateral" means every item of "Collateral" as defined in each of the Collateral Documents.

"Collateral Documents" means each of the Lessee Fee Mortgage, the Lessee Easement Mortgage, each General Partner Pledge and Security Agreement, each Shareholder Pledge Agreement, the Hydro-Flow Pledge and Security Agreement, the Hydro-Flow Mortgage, the INE Security Agreement, the Intercreditor Agreement, the Construction Escrow Agreement, the Lease Payment Agreement and the Escrow Fund Agreement.

"Collection Agreement" means the Collection Agreement for Project Construction, Collection Agreement Number 1, between INE and Idaho Panhandle National Forest, USDA-Forest Service, dated February 22, 1989, as such Collection Agreement has been assigned from INE to Lessee.

"Commitment" with respect to the Construction Loans, shall have the meaning as defined in Section 1.01 of the Construction Loan Agreement. "Commitment" with respect to the Revolving Loans shall have the meaning as defined in Section 1.01 of the Revolving Loan Agreement.

"Completion" means the time when all construction on the Facility is complete and final, including the addition of the Second Large Turbine but with the exception of immaterial punch list items approved by Lessor, and all contractors, materialmen and subcontractors have executed lien waivers satisfactory to Lessor with respect to work performed on the Facility, and the Facility with the Second Large Turbine has satisfactorily passed the Low Flow Performance Tests.

"Components" means appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature that from time to time may be incorporated or installed in or attached to the Site or incorporated into the Facility, including without limitation any spare parts that are included as part of the Facility.

"Condemning Authority" shall have the meaning as defined in Section 3.10 of the Construction Loan Agreement.

"Consent to Assignment" means each consent to assignment of a Related Document from Hydro-Flow or INE to Lessee and consent to assignment for security of such Related Agreement from Lessee to Lessor, executed by each party to the Related Documents.

"Construction Budget" has the meaning given to such term in Section 3(a)(xxxii) of the Financing Agreement.

"Construction Contract" means each of the contacts listed on Schedule III to the Financing Agreement as amended from time to time and each contract and agreement relating to construction on the Facility and each contract and agreement for the supply of materials or engineering services in connection with the Facility.

"Construction Costs" shall mean (i) amounts payable under the Construction Contracts, (ii) capitalized interest on the Construction Loans as computed monthly, (iii) fees and expenses of Lender, as provided in the

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Fundamental Agreements, (iv) amounts due to repay BayBank under the BayBank Loan Agreement; (v) the Royalty Payment due to BayBank pursuant to and as defined in Section 1(a) of the Royalty Agreement, (vi) amounts paid to Mead under the Mead Note and the Mead Contract, (vii) the payment of $50,000 made to Mortenson; and (viii) such other reasonable costs, expenses and fees (including attorneys' fees) of Lessee incurred in connection with the Closings which are to occur on the First Lease Closing Date and the Second Lease Closing Date.

"Construction Escrow Account" shall mean the account for the deposit of Construction Loan proceeds and other moneys established pursuant to the Construction Escrow Agreement.

"Construction Escrow Agreement" shall mean the Construction Escrow Agreement, in the form of Exhibit Q to the Financing Agreement, between Lessee, Lessor and Account Holder, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Construction Loan" means each of the Loans made to Lessee by Lessor pursuant to the Construction Loan Agreement as contemplated by the Financing Agreement.

"Construction Loan Agreement" means the Construction Loan Agreement, dated as of the Construction Loan Closing Date, between Lessor and Lessee, and in the form of Exhibit A to the Financing Agreement as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Construction Loan Closing Date" means the Closing for the execution of the Construction Loan Agreement.

"Construction Loan Commitment" means the "Commitment" as such term is defined in the Construction Loan Agreement.

"Construction Loan Date" means, with respect to each Construction Loan, the date that such Construction Loan is deposited into the Construction Escrow Account.

"Construction Loan Expiration Date" shall mean the earlier of March 31, 1990 and the Second Lease Closing Date.

"Construction Loan Period" has the meaning given to such term in the Construction Loan Agreement.

"Construction Note" means the promissory note in the form of Appendix A to the Construction Loan Agreement issued by Lessee to Lessor.

"Construction Schedule" shall mean the schedule for constructing the Facility setting forth in reasonable detail the planned commencement and completion dates for each major phase of construction which schedule is attached as Schedule IV-C to the Financing Agreement, as the same may be adjusted with Lessor's consent from time to time.

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"Contractors" means each of the major contractors for the construction on and the supply of materials to the Facility, including, without limitation, O & F Construction, S.E. Incorporated, Alcoa/ACPC, Inc., Bouvier Hydropower, Lapp Insulator Company, Montana Ekectric Supply, Sorenson Engineering, SSR Engineers, Inc., Taylor Lumber and Treating, Inc., Thompson Pipe & Steel and Delta Star.

"Controlled Group" means, with respect to any Person, all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with such Person, are treated as a single employer under Section 414(b) or 414(c) of the Code.

"Default" with respect to any agreement means any event that with notice or lapse of time, or both, would become an Event of Default under such agreement.

"Default Rate" means a per annum rate of interest equal to the Prime Rate plus three and one-half percent (3 1/2%), but in no event more than the maximum contract rate permitted under applicable law.

"Dimark" means The Dimark Company.

"Easements" means the easements listed on Schedule VI to the Financing Agreement, as such schedule is updated from time to time.

"Engineer's Certificate" means each certificate of the Independent Engineer delivered pursuant to Section 2.02 of the Construction Loan Agreement.

"EPA" means the federal Environmental Protection Agency or any successor agency thereto.

"ERISA" means the Employee Retirment Income Security Act of 1974, as amended.

"ERISA Plan" means, with respect to any Person, any employee benefit plan within the meaning of Section 3(3) of ERISA and any multiemployer plan within the meaning of Section 4001(a)(3) of ERISA, which covers employees of such Person or any of its Affiliates or any member of the Controlled Group.

"Escrow Account" means the Escrow Account for the payment of operating expenses with respect to the Facility, which Escrow Account is established pursuant to the Escrow Fund Agreement.

"Escrow Fund Agreement" means the Escrow Fund Agreement dated the First Lease Closing Date, in the form of Exhibit O to the Financing Agreement, between Lessor, Lessee and Account Holder, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

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"Event of Default" means with respect to any agreement any of the events or conditions specified as such in the applicable section of such agreement.

"Event of Eminent Domain" means any compulsory transfer or taking by condemnation, eminent domain or exercise of a similar power, or transfer under threat of such compulsory transfer or taking, of any part of the Collateral by any agency, department, authority, commission, board, instrumentality or political subdivision of the State of Idaho, the United States or another government having jurisdiction.

"Excess Rent" has the meaning set forth in Section 5(b) of the Lease.

"Execution Date" means the date on which all of the parties to the Financing Agreement execute such agreement.

"Expiration Date" means the last day of the Term of the Lease.

"Facility" means the water powered facility for the generation of electrical energy located on the Site in Boundary County, Idaho (including without limitation the Transmission Line), sold to Lessor on the First Lease Closing Date and the Second Lease Closing Date, including without limitation any and all alterations and Components from time to time incorporated in or installed as part of such Facility and which, pursuant to Section 8 of the Lease, become the property of Lessor.

"Facility Income" means, for any period, all payments received during such period from Utility under the Power Purchase Agreement.

"Fair Market Rental Value" means an amount equal to the rental of the Leased Property that would be obtained in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease. Fair Market Rental Value shall, for purposes of Section 6 of the Lease, be determined on the basis that the Leased Property has been maintained in all respects in accordance with the provisions of the Lease (whether or not all or any part thereof is in fact in such condition), and otherwise Fair Market Rental Value shall be determined on an "as is, where is" basis.

"Fair Market Value" means an amount equal to the value that would be obtained in an arm's-length transaction between an informed and willing buyer-user (other than a buyer currently in possession or a used equipment dealer) and an informed and willing seller under no compulsion to sell. Fair Market Value shall, for purposes of Section 6 of the Lease, be determined on the basis that the Leased Property has been maintained in all respects in accordance with the provisions of the Lease (whether or not all or any part thereof is in fact in such condition), and otherwise Fair Market Value shall be determined on an "as is, where is" basis. In all cases Fair Market Value shall be determined assuming that the Facility and the Site are not encumbered by the Lease. For purposes of Section 6 of the Lease, costs of removal of the Facility from the Site shall not be a deduction from such value. No value

shall be ascribed (a) to the use of the Site other than for the purposes set out in the Site Lease or (b) to additions or improvements made by Lessee pursuant to Sections 8(c) or (d) of the Lease.

"Fee Property" has the meaning given to that term in the Lessee Fee Mortgage.

"FERC" means the Federal Energy Regulatory Commission or any successor agency thereto.

"FERC Counsel" means Bishop, Cook, Purcell & Reynolds.

"FERC License" means the FERC License for Project No. 8436 issued April 10, 1987 to INE, as amended from time to time.

"FERC License Amendment" means amendments to the FERC License which shall: (a) assign the FERC License to Lessee, (b) increase the permissable capacity of the Facility to 38.15 mW, (c) change the recreational facilities improvements requirements, (d) authorize the addition of a pygmy turbine to the Facility, and (e) change the period of flushing flow from 10 days to 3 days and change the level of flushing flow.

"FERC Recertification" means a recertification by FERC that the Facility is a QF with a generating capacity of 38.15 mW.

"Final Payment" has the meaning given to such term in Section 1(a)(ii) of the Financing Agreement.

"Financing Agreement" means the Financing Agreement dated as of [A], 1989, by and among Lessor, Lessee, the General Partners, INE and Hydro, as such may be amended, supplemented or modified from time to time in accordance with its terms.

"First Lease Closing Date" means the date of the first Closing for Sale Leaseback, which date shall be on or before March 31, 1990.

"FPA" means the Federal Power Act or any successor statute, each as amended.

"Fundamental Agreements" means, collectively, each of the Fundamental Construction Agreements and each of the Fundamental Lease Agreements.

"Fundamental Construction Agreements" means each of the agreements listed in Section 3(a)(i) of the Financing Agreement.

"Fundamental Lease Agreements" means each of the agreements listed in Section 3(b)(i) of the Financing Agreement.

"GAAP" means generally accepted accounting principles consistently applied.

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"General Partner" means each of APPC, PWPC, AWHI and "General Partners" means all of the General Partners collectively.

"General Partner Documents" has the meaning as defined in Section 4(c)(ii) of the Financing Agreement.

"General Partner Pledge and Security Agreement" means the General Partner Pledge and Security Agreement, dated as of the Construction Loan Closing Date, between each General Partner and Lessor in the form of Exhibit D to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Ground Lease" means the lease of the Site from Lessee to Lessor, dated as of the First Lease Closing Date in the form of Exhibit J to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Governmental Authorization" means any consent, right, exemption, concession, permit, license, authorization, certificate, order, franchise, determination, or approval of any federal, state, municipal or governmental department, commission, board, bureau, agency or instrumentality, including without limitation, the PUC, the FERC and the SEC, with respect to or in connection with the Facility or the Site.

"High-Flow Performance Tests" means the performance tests established by the Independent Engineer to measure the electrical generating capacity and capabilities of the Facility during periods of high water flow.

"Hydro-Flow" means Hydro-Flow, Inc., a Utah corporation.

"Hydro-Flow Documents" means the Hydro-Flow Pledge and Security Agreement, the Hydro-Flow Mortgage, the Assignment Agreement and each other document, instrument and agreement executed by Hydro-Flow in connection with the Overall Transaction.

"Hydro-Flow Parcel" has the meaning given to that term in the Hydro-Flow Mortgage.

"Hydro-Flow Pledge and Security Agreement" means the Hydro-Flow Pledge and Security Agreement dated as of the Construction Loan Closing Date, between Lessor and Hydro-Flow in the form of Exhibit F-1 to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Hydro-Flow Mortgage" shall mean the Indenture of Mortgage, Deed of Trust and Assignment of Rents, between Hydro-Flow, Lessor and a trustee, in the form of Exhibit F-2 to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

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"Indebtedness" shall mean all obligations of Lessee for borrowed money, all obligations of Lessee evidenced by bonds, debentures, notes or other similar instruments, all obligations of Lessee to pay the deferred purchase price of property, all lease obligations of Lessee that, in accordance with GAAP, are required to be capitalized on the books of a lessee, any obligation or liability of any Person secured by a Lien on any asset of Lessee, whether or not such obligation or liability is assumed, and all other obligations or liabilities of Lessee which are required to be shown as debt on the balance sheet of Lessee.

"Independent Engineer" means Ott Engineering, Inc.

"Initial Payment" has the meaning given to such term in Section 1(a)(ii) of the Financing Agreement.

"INE" means Idaho Natural Energy, Inc., an Idaho corporation.

"INE Documents" means the INE Security Agreement, the Assignment Agreement and each other document, instrument and agreement executed by INE in connection with the Overall Transaction.

"INE Security Agreement" means the INE Security Agreement, dated as of the Construction Loan Closing Date, between INE and Lessor in the form of Exhibit G to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Intercreditor Agreements" means the Yeates Intercreditor Agreement, the Plan Intercreditor Agreement and the YP&S Intercreditor Agreement.

"Lease" means the Facility and Site Lease, dated as of the First Lease Closing Date, between Lessor and Lessee in the form of Exhibit K to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Lease Payment Account" means the account established pursuant to the Lease Payment Agreement.

"Lease Payment Agreement" means the Lease Payment Reserve Agreement, dated as of the First Lease Closing Date, between Lessor, Lessee and Account Holder in the form of Exhibit P to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Leased Property" has the meaning set forth in Section 2 of the Lease.

"Lessee" means Smith Falls Hydropower, a Utah general partnership.

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"Lessee Documents" has the meaning set forth in Section 4(b)(ii) of the Financing Agreement.

"Lessee Easement Mortgage" shall mean the Indenture of Mortgage, Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing between Lessee, Lessor and a trustee, in the form of Exhibit C to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Lessee Fee Mortgage" shall mean the Indenture of Mortgage, Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing between Lessee, Lessor and a trustee, in the form of Exhibit B to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Lessor" means Westinghouse Credit Corporation, a Delaware corporation.

"Lessor Lien" means any Lien arising as a result of (a) a claim against Lessor not related to the Overall Transactions, (b) taxes imposed against Lessor which are not indemnified against by Lessee pursuant to the Financing Agreement, the Lease or the Tax Indemnity Agreement or (c) a claim against Lessor arising out of the voluntary transfer by Lessor (without the consent of Lessee) of its interest in the Leased Property or any part thereof at any time no Default shall have occurred and be continuing, other than a transfer of any such interest pursuant to Section 11 or 13 of the Lease.

"Lessor's Cost" means the lesser of (a) the Fair Market Value of the Facility as set forth in the Appraisal or (b) $23,450,000.

"Lien" means any mortgage, pledge, lien, charge, attachment, levy, security interest or lease (including without limitation any conditional sale agreement, equipment trust agreement or other title retention agreement) or other encumbrance of whatsoever nature.

"Low-Flow Performance Tests" means the performance tests established by the Independent Engineer to measure the electrical generating capacity and capabilities of the Facility during periods of low water flow.

"Low Water Year" shall have the meaning as set forth in Exhibit C to the Revolving Credit Agreement.

"Major Maintenance Account" means the Major Maintenance Account Account for the payment of Major Maintenance Expenses with respect to the Facility, which Major Maintenance Account is established pursuant to the Escrow Fund Agreement.

"Major Maintenance Expenses" means periodic expenses for major repairs, replacements or overhauls of the Facility or the Components.

"maturity" shall mean, with respect to each Construction Loan or Revolving Loan, the maturity thereof, whether such maturity occurs on the Construction Loan Expiration Date or the Revolver Termination Date, as applicable, upon prepayment of the Construction Loans or the Revolving Loans, as applicable, or otherwise.

"May" means Gary E. May, a Utah resident.

"Mead Contract" means the Purchase Agreement and Related Closing Instructions dated as of October 14, 1988, between Hydro-Flow and Mead, as Hydro-Flow's rights and obligations under such Mead Contract have been assigned and delegated to Lessee pursuant to the Assignment Agreement.

"Mead Note" means the Promissory Note in the principal amount of $342,000 executed by Hydro-Flow in favor of Mead, as Hydro-Flow's obligations under such Mead Note have been delegated to Lessee pursuant to the Assignment Agreement.

"Mead Mortgage" means the real estate mortgage executed by Hydro-Flow in favor of Mead dated November 4. 1988, and recorded in the Official Records of Boundary Coundy, Idaho, on November 4, 1988, as Instrument Number 156832, as such Mead Mortgage was assigned by Hydro-Flow to the Partnership in connection with the Construction Loan Closing and as such Mead Mortgage was partially released by Mead in connection with the Construction Loan Closing.

"Monitoring Agreement" has the meaning given to that term in Section 9(c) of the Lease.

"Monitoring Consultant" has the meaning given to that term in Section 9(c) of the Lease.

"Mortenson" means Elizabeth Mortenson, a California resident.

"Mortgages" means the Lessee Fee Mortgage, the Lessee Easement Mortgage and the Hydro-Flow Mortgage.

"Net Economic Return" means Lessor's after-tax rate of return on investment and after-tax cash flow (computed in accordance with the multiple investment sinking fund method used by Lessor) which Lessor anticipates, as of the date of the Financing Agreement, that it would obtain from entering into the transactions contemplated by the Financing Agreement.

"NLI Agreement" means the Agreement for the Construction, Ownership, Operation and Maintenance of the Smith Falls Transmission Line, executed by Lessee and Northern Lights, Inc.

"NLI Easement" means the easement from NLI to Lessee granting to Lessee an easement to use NLI's existing easement along the route of the Transmission Line.

"Notes" means the Construction Note and the Revolving Note.

"Notice of Borrowing" shall have the meaning as defined in Section 1.01 of the Construction Loan Agreement.

"Notice of Revolver Borrowing" shall have the meaning as defined in Section 1.02(b) of the Revolving Loan Agreement.

"Obligations" shall mean and include, with respect to Lessee, any General Partner, any Shareholder, Hydro-Flow or INE, all loans, advances, debts, liabilities, and obligations, howsoever arising, owed by such Person to Lessor of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payments of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising pursuant to the terms of any of the Fundamental Agreements, including without limitation all interest, fees, charges, expenses, attorneys' fees and accountants' fees chargeable to such Person in connection with Lessor's dealings with such Person and payable by such Person thereunder.

"Operating Committee" has the meaning given to that term in Section 9(c) of the Lease.

"Operating Expenses" shall mean, with respect to any time period, the out-of-pocket operating and maintenance expenses paid or payable by Lessee (including payments of Rent and payments due under the Mead Note, the Operations and Maintenance Agreement and the Royalty Payment due pursuant to and as defined in Section 1(a) of the Royalty Agreement, but excluding other payments to Affiliates of Lessee) during such period.

"Operation and Maintenance Agreement" means an agreement for the operation and maintenance of the Facility between Lessee and Operator, in form and substance satisfactory to Lessor and Operator, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Operator" means Pacific West Power Service, Inc. or such other operator as is selected by Lessee and approved by Lessor.

"Outstanding Credit" means _____.

"Overall Transaction" has the meaning given to that term in recitals of the Financing Agreement.

"Partnership Agreement" means the Partnership Agreement of Smith Falls Hydropower dated as of December 29, 1988 by and among the General Partners as amended from time to time.

"Payment Date" has the meaning set forth in Section 18(a)(iii) of the Lease.

"Performance Bond" means each Performance Bond issued by each Surety.

"Performance Tests" means the Low-Flow Performance Tests and the High-Flow Performance Tests.

"Permits" means all of the Government Authorizations identified as "Permits" in Schedule V to the Financing Agreement.

"Permitted Liens" means (a) the respective rights of Lessor and a permitted sublessee or assignee as provided in the Lease, (b) Lessor Liens, (c) Liens for taxes either not yet due or being contested in good faith and by appropriate proceedings diligently conducted so long as such proceedings shall stay the enforcement thereof and the sale or forfeiture of the Facility, the Site or any part thereof, title thereto or any interest therein, (d) undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or employees' Liens or other like Liens arising in the ordinary course of business and securing obligations which are not delinquent or which shall have been bonded or the enforcement of which shall have been suspended (but only for the duration of such suspension), (e) only with respect to the Lessee Fee Mortgage, the Mead Mortgage, (f) rights of way, easements or other matters appearing of record, shown on the preliminary title report issued by the Title Company dated _____, 1989 (Order No. _____) and reasonably acceptable to Lessor, (g) liens of Utility on the Smith Falls Assets (as defined in the Agreement of Understanding) to secure Utility's purchase right under the Agreement of Understanding and (h) liens in favor of BayBank on the accounts and receivables of Lessee to secure BayBank's rights under the Royalty Agreement.

"Person" means an individual, a corporation, a partnership, an unincorporated organization, an association, a joint stock company, a joint venture, a trust, an estate, a government or any agency or political subdivision thereof, or other entity, whether acting in an individual, fiduciary, or other capacity.

"Plan Intercreditor Agreement" means the Intercreditor Agreement by and among Lessor, the Yeates Pipe and Supply Co. Profit Sharing Plan and May in the form of Exhibit H(3) to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Plans and Specifications" means the plans and specifications for the construction and design of the Facility, including any document describing the scope of work to be performed by the Contractors under the Construction Contracts or under any other contract or subcontract for the construction of the Facility (including the Transmission Line), all work drawings, engineering and construction schedules, project schedules, project monitoring systems, specifications status lists, material and procurement ledgers, drawings and drawing lists, manpower allocation documents, management and project procedures documents, project design criteria, and any other document referred to in the Constructions Contracts or any of the documents referred to in this definition.

"Pledged Stock" has the respective meaning given to such term in the Intercreditor Agreements.

"Power Purchase Agreement" means the Power Sales and Right to Purchase Agreement dated October 28, 1988, between INE and Hydro as seller and Utility as buyer, as such may be amended, supplemented or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Prime Rate" means the reference rate announced from time to time by Morgan Guaranty Bank as its prime rate.

"Project Manager" means Lessor's in house manager assigned to monitor the construction, operation and maintenance of the Facility.

"Project Policies" has the meaning given to such term in Section 3(a)(vii) of the Financing Agreement.

"Proposed Tax Law Change" means (a) a proposed change in the Code (other than a change in tax rates) contained in (i) a bill approved on or prior to the First Lease Closing Date by the Committee on Ways and Means of the House of Representatives of the United States or the Committee on Finance of the Senate of the United States or a committee of conference between two such houses, or (ii) suggested legislation published in written form and publicly supported on or prior to the First Lease Closing Date by the President of the United States or the Department of the Treasury or (b) a regulation issued in proposed form and published in the Federal Register on or prior to the First Lease Closing Date.

"Prudent Utility Practice" means, at any particular time, any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry at such time, or any of the practices, methods and acts which, in the exercise of reasonable judgement in light of the facts known at the time the decision is made, can be expected to accomplish the desired result at at reasonable cost consistent with good business practices, realiability, safety and expedition, and having due regard for the requirements of the current editions of the National Electrical Safety Code, the National Electric Code and other applicable electrical, safety and maintenance codes and standards, and any Applicable Law.

"PUC" means the Idaho Public Utilities Commission or any successor agency thereto.

"PUHCA" means the Public Utility Holding Company Act of 1935, or any successor statute, each as amended.

"PURPA" means, collectively, the Public Utility Regulatory Policies Act of 1978 or any successor statute thereto and Part 292 of Title 18 of the Code of Federal Regulations, both as amended.

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"PWPC" shall mean Pacific West Power Corp., a Utah corporation.

"QF" means a "qualified small power production facility" as it applies to the Facility and as that term is defined and used in PURPA.

"RCRA" means the Resource Conservation and Recovery Act, as amended.

"Related Construction Documents" means the agreements listed in Section 3(a)(ii) of the Financing Agreement.

"Related Documents" means, collectively, the Related Construction Documents and the Related Lease Documents.

"Related Lease Documents" means the agreements listed in Sections 3(b)(ii) and 3(b)(iii) of the Financing Agreement.

"Renewal Term" means any of the five (5) year time periods during which the Term is extended pursuant to the provisions of Section 6(b) of the Lease.

"Rent" means, collectively and severally, Basic Rent, Excess Rent and Supplemental Rent.

"Rent Payment Date" means June 30 and December 30 of each year during the Term.

"Rent Reserve Fund" means the Rent Reserve Fund Account for the payment of Basic Rent, which Rent Reserve Fund Account is established pursuant to the Rent Reserve Agreement.

"Responsible Officer" means, with respect to the subject matter of any covenant, agreement or obligation of Lessee contained in the Lease, any corporate officer of, or other representative specifically authorized by, a General Partner with respect to Lessee who, in the normal performance of his or her operational responsibilities, would have knowledge of such matter and the requirements of the Lease with respect thereto.

"Request to Pay Construction Costs" means, with respect to a Construction Loan, a list of the Construction Costs to which such Construction Loan is to be applied, substantially in the form of Annex 5 to the Construction Loan Agreement, prepared in accordance with Section 2 of the Construction Loan Agreement and delivered to Account Holder in accordance with the terms of the Construction Escrow Agreement.

"Request to Pay Major Maintenance Costs" means a list of the Major Maintenance Costs incurred by Lessee and to be paid from the funds held in the Major Maintenance Account, substantially in the form of Annex IV to the Escrow Fund Agreement, prepared in accordance with Section 4 of the Escrow Fund Agreement and delivered to Account Holder in accordance with the terms of the Escrow Fund Agreement.

"Revolver Termination Date" means the last day of the Basic Term.

"Revolving Loan" means each of the Loans made to Lessee by Lessor pursuant to the Revolving Loan Agreement as contemplated by the Financing Agreement.

"Revolving Loan Agreement" means the Revolving Loan Agreement, dated as of the First Lease Closing Date, between Lessor and Lessee, in the form of Exhibit M to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Revolving Loan Commitment" has the meaning given to such term in the Revolving Loan Agreement.

"Revolving Loan Period" has the meaning given to such term in the Revolving Loan Agreement.

"Revolving Note" means the promissory note in the form of Appendix A to the Revolving Loan Agreement issued by Lessee to Lessor.

"Royalty Agreement" means the Royalty Agreement dated as of May __, 1989 betweey BayBank and Lessee.

"Sale Leaseback" has the meaning given to such term in the recitals to the Financing Agreement.

"SEC" means the Federal Securities and Exchange Commission or any successor agency thereto.

"Second Large Turbine" means one horizontal pelton turbine with stainless steel pelton runner (1640 mm. in diameter, with twin nozzles and twin deflectors, with an operating speed of 514 rpms).

"Second Lease Closing Date" means the date of the second Closing for Sale Leaseback, which date shall be on or before March 31, 1990.

"70 CFS Water Permit" is the permit to divert an additional 70 cubic feet per second of water for the generation of electricity by the Facility.

"Shareholder" means each shareholder of each of the General Partners and "Shareholders" means all of the Shareholders collectively.

"Shareholder Pledge Agreement" means the Shareholder Pledge Agreement, dated as of the Construction Loan Closing Date, between each Shareholder and Lessor in the form of Exhibit E to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Site" means the Fee Property and the Easements.

"Special Casualty Occurrence" has the meaning set forth in Section 11(c) of the Lease.

"Special Casualty Payment" means the payments due from Lessee in connection with a Special Casualty Occurrence pursuant to Section 11(c) of the Lease.

"Special Counsel" means Orrick, Herrington & Sutcliffe, San Francisco, California.

"State PUC Law" means the Idaho Public Utilities Law, Title 61, Chapter 1, Idaho Code, or any successor statute, each as amended.

"Substantial Completion" means the time when all construction on the Facility is complete and final, excepting the addition of the Second Large Turbine and with the exception of immaterial punch list items approved by Lessor, and all contractors, materialmen and subcontractors have executed lien waivers satisfactory to Lessor with respect to work performed on the Facility (except with respect to work to be performed to install the Second Large Turbine), and the Facility without the Second Large Turbine has satisfactorily passed the Low-Flow Performance Tests.

"Supplemental Rent" has the meaning set forth in Section 5(c) of the Lease.

"Surety" means each of The Continental Insurance Company, Highlands Insurance Company, United States Fidelity Guaranty Company and each other surety to deliver a Performance Bond in connection with a Construction Contract.

"Tax" means any and all fees (including without limitation documentation, license, recording, filing and registration fees), taxes (including, without limitation, income, gross receipts, ad valorem, value added, turnover, sales, stamp, use, personal property (tangible and intangible), stamp, leasing, lease, user, leasing use, excise, franchise, transfer, fuel, excess profits, occupational, interest equalization and other taxes), levies, imposts, duties, charges or withholdings of any nature whatsoever, together with any and all penalties, fines, additions to tax and interest thereon, whether or not such Tax shall be existing or hereinafter adopted. "Taxes" means every such Tax.

"Tax Indemnity Agreement" means the Tax Indemnity Agreement dated as of the First Lease Closing Date, by and between Lessor and Lessee, in the form of Exhibit L to the Financing Agreement, as such may from time to time be supplemented, amended or modified in accordance with its terms and Section 11 of the Financing Agreement.

"Tax Law Change" means a Proposed Tax Law Change which is enacted into law or, if a regulation, which is issued in final or temporary form, on or prior to the end of the 101st Congress.

"Term" means the Basic Term and all Renewal Terms, if any.

"Title Company" means Boundary Abstract Company, Ltd.

"Title Policy" means an ALTA lenders title insurance policy in a form satisfactory to Lessor and Special Counsel.

"Transaction Cost" has the meaning set forth in Section 6 of the Financing Agreement.

"Transmission Line" means the "Smith Falls Line" as defined in the NLI Agreement.

"Transmission Line Transfer Agreeemnt" means an agreeemnt by and among Lessor, Lessee and Northern Lights, Inc., relating to the transfer of the Transmission Line (including the Easements) to Northern Lights, Inc. as contemplated by the NLI Agreement, which agreement shall be in form and substance reasonably satisfactory to Lessor and Northern Lights, Inc.

"Utility" means the Eugene Water and Electric Board, an Oregon corporation.

"Water Permits" means all of the permits identified as "Water Permits" in Schedule V to the Financing Agreement.

"Wheeling Agreement" means the Transmission Agreement, Contract No. DE-MS79-88BP, between the United States of America Department of Energy, acting by and through the Bonneville Power Administration, the City of Eugene, Oregon, and Lessee.

"Yeates" means Charles Yeates, a Utah resident.

"Yeates Intercreditor Agreement" means the Intercreditor Agreement by and among Lessor, Yeates and May in the form of Exhibit H(1) to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"YP&S Intercreditor Agreement" means the Intercreditor Agreement by and among Lessor, the Yeates Pipe and Supply Co. and May in the form of Exhibit H(2) to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

SCHEDULE II

DESCRIPTION OF HYDRO-FLOW PARCEL

TRACT I .

A tract of land in the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) and the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho; more particularly described as follows:

Beginning at the North Quarter corner of said Section Twenty-six (26); thence, along the north line of the section, North 89 degrees 37' 50" East, 1312.18 feet, to the northeast corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4); thence, along the east line of said Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), South 00 degrees 23' 42" East, 790.87 feet to the center of Smith Creek; thence up the center of Smith Creek, South 46 degrees 49' 48" West, 269.42 feet; thence South 33 degrees 31' 15" West, 406.50 feet, to the south line of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4); thence along said south line south 89 degrees 46' 32" West, 43.12 feet; thence North 18 degrees 13' 11" West, 184.00 feet; thence South 89 degrees 46' 32" West, 313.48 feet; thence South 00 degrees 13' 23" East, 175.00 feet; thence South 89 degrees 46' 32" West, 476.29 feet, to the southeast corner of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4); thence North 89 degrees 53' 40" West, 1317.76 feet; thence, along the west line of the Northeast Quarter of the Northwest Quarter, North 00 degrees 02' 06" East, 1313.47 feet, to the north line of Section Twenty-six (26); thence, along the north line of the Section South 89 degrees 42' 17" East, 1310.08 feet, to the TRUE POINT OF BEGINNING.

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SUBJECT to an easement 100 feet in width for access and utilities through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26); said strip being 50 feet on each side of the following described centerline:

Commencing at the southwest corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26); thence North 00 degrees 18' 06" West, along the west line of said Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), 174.01 feet; thence North 89 degrees 41' 54" East, 737.43 feet to the TRUE POINT OF BEGINNING; thence North 18 degrees 13' 13" West, 27.77 feet; thence North 62 degrees 49' 13" West, 68.33 feet; thence North 03 degrees 42' 02" West, 115.88 feet; thence North 25 degrees 59' 34" West, 116.34 feet; thence North 42 degrees 21' 30' East, 130.65 feet; thence North 49 degrees 57' 12" East, 106.56 feet; thence North 01 degrees 39' 14" West, 132.54 feet; thence North 38 degrees 40' 06" West, 96.06 feet; thence North 24 degrees 43' 39" East, 138.37 feet; thence North 07 degrees 38' 20" East, 140.62 feet; thence North 43 degrees 47' 47" East, 220.51 feet; thence North 70 degrees 48' 45" East, 185.01 feet to the westerly right of way of the county road known as the West Side road, and the terminus of this easement; with the sidelines of said easement to intersect the county road right of way and adjacent boundaries.

SUBJECT to an easement 100 feet in width for an electrical transmission line through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26), said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the north line of said Section Twenty-six (26) which is North 89 degrees 37' 58" East, 643.23 feet, from the northwest corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), thence South 00 degrees 26' 19" West, 1135.84 feet to the north boundary of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

(continued)

TRACT II:

A tract of land in the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho; more particularly described as follows:

Beginning at a point on the north line of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26) which is North 89 degrees 46' 32" East, 846.62 feet, from the northwest corner of said quarter; thence North 89 degrees 46' 32" East, 43.12 feet, to the center of Smith Creek; thence, along the center of Smith Creek, South 33 degrees 29' 56" West, 58.38 feet; thence North 12 degrees 40' 05" West, 49.72 feet, to the TRUE POINT OF BEGINNING.

TRACT III:

A tract of land in the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho, more particularly described as follows:

Beginning at the northwest corner of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26); thence, along the north line of said Quarter, North 89 degrees 46' 32" East, 476.29 feet; thence South 00 degrees 13' 23" East, 160.90 feet; thence North 89 degrees 46' 32" East, 319.88 feet, to the center of Smith Creek; thence, up the center of Smith Creek, South 56 degrees 52' 56" West, 158.32 feet; thence, leaving the creek centerline, South 84 degrees 33' 51" West, 665.57 feet, to the west line of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4); thence, along said west line, North 00 degrees 18' 07" West, 307.33 feet, to the TRUE POINT OF BEGINNING.

SUBJECT to an easement 100 feet in width for a pipeline through the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26); said easement being 50 feet on each side of the following described centerline:

Beginning at a point on the west line of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), which is South 00 degrees 18' 07" East, 249.21 feet from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4); thence North 69 degrees 29' 36" East, 507.41 feet, to the west boundary of the above described property with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

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Department of Water Resources

SCHEDULE I

DEFINITIONS

"Account Holder" means First Security Bank of Utah, N.A.

"Affiliate" of any Person means any other Person controlling, controlled by or under direct or indirect common control with such Person. For the purposes of this definition, "control," when used with respect to any specified Person, means the power to direct the management or policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Agreement of Understanding" means the letter agreement between Lessor, Lessee and Utility, in the form of Exhibit N to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"APPC" means American Pacific Power Corp., a Utah corporation.

"Applicable Law" means (a) all applicable federal, state and local statutes, regulations, ordinances and codes, including, without limitation, the Code, the FPA, the PUHCA and the State PUC Law, (b) the Idaho Hazardous Waste Management Act of 1983, as amended, Idaho Code section 39-4401, et seq., the Idaho Environmental Protection and Health Act of 1972, as amended, Idaho Code section 39-101, et seq., the Idaho PCB Disposal Act of 1987, Idaho Code section 39-6201, et seq., and the regulations issued under each of such statutes and (c) all other applicable lawful rules, regulations, interpretations and orders of any commissions, boards or other legislative, executive, judicial or other governmental bodies or officers having power to regulate or supervise the Facility or the Site.

"Appraisal" means a written appraisal (which appraisal shall include component cost segregation) from an Appraiser and in form and substance satisfactory to Lessor stating that, among other things, Lessor's Cost does not exceed the Fair Market Value of the Facility, the estimated residual value of the Facility at the end of the Basic Term will be at least 20% of Lessor's Cost (without regard to inflation or deflation), the Basic Term will not exceed 80% of the economic life of the Facility and the Facility is not limited use property (within the meaning of Revenue Procedure 75-21, 1975-1 C.B. 715, or any other applicable successor statute, regulation, revenue procedure, information release or published Internal Revenue Service policy) and setting forth the economic life of the Facility.

"Appraiser" means a reputable, independent appraiser (who is not a manufacturer of equipment used to generate electrical energy) qualified and experienced in the appraisal of facilities or equipment used for the hydrological generation of electrical energy.

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"Assignment Agreement" means the Asset Sale Agreement between Lessee, Hydro-Flow and INE in the form of Exhibit R to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Authorized Investments" means the investments specified in Schedule I to the Construction Escrow Agreement, the Escrow Fund Agreement and the Lease Payment Agreement.

"AWHI" means America West Hydro, Inc., a Utah corporation.

"Base Case Projections" means a projection of operating results for the Facility over a period ending no sooner than December 31, 2009, showing at a minimum Lessee's reasonable good faith estimates, as of the Construction Loan Closing Date, of revenues, operating expenses, debt service coverage ratios and sources and uses of proceeds over the forecast period, which projection is attached as Schedule IV-B to the Financing Agreement, as the same may be adjusted with Lessor's consent from time to time.

"Basic Rent" means, with respect to any Rent Payment Date during the Basic Term, an amount equal to the Basic Rent Factor set forth opposite such Rent Payment Date on Schedule III annexed to the Lease multiplied by Lessor's Cost, and, with respect to any Rent Payment Date during a Renewal Term, an amount determined as provided in Section 6(b) of the Lease.

"Basic Rent Factor" means the applicable figure set forth on Schedule III annexed to the Lease.

"Basic Term" means the period beginning on the First Lease Closing Date and expiring on the twentieth anniversary of the First Lease Closing Date.

"BayBank" means BayBank Boston, N.A., a national banking association.

"BayBank Loan Agreement" means the Amended and Restated Revolving Loan Facility Agreement dated as of May 3, 1989, among INE, Hydro-Flow and BayBank.

"BayBank Termination Agreement" means the BayBank Boston, N.A. Agreement Regarding Assignments and Loan Agreement Obligations executed by BayBank in connection with the Construction Loan Closing.

"Bill of Sale" means a Bill of Sale, dated as of a Lease Closing Date, and executed by Lessee by which ownership of the property specified therein is to be transferred to Lessor.

"BPA Agreements" means the BPA O&M Agreement, the Breaker Agreement, and the BPA Construction Reimbursement Agreement.

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"BPA Construction Reimbursement Agreement" means the Customer Agreement to be executed between Lessee and BPA pursuant to the Wheeling Agreement.

"BPA O&M Agreement" means the agreement to be executed between BPA and Lessee regarding the operation and maintenance of the substation to be constructed to interconnect the Transmission Line with the BPA transmission system.

"Breaker Agreement" means the agreement to be executed between BPA and Lessee regarding the rental of a gas breaker from BPA to Lessee.

"Business Day" means any day other than a Saturday or a Sunday or a day on which commercial banking institutions in Salt Lake City, Utah, or in New York, New York, are authorized or required by law to be closed. Any reference in the Fundamental Agreements to "days" (unless Business Days are specified) shall mean calendar days.

"Casualty Loss Payment Date" means the thirtieth day (or the last day of such month if such month is February) of the first month following the date on which (a) Lessee should have notified Lessor of a Casualty Occurrence pursuant to Section 11(b)(i) of the Lease or (b) the Lease terminates pursuant to Section 11(c)(i) of the Lease.

"Casualty Loss Value" means (a) as of any date during the Basic Term the amount determined by multiplying the appropriate percentage on Schedule III annexed to the Lease by Lessor's Cost, and (b) as of any date during a Renewal Term, the amount determined pursuant to Section 6(b) of the Lease.

"Casualty Occurrence" has the meaning set forth in Section 11(b)(i) of the Lease.

"Casualty Payment" has the meaning set forth in Section 11(b)(ii) of the Lease.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., as amended.

"Certificate of Delivery and Acceptance" means either Certificate of Delivery and Acceptance, dated as of a the First Lease Closing Date or the Second Lease Closing Date, executed by Lessee in accordance with the terms of Section 3 of the Lease.

"Closing" shall mean each Closing described in Section 2 of the Financing Agreement.

"Code" means the Internal Revenue Code of 1986, as amended, or any successor tax code thereto.

"Collateral" means every item of "Collateral" as defined in each of the Collateral Documents.

"Collateral Documents" means each of the Lessee Fee Mortgage, the Lessee Easement Mortgage, each General Partner Pledge and Security Agreement, each Shareholder Pledge Agreement, the Hydro-Flow Pledge and Security Agreement, the Hydro-Flow Mortgage, the INE Security Agreement, the Intercreditor Agreement, the Construction Escrow Agreement, the Lease Payment Agreement and the Escrow Fund Agreement.

"Collection Agreement" means the Collection Agreement for Project Construction, Collection Agreement Number 1, between INE and Idaho Panhandle National Forest, USDA-Forest Service, dated February 22, 1989, as such Collection Agreement has been assigned from INE to Lessee.

"Commitment" with respect to the Construction Loans, shall have the meaning as defined in Section 1.01 of the Construction Loan Agreement. "Commitment" with respect to the Revolving Loans shall have the meaning as defined in Section 1.01 of the Revolving Loan Agreement.

"Completion" means the time when all construction on the Facility is complete and final, including the addition of the Second Large Turbine but with the exception of immaterial punch list items approved by Lessor, and all contractors, materialmen and subcontractors have executed lien waivers satisfactory to Lessor with respect to work performed on the Facility, and the Facility with the Second Large Turbine has satisfactorily passed the Low Flow Performance Tests.

"Components" means appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature that from time to time may be incorporated or installed in or attached to the Site or incorporated into the Facility, including without limitation any spare parts that are included as part of the Facility.

"Condemning Authority" shall have the meaning as defined in Section 3.10 of the Construction Loan Agreement.

"Consent to Assignment" means each consent to assignment of a Related Document from Hydro-Flow or INE to Lessee and consent to assignment for security of such Related Agreement from Lessee to Lessor, executed by each party to the Related Documents.

"Construction Budget" has the meaning given to such term in Section 3(a)(xxxii) of the Financing Agreement.

"Construction Contract" means each of the contacts listed on Schedule III to the Financing Agreement as amended from time to time and each contract and agreement relating to construction on the Facility and each contract and agreement for the supply of materials or engineering services in connection with the Facility.

"Construction Costs" shall mean (i) amounts payable under the Construction Contracts, (ii) capitalized interest on the Construction Loans as computed monthly, (iii) fees and expenses of Lender, as provided in the

Fundamental Agreements, (iv) amounts due to repay BayBank under the BayBank Loan Agreement; (v) the Royalty Payment due to BayBank pursuant to and as defined in Section 1(a) of the Royalty Agreement, (vi) amounts paid to Mead under the Mead Note and the Mead Contract, (vii) the payment of $50,000 made to Mortenson; and (viii) such other reasonable costs, expenses and fees (including attorneys' fees) of Lessee incurred in connection with the Closings which are to occur on the First Lease Closing Date and the Second Lease Closing Date.

"Construction Escrow Account" shall mean the account for the deposit of Construction Loan proceeds and other moneys established pursuant to the Construction Escrow Agreement.

"Construction Escrow Agreement" shall mean the Construction Escrow Agreement, in the form of Exhibit Q to the Financing Agreement, between Lessee, Lessor and Account Holder, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Construction Loan" means each of the Loans made to Lessee by Lessor pursuant to the Construction Loan Agreement as contemplated by the Financing Agreement.

"Construction Loan Agreement" means the Construction Loan Agreement, dated as of the Construction Loan Closing Date, between Lessor and Lessee, and in the form of Exhibit A to the Financing Agreement as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Construction Loan Closing Date" means the Closing for the execution of the Construction Loan Agreement.

"Construction Loan Commitment" means the "Commitment" as such term is defined in the Construction Loan Agreement.

"Construction Loan Date" means, with respect to each Construction Loan, the date that such Construction Loan is deposited into the Construction Escrow Account.

"Construction Loan Expiration Date" shall mean the earlier of March 31, 1990 and the Second Lease Closing Date.

"Construction Loan Period" has the meaning given to such term in the Construction Loan Agreement.

"Construction Note" means the promissory note in the form of Appendix A to the Construction Loan Agreement issued by Lessee to Lessor.

"Construction Schedule" shall mean the schedule for constructing the Facility setting forth in reasonable detail the planned commencement and completion dates for each major phase of construction which schedule is attached as Schedule IV-C to the Financing Agreement, as the same may be adjusted with Lessor's consent from time to time.

"Contractors" means each of the major contractors for the construction on and the supply of materials to the Facility, including, without limitation, O & F Construction, S.E. Incorporated, Alcoa/ACPC, Inc., Bouvier Hydropower, Lapp Insulator Company, Montana Ekectric Supply, Sorenson Engineering, SSR Engineers, Inc., Taylor Lumber and Treating, Inc., Thompson Pipe & Steel and Delta Star.

"Controlled Group" means, with respect to any Person, all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with such Person, are treated as a single employer under Section 414(b) or 414(c) of the Code.

"Default" with respect to any agreement means any event that with notice or lapse of time, or both, would become an Event of Default under such agreement.

"Default Rate" means a per annum rate of interest equal to the Prime Rate plus three and one-half percent (3 1/2%), but in no event more than the maximum contract rate permitted under applicable law.

"Dimark" means The Dimark Company.

"Easements" means the easements listed on Schedule VI to the Financing Agreement, as such schedule is updated from time to time.

"Engineer's Certificate" means each certificate of the Independent Engineer delivered pursuant to Section 2.02 of the Construction Loan Agreement.

"EPA" means the federal Environmental Protection Agency or any successor agency thereto.

"ERISA" means the Employee Retirment Income Security Act of 1974, as amended.

"ERISA Plan" means, with respect to any Person, any employee benefit plan within the meaning of Section 3(3) of ERISA and any multiemployer plan within the meaning of Section 4001(a)(3) of ERISA, which covers employees of such Person or any of its Affiliates or any member of the Controlled Group.

"Escrow Account" means the Escrow Account for the payment of operating expenses with respect to the Facility, which Escrow Account is established pursuant to the Escrow Fund Agreement.

"Escrow Fund Agreement" means the Escrow Fund Agreement dated the First Lease Closing Date, in the form of Exhibit O to the Financing Agreement, between Lessor, Lessee and Account Holder, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Event of Default" means with respect to any agreement any of the events or conditions specified as such in the applicable section of such agreement.

"Event of Eminent Domain" means any compulsory transfer or taking by condemnation, eminent domain or exercise of a similar power, or transfer under threat of such compulsory transfer or taking, of any part of the Collateral by any agency, department, authority, commission, board, instrumentality or political subdivision of the State of Idaho, the United States or another government having jurisdiction.

"Excess Rent" has the meaning set forth in Section 5(b) of the Lease.

"Execution Date" means the date on which all of the parties to the Financing Agreement execute such agreement.

"Expiration Date" means the last day of the Term of the Lease.

"Facility" means the water powered facility for the generation of electrical energy located on the Site in Boundary County, Idaho (including without limitation the Transmission Line), sold to Lessor on the First Lease Closing Date and the Second Lease Closing Date, including without limitation any and all alterations and Components from time to time incorporated in or installed as part of such Facility and which, pursuant to Section 8 of the Lease, become the property of Lessor.

"Facility Income" means, for any period, all payments received during such period from Utility under the Power Purchase Agreement.

"Fair Market Rental Value" means an amount equal to the rental of the Leased Property that would be obtained in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease. Fair Market Rental Value shall, for purposes of Section 6 of the Lease, be determined on the basis that the Leased Property has been maintained in all respects in accordance with the provisions of the Lease (whether or not all or any part thereof is in fact in such condition), and otherwise Fair Market Rental Value shall be determined on an "as is, where is" basis.

"Fair Market Value" means an amount equal to the value that would be obtained in an arm's-length transaction between an informed and willing buyer-user (other than a buyer currently in possession or a used equipment dealer) and an informed and willing seller under no compulsion to sell. Fair Market Value shall, for purposes of Section 6 of the Lease, be determined on the basis that the Leased Property has been maintained in all respects in accordance with the provisions of the Lease (whether or not all or any part thereof is in fact in such condition), and otherwise Fair Market Value shall be determined on an "as is, where is" basis. In all cases Fair Market Value shall be determined assuming that the Facility and the Site are not encumbered by the Lease. For purposes of Section 6 of the Lease, costs of removal of the Facility from the Site shall not be a deduction from such value. No value

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shall be ascribed (a) to the use of the Site other than for the purposes set out in the Site Lease or (b) to additions or improvements made by Lessee pursuant to Sections 8(c) or (d) of the Lease.

"Fee Property" has the meaning given to that term in the Lessee Fee Mortgage.

"FERC" means the Federal Energy Regulatory Commission or any successor agency thereto.

"FERC Counsel" means Bishop, Cook, Purcell & Reynolds.

"FERC License" means the FERC License for Project No. 8436 issued April 10, 1987 to INE, as amended from time to time.

"FERC License Amendment" means amendments to the FERC License which shall: (a) assign the FERC License to Lessee, (b) increase the permissable capacity of the Facility to 38.15 mW, (c) change the recreational facilities improvements requirements, (d) authorize the addition of a pygmy turbine to the Facility, and (e) change the period of flushing flow from 10 days to 3 days and change the level of flushing flow.

"FERC Recertification" means a recertification by FERC that the Facility is a QF with a generating capacity of 38.15 mW.

"Final Payment" has the meaning given to such term in Section 1(a)(ii) of the Financing Agreement.

"Financing Agreement" means the Financing Agreement dated as of [A], 1989, by and among Lessor, Lessee, the General Partners, INE and Hydro, as such may be amended, supplemented or modified from time to time in accordance with its terms.

"First Lease Closing Date" means the date of the first Closing for Sale Leaseback, which date shall be on or before March 31, 1990.

"FPA" means the Federal Power Act or any successor statute, each as amended.

"Fundamental Agreements" means, collectively, each of the Fundamental Construction Agreements and each of the Fundamental Lease Agreements.

"Fundamental Construction Agreements" means each of the agreements listed in Section 3(a)(i) of the Financing Agreement.

"Fundamental Lease Agreements" means each of the agreements listed in Section 3(b)(i) of the Financing Agreement.

"GAAP" means generally accepted accounting principles consistently applied.

"General Partner" means each of APPC, PWPC, AWHI and "General Partners" means all of the General Partners collectively.

"General Partner Documents" has the meaning as defined in Section 4(c)(ii) of the Financing Agreement.

"General Partner Pledge and Security Agreement" means the General Partner Pledge and Security Agreement, dated as of the Construction Loan Closing Date, between each General Partner and Lessor in the form of Exhibit D to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Ground Lease" means the lease of the Site from Lessee to Lessor, dated as of the First Lease Closing Date in the form of Exhibit J to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Governmental Authorization" means any consent, right, exemption, concession, permit, license, authorization, certificate, order, franchise, determination, or approval of any federal, state, municipal or governmental department, commission, board, bureau, agency or instrumentality, including without limitation, the PUC, the FERC and the SEC, with respect to or in connection with the Facility or the Site.

"High-Flow Performance Tests" means the performance tests established by the Independent Engineer to measure the electrical generating capacity and capabilities of the Facility during periods of high water flow.

"Hydro-Flow" means Hydro-Flow, Inc., a Utah corporation.

"Hydro-Flow Documents" means the Hydro-Flow Pledge and Security Agreement, the Hydro-Flow Mortgage, the Assignment Agreement and each other document, instrument and agreement executed by Hydro-Flow in connection with the Overall Transaction.

"Hydro-Flow Parcel" has the meaning given to that term in the Hydro-Flow Mortgage.

"Hydro-Flow Pledge and Security Agreement" means the Hydro-Flow Pledge and Security Agreement dated as of the Construction Loan Closing Date, between Lessor and Hydro-Flow in the form of Exhibit F-1 to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Hydro-Flow Mortgage" shall mean the Indenture of Mortgage, Deed of Trust and Assignment of Rents, between Hydro-Flow, Lessor and a trustee, in the form of Exhibit F-2 to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Indebtedness" shall mean all obligations of Lessee for borrowed money, all obligations of Lessee evidenced by bonds, debentures, notes or other similar instruments, all obligations of Lessee to pay the deferred purchase price of property, all lease obligations of Lessee that, in accordance with GAAP, are required to be capitalized on the books of a lessee, any obligation or liability of any Person secured by a Lien on any asset of Lessee, whether or not such obligation or liability is assumed, and all other obligations or liabilities of Lessee which are required to be shown as debt on the balance sheet of Lessee.

"Independent Engineer" means Ott Engineering, Inc.

"Initial Payment" has the meaning given to such term in Section 1(a)(ii) of the Financing Agreement.

"INE" means Idaho Natural Energy, Inc., an Idaho corporation.

"INE Documents" means the INE Security Agreement, the Assignment Agreement and each other document, instrument and agreement executed by INE in connection with the Overall Transaction.

"INE Security Agreement" means the INE Security Agreement, dated as of the Construction Loan Closing Date, between INE and Lessor in the form of Exhibit G to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Intercreditor Agreements" means the Yeates Intercreditor Agreement, the Plan Intercreditor Agreement and the YP&S Intercreditor Agreement.

"Lease" means the Facility and Site Lease, dated as of the First Lease Closing Date, between Lessor and Lessee in the form of Exhibit K to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Lease Payment Account" means the account established pursuant to the Lease Payment Agreement.

"Lease Payment Agreement" means the Lease Payment Reserve Agreement, dated as of the First Lease Closing Date, between Lessor, Lessee and Account Holder in the form of Exhibit P to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Leased Property" has the meaning set forth in Section 2 of the Lease.

"Lessee" means Smith Falls Hydropower, a Utah general partnership.

"Lessee Documents" has the meaning set forth in Section 4(b)(ii) of the Financing Agreement.

"Lessee Easement Mortgage" shall mean the Indenture of Mortgage, Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing between Lessee, Lessor and a trustee, in the form of Exhibit C to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Lessee Fee Mortgage" shall mean the Indenture of Mortgage, Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing between Lessee, Lessor and a trustee, in the form of Exhibit B to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Lessor" means Westinghouse Credit Corporation, a Delaware corporation.

"Lessor Lien" means any Lien arising as a result of (a) a claim against Lessor not related to the Overall Transactions, (b) taxes imposed against Lessor which are not indemnified against by Lessee pursuant to the Financing Agreement, the Lease or the Tax Indemnity Agreement or (c) a claim against Lessor arising out of the voluntary transfer by Lessor (without the consent of Lessee) of its interest in the Leased Property or any part thereof at any time no Default shall have occurred and be continuing, other than a transfer of any such interest pursuant to Section 11 or 13 of the Lease.

"Lessor's Cost" means the lesser of (a) the Fair Market Value of the Facility as set forth in the Appraisal or (b) $23,450,000.

"Lien" means any mortgage, pledge, lien, charge, attachment, levy, security interest or lease (including without limitation any conditional sale agreement, equipment trust agreement or other title retention agreement) or other encumbrance of whatsoever nature.

"Low-Flow Performance Tests" means the performance tests established by the Independent Engineer to measure the electrical generating capacity and capabilities of the Facility during periods of low water flow.

"Low Water Year" shall have the meaning as set forth in Exhibit C to the Revolving Credit Agreement.

"Major Maintenance Account" means the Major Maintenance Account Account for the payment of Major Maintenance Expenses with respect to the Facility, which Major Maintenance Account is established pursuant to the Escrow Fund Agreement.

"Major Maintenance Expenses" means periodic expenses for major repairs, replacements or overhauls of the Facility or the Components.

"maturity" shall mean, with respect to each Construction Loan or Revolving Loan, the maturity thereof, whether such maturity occurs on the Construction Loan Expiration Date or the Revolver Termination Date, as applicable, upon prepayment of the Construction Loans or the Revolving Loans, as applicable, or otherwise.

"May" means Gary E. May, a Utah resident.

"Mead Contract" means the Purchase Agreement and Related Closing Instructions dated as of October 14, 1988, between Hydro-Flow and Mead, as Hydro-Flow's rights and obligations under such Mead Contract have been assigned and delegated to Lessee pursuant to the Assignment Agreement.

"Mead Note" means the Promissory Note in the principal amount of $342,000 executed by Hydro-Flow in favor of Mead, as Hydro-Flow's obligations under such Mead Note have been delegated to Lessee pursuant to the Assignment Agreement.

"Mead Mortgage" means the real estate mortgage executed by Hydro-Flow in favor of Mead dated November 4. 1988, and recorded in the Official Records of Boundary Coundy, Idaho, on November 4, 1988, as Instrument Number 156832, as such Mead Mortgage was assigned by Hydro-Flow to the Partnership in connection with the Construction Loan Closing and as such Mead Mortgage was partially released by Mead in connection with the Construction Loan Closing.

"Monitoring Agreement" has the meaning given to that term in Section 9(c) of the Lease.

"Monitoring Consultant" has the meaning given to that term in Section 9(c) of the Lease.

"Mortenson" means Elizabeth Mortenson, a California resident.

"Mortgages" means the Lessee Fee Mortgage, the Lessee Easement Mortgage and the Hydro-Flow Mortgage.

"Net Economic Return" means Lessor's after-tax rate of return on investment and after-tax cash flow (computed in accordance with the multiple investment sinking fund method used by Lessor) which Lessor anticipates, as of the date of the Financing Agreement, that it would obtain from entering into the transactions contemplated by the Financing Agreement.

"NLI Agreement" means the Agreement for the Construction, Ownership, Operation and Maintenance of the Smith Falls Transmission Line, executed by Lessee and Northern Lights, Inc.

"NLI Easement" means the easement from NLI to Lessee granting to Lessee an easement to use NLI's existing easement along the route of the Transmission Line.

"Notes" means the Construction Note and the Revolving Note.

"Notice of Borrowing" shall have the meaning as defined in Section 1.01 of the Construction Loan Agreement.

"Notice of Revolver Borrowing" shall have the meaning as defined in Section 1.02(b) of the Revolving Loan Agreement.

"Obligations" shall mean and include, with respect to Lessee, any General Partner, any Shareholder, Hydro-Flow or INE, all loans, advances, debts, liabilities, and obligations, howsoever arising, owed by such Person to Lessor of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payments of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising pursuant to the terms of any of the Fundamental Agreements, including without limitation all interest, fees, charges, expenses, attorneys' fees and accountants' fees chargeable to such Person in connection with Lessor's dealings with such Person and payable by such Person thereunder.

"Operating Committee" has the meaning given to that term in Section 9(c) of the Lease.

"Operating Expenses" shall mean, with respect to any time period, the out-of-pocket operating and maintenance expenses paid or payable by Lessee (including payments of Rent and payments due under the Mead Note, the Operations and Maintenance Agreement and the Royalty Payment due pursuant to and as defined in Section 1(a) of the Royalty Agreement, but excluding other payments to Affiliates of Lessee) during such period.

"Operation and Maintenance Agreement" means an agreement for the operation and maintenance of the Facility between Lessee and Operator, in form and substance satisfactory to Lessor and Operator, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Operator" means Pacific West Power Service, Inc. or such other operator as is selected by Lessee and approved by Lessor.

"Outstanding Credit" means _____.

"Overall Transaction" has the meaning given to that term in recitals of the Financing Agreement.

"Partnership Agreement" means the Partnership Agreement of Smith Falls Hydropower dated as of December 29, 1988 by and among the General Partners as amended from time to time.

"Payment Date" has the meaning set forth in Section 18(a)(iii) of the Lease.

"Performance Bond" means each Performance Bond issued by each Surety.

"Performance Tests" means the Low-Flow Performance Tests and the High-Flow Performance Tests.

"Permits" means all of the Government Authorizations identified as "Permits" in Schedule V to the Financing Agreement.

"Permitted Liens" means (a) the respective rights of Lessor and a permitted sublessee or assignee as provided in the Lease, (b) Lessor Liens, (c) Liens for taxes either not yet due or being contested in good faith and by appropriate proceedings diligently conducted so long as such proceedings shall stay the enforcement thereof and the sale or forfeiture of the Facility, the Site or any part thereof, title thereto or any interest therein, (d) undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or employees' Liens or other like Liens arising in the ordinary course of business and securing obligations which are not delinquent or which shall have been bonded or the enforcement of which shall have been suspended (but only for the duration of such suspension), (e) only with respect to the Lessee Fee Mortgage, the Mead Mortgage, (f) rights of way, easements or other matters appearing of record, shown on the preliminary title report issued by the Title Company dated _____, 1989 (Order No. _____) and reasonably acceptable to Lessor, (g) liens of Utility on the Smith Falls Assets (as defined in the Agreement of Understanding) to secure Utility's purchase right under the Agreement of Understanding and (h) liens in favor of BayBank on the accounts and receivables of Lessee to secure BayBank's rights under the Royalty Agreement.

"Person" means an individual, a corporation, a partnership, an unincorporated organization, an association, a joint stock company, a joint venture, a trust, an estate, a government or any agency or political subdivision thereof, or other entity, whether acting in an individual, fiduciary, or other capacity.

"Plan Intercreditor Agreement" means the Intercreditor Agreement by and among Lessor, the Yeates Pipe and Supply Co. Profit Sharing Plan and May in the form of Exhibit H(3) to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Plans and Specifications" means the plans and specifications for the construction and design of the Facility, including any document describing the scope of work to be performed by the Contractors under the Construction Contracts or under any other contract or subcontract for the construction of the Facility (including the Transmission Line), all work drawings, engineering and construction schedules, project schedules, project monitoring systems, specifications status lists, material and procurement ledgers, drawings and drawing lists, manpower allocation documents, management and project procedures documents, project design criteria, and any other document referred to in the Constructions Contracts or any of the documents referred to in this definition.

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"Pledged Stock" has the respective meaning given to such term in the Intercreditor Agreements.

"Power Purchase Agreement" means the Power Sales and Right to Purchase Agreement dated October 28, 1988, between INE and Hydro as seller and Utility as buyer, as such may be amended, supplemented or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Prime Rate" means the reference rate announced from time to time by Morgan Guaranty Bank as its prime rate.

"Project Manager" means Lessor's in house manager assigned to monitor the construction, operation and maintenance of the Facility.

"Project Policies" has the meaning given to such term in Section 3(a)(vii) of the Financing Agreement.

"Proposed Tax Law Change" means (a) a proposed change in the Code (other than a change in tax rates) contained in (i) a bill approved on or prior to the First Lease Closing Date by the Committee on Ways and Means of the House of Representatives of the United States or the Committee on Finance of the Senate of the United States or a committee of conference between two such houses, or (ii) suggested legislation published in written form and publicly supported on or prior to the First Lease Closing Date by the President of the United States or the Department of the Treasury or (b) a regulation issued in proposed form and published in the Federal Register on or prior to the First Lease Closing Date.

"Prudent Utility Practice" means, at any particular time, any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry at such time, or any of the practices, methods and acts which, in the exercise of reasonable judgement in light of the facts known at the time the decision is made, can be expected to accomplish the desired result at at reasonable cost consistent with good business practices, realiability, safety and expedition, and having due regard for the requirements of the current editions of the National Electrical Safety Code, the National Electric Code and other applicable electrical, safety and maintenance codes and standards, and any Applicable Law.

"PUC" means the Idaho Public Utilities Commission or any successor agency thereto.

"PUHCA" means the Public Utility Holding Company Act of 1935, or any successor statute, each as amended.

"PURPA" means, collectively, the Public Utility Regulatory Policies Act of 1978 or any successor statute thereto and Part 292 of Title 18 of the Code of Federal Regulations, both as amended.

"PWPC" shall mean Pacific West Power Corp., a Utah corporation.

"QF" means a "qualified small power production facility" as it applies to the Facility and as that term is defined and used in PURPA.

"RCRA" means the Resource Conservation and Recovery Act, as amended.

"Related Construction Documents" means the agreements listed in Section 3(a)(ii) of the Financing Agreement.

"Related Documents" means, collectively, the Related Construction Documents and the Related Lease Documents.

"Related Lease Documents" means the agreements listed in Sections 3(b)(ii) and 3(b)(iii) of the Financing Agreement.

"Renewal Term" means any of the five (5) year time periods during which the Term is extended pursuant to the provisions of Section 6(b) of the Lease.

"Rent" means, collectively and severally, Basic Rent, Excess Rent and Supplemental Rent.

"Rent Payment Date" means June 30 and December 30 of each year during the Term.

"Rent Reserve Fund" means the Rent Reserve Fund Account for the payment of Basic Rent, which Rent Reserve Fund Account is established pursuant to the Rent Reserve Agreement.

"Responsible Officer" means, with respect to the subject matter of any covenant, agreement or obligation of Lessee contained in the Lease, any corporate officer of, or other representative specifically authorized by, a General Partner with respect to Lessee who, in the normal performance of his or her operational responsibilities, would have knowledge of such matter and the requirements of the Lease with respect thereto.

"Request to Pay Construction Costs" means, with respect to a Construction Loan, a list of the Construction Costs to which such Construction Loan is to be applied, substantially in the form of Annex 5 to the Construction Loan Agreement, prepared in accordance with Section 2 of the Construction Loan Agreement and delivered to Account Holder in accordance with the terms of the Construction Escrow Agreement.

"Request to Pay Major Maintenance Costs" means a list of the Major Maintenance Costs incurred by Lessee and to be paid from the funds held in the Major Maintenance Account, substantially in the form of Annex IV to the Escrow Fund Agreement, prepared in accordance with Section 4 of the Escrow Fund Agreement and delivered to Account Holder in accordance with the terms of the Escrow Fund Agreement.

"Revolver Termination Date" means the last day of the Basic Term.

"Revolving Loan" means each of the Loans made to Lessee by Lessor pursuant to the Revolving Loan Agreement as contemplated by the Financing Agreement.

"Revolving Loan Agreement" means the Revolving Loan Agreement, dated as of the First Lease Closing Date, between Lessor and Lessee, in the form of Exhibit M to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Revolving Loan Commitment" has the meaning given to such term in the Revolving Loan Agreement.

"Revolving Loan Period" has the meaning given to such term in the Revolving Loan Agreement.

"Revolving Note" means the promissory note in the form of Appendix A to the Revolving Loan Agreement issued by Lessee to Lessor.

"Royalty Agreement" means the Royalty Agreement dated as of May __, 1989 betweey BayBank and Lessee.

"Sale Leaseback" has the meaning given to such term in the recitals to the Financing Agreement.

"SEC" means the Federal Securities and Exchange Commission or any successor agency thereto.

"Second Large Turbine" means one horizontal pelton turbine with stainless steel pelton runner (1640 mm. in diameter, with twin nozzles and twin deflectors, with an operating speed of 514 rpms).

"Second Lease Closing Date" means the date of the second Closing for Sale Leaseback, which date shall be on or before March 31, 1990.

"70 CFS Water Permit" is the permit to divert an additional 70 cubic feet per second of water for the generation of electricity by the Facility.

"Shareholder" means each shareholder of each of the General Partners and "Shareholders" means all of the Shareholders collectively.

"Shareholder Pledge Agreement" means the Shareholder Pledge Agreement, dated as of the Construction Loan Closing Date, between each Shareholder and Lessor in the form of Exhibit E to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"Site" means the Fee Property and the Easements.

"Special Casualty Occurrence" has the meaning set forth in Section 11(c) of the Lease.

"Special Casualty Payment" means the payments due from Lessee in connection with a Special Casualty Occurrence pursuant to Section 11(c) of the Lease.

"Special Counsel" means Orrick, Herrington & Sutcliffe, San Francisco, California.

"State PUC Law" means the Idaho Public Utilities Law, Title 61, Chapter 1, Idaho Code, or any successor statute, each as amended.

"Substantial Completion" means the time when all construction on the Facility is complete and final, excepting the addition of the Second Large Turbine and with the exception of immaterial punch list items approved by Lessor, and all contractors, materialmen and subcontractors have executed lien waivers satisfactory to Lessor with respect to work performed on the Facility (except with respect to work to be performed to install the Second Large Turbine), and the Facility without the Second Large Turbine has satisfactorily passed the Low-Flow Performance Tests.

"Supplemental Rent" has the meaning set forth in Section 5(c) of the Lease.

"Surety" means each of The Continental Insurance Company, Highlands Insurance Company, United States Fidelity Guaranty Company and each other surety to deliver a Performance Bond in connection with a Construction Contract.

"Tax" means any and all fees (including without limitation documentation, license, recording, filing and registration fees), taxes (including, without limitation, income, gross receipts, ad valorem, value added, turnover, sales, stamp, use, personal property (tangible and intangible), stamp, leasing, lease, user, leasing use, excise, franchise, transfer, fuel, excess profits, occupational, interest equalization and other taxes), levies, imposts, duties, charges or withholdings of any nature whatsoever, together with any and all penalties, fines, additions to tax and interest thereon, whether or not such Tax shall be existing or hereinafter adopted. "Taxes" means every such Tax.

"Tax Indemnity Agreement" means the Tax Indemnity Agreement dated as of the First Lease Closing Date, by and between Lessor and Lessee, in the form of Exhibit L to the Financing Agreement, as such may from time to time be supplemented, amended or modified in accordance with its terms and Section 11 of the Financing Agreement.

"Tax Law Change" means a Proposed Tax Law Change which is enacted into law or, if a regulation, which is issued in final or temporary form, on or prior to the end of the 101st Congress.

"Term" means the Basic Term and all Renewal Terms, if any.

"Title Company" means Boundary Abstract Company, Ltd.

"Title Policy" means an ALTA lenders title insurance policy in a form satisfactory to Lessor and Special Counsel.

"Transaction Cost" has the meaning set forth in Section 6 of the Financing Agreement.

"Transmission Line" means the "Smith Falls Line" as defined in the NLI Agreement.

"Transmission Line Transfer Agreeemnt" means an agreeemnt by and among Lessor, Lessee and Northern Lights, Inc., relating to the transfer of the Transmission Line (including the Easements) to Northern Lights, Inc. as contemplated by the NLI Agreement, which agreement shall be in form and substance reasonably satisfactory to Lessor and Northern Lights, Inc.

"Utility" means the Eugene Water and Electric Board, an Oregon corporation.

"Water Permits" means all of the permits identified as "Water Permits" in Schedule V to the Financing Agreement.

"Wheeling Agreement" means the Transmission Agreement, Contract No. DE-MS79-88BP, between the United States of America Department of Energy, acting by and through the Bonneville Power Administration, the City of Eugene, Oregon, and Lessee.

"Yeates" means Charles Yeates, a Utah resident.

"Yeates Intercreditor Agreement" means the Intercreditor Agreement by and among Lessor, Yeates and May in the form of Exhibit H(1) to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

"YP&S Intercreditor Agreement" means the Intercreditor Agreement by and among Lessor, the Yeates Pipe and Supply Co. and May in the form of Exhibit H(2) to the Financing Agreement, as such agreement may be supplemented, amended or modified from time to time in accordance with its terms and Section 11 of the Financing Agreement.

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Department of Water Resources

SCHEDULE II

DESCRIPTION OF FEE PROPERTY

A tract of land in the West Half of the Northeast Quarter (W 1/2 NE 1/4) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho; more particularly described as follows:

Beginning at a point on the north line of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), which is North 89 degrees 46' 32" East, 476.29 feet from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4); thence North 00 degrees 13' 23" West, 175.00 feet; thence North 89 degrees 46' 32" East, 313.48 feet; thence South 18 degrees 13' 11" East, 184.00 feet; thence South 12 degrees 40' 05" East, 49.72 feet, to the center of Smith Creek; thence up the center of Smith Creek, South 28 degrees 20' 26" West, 127.92 feet; thence leaving the centerline of the creek, South 89 degrees 46' 32" West, 319.88 feet; thence North 00 degrees 13' 23" West, 160.90 feet, to the TRUE POINT OF BEGINNING.

TOGETHER WITH an easement 100 feet in width for access and utilities through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26); said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the north line of the above described property which is South 89 degrees 46' 32" West, 52.57 feet from the northeast corner of the above described property; thence North 18 degrees 13' 13" West, 27.77 feet; thence North 62 degrees 49' 13" West, 68.33 feet; thence North 03 degrees 42' 02" West, 115.88 feet; thence North 25 degrees 59' 34" West, 116.34 feet; thence North 42 degrees 21' 30" East, 130.65 feet; thence North 49 degrees 57' 12" East, 106.56 feet; thence North 01 degrees 39' 14" West, 132.54 feet; thence North 38 degrees 40' 06" West, 96.06 feet; thence North 24 degrees 43' 39" East, 138.37 feet; thence North 07 degrees 38' 20" East, 140.62 feet; thence North 43 degrees 47' 47" East, 220.51 feet; thence North 85 degrees 12' 25" East, 165.20 feet to the westerly right of way of the county road known as the West Side road, and the terminus of this easement; with the sidelines of said easement to intersect the county road right of way and adjacent boundaries.

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TOGETHER WITH an easement 100 feet in width for a pipeline through the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26); said easement being 50 feet on each side of the following described centerline:

Beginning at a point on the west line of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), which is South 00 degrees 18' 07" East, 249.21 feet from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4); thence North 69 degrees 29' 36" East, 507.41 feet, to the west boundary of the above described property with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

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EXHIBIT K
TO THE
FINANCING
AGREEMENT

FACILITY AND SITE LEASE

Dated as of [B]

Between

WESTINGHOUSE CREDIT CORPORATION,

Lessor,

and

SMITH FALLS HYDROPOWER,

Lessee

Hydroelectric Facility
Boundary County, Smith Creek, Idaho

Note: This Facility and Site Lease has been executed in two (2) counterparts of which this is Counterpart Number __. See Section 29 hereof for information concerning the distinction between various counterparts hereof.

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FACILITY AND SITE LEASE

This FACILITY AND SITE LEASE dated as of May 25, 1989, is by and between WESTINGHOUSE CREDIT CORPORATION, a Delaware corporation ("Lessor"), and SMITH FALLS HYDROPOWER, a Utah general partnership ("Lessee").

W I T N E S S E T H :

Section 1. Definitions. The terms in Schedule I annexed hereto shall have the meanings set forth therein for all purposes of this Lease and shall be equally applicable to both the singular and the plural forms of the terms therein defined. References in this Lease to Sections, Schedules, Exhibits and clauses, without further attribution, are intended to refer to Sections, Schedules, Exhibits and clauses of this Lease.

Section 2. Lease of Leased Property. Subject to all of the terms, covenants and conditions of this Lease, Lessor hereby subleases all of its leasehold interest under the Ground Lease in and to the Site and covering the real property described in Schedule II and leases all of its interest in the Facility (such interest of Lessor under the Ground Lease and in and to the Facility is sometimes referred to herein as the "Leased Property") to Lessee, and Lessee hereby leases all of Lessor's interest in and to the Facility and subleases all of Lessor's leasehold interest in the Site under the Site Lease from Lessor, all for the Rent and the Term hereinafter stipulated and upon the terms and conditions herein set forth.

Section 3. Purchase and Lease. Subject to the conditions set forth in Section 3(b) of the Financing Agreement, Lessor agrees on the First Lease Closing Date to purchase the Facility (other than the Second Large Turbine) from Lessee for an amount equal to the Initial Payment and lease the Site from Lessee and lease the Leased Property to Lessee hereunder. Subject to the conditions set forth in Section 3(c) of the Financing Agreement, Lessor agrees on the Second Lease Closing Date to purchase the Second Large Turbine from Lessee for an amount equal to the Final Payment and lease the Second Large Turbine to Lessee hereunder. The leasing on the First Lease Closing Date of the Leased Property hereunder shall be conclusively evidenced by the execution and delivery by Lessee to Lessor of a Certificate of Delivery and Acceptance, substantially in the form of Appendix A and an Acknowledgment from Lessor in the form attached thereto, which certificate and acknowledgment shall evidence acceptance by Lessee and the delivery by Lessor of the portion of the Leased Property described therein for all purposes hereof. The leasing on the Second Lease Closing Date of the Second Large Turbine hereunder shall be conclusively evidenced by the execution and delivery by Lessee to Lessor of a Certificate of Delivery and Acceptance, substantially in the form of Appendix B and an Acknowledgment from Lessor in the form attached thereto, which certificate and

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acknowledgment shall evidence acceptance by Lessee and the delivery by Lessor of the portion of the Leased Property described therein for all purposes hereof.

Section 4. Term of Lease.

(a) Generally. The term of this Lease shall commence on the First Lease Closing Date and, subject to Lessee's renewal option as provided in Section 6, shall end on the Expiration Date unless sooner terminated pursuant to this Section 4 or Sections 11 or 18.

(b) Termination. Lessee and Lessor acknowledge that Utility has the right (the "Purchase Right") to purchase the Facility pursuant to the Power Purchase Agreement as amended by the Agreement of Understanding. If Utility exercises the Purchase Right, this Lease shall terminate as of the Transfer Date upon the purchase by Utility of the Facility and the payment to Lessor by Utility of the Purchase Price and the payment to Lessor by Lessee of (i) all accrued Basic Rent calculated on a pro rata basis due up to but not including the Transfer Date, (ii) all accrued Excess Rent calculated on a pro rata basis due up to but not including the Transfer Date and (iii) any unpaid Supplemental Rent. If (A) the Purchase Right is exercised other than (1) upon the occurrence of a Special Casualty Occurrence or (2) after the termination of this Lease by Lessor upon the occurrence of an Event of Default, and (B) the Purchase Price actually paid by Utility for the Project is greater than the Casualty Loss Value of the Facility as of the Transfer Date, then Lessor shall pay Lessee on the Transfer Date a termination payment equal to forty percent (40%) of the difference. ("Transfer Date," "Purchase Price" and "Project" are used as defined in the Agreement of Understanding.)

Section 5. Payments of Rent.

(a) Basic Rent. Lessee shall pay Basic Rent to Lessor on each Rent Payment Date.

(b) Excess Rent. Lessee shall pay to Lessor as Excess Rent ("Excess Rent") on each Rent Payment Date an amount equal to the amounts specified on Schedule IV for the respective Rent Payment Date.

(c) Supplemental Rent. Lessee shall also pay, as Supplemental Rent, any and all amounts, liabilities and obligations (other than Basic Rent and Excess Rent) which Lessee assumes or agrees to pay hereunder to Lessor or others, including, without limitation, the Casualty Payments, the Special Casualty Payments and the indemnities provided for in Section 19, promptly as the same shall become due and owing. If Lessee fails to pay any Supplemental Rent, Lessor or its assigns shall have all rights, powers and remedies provided for herein or by law or equity or otherwise as in the case of nonpayment of Basic Rent. Lessee shall also pay to Lessor on demand, as Supplemental Rent, to the extent permitted by applicable law, interest at the Default Rate on any part of any installment of Basic Rent, Excess Rent, any Casualty Payment and any Special Casualty Payment not paid when due for the period for which the same shall be overdue and on any other payment of

Supplemental Rent not paid when demanded by Lessor for the period until the same shall be paid.

(d) Obligation to Pay Rent. Each payment of Rent shall be in immediately available funds. This Lease is a net lease and Lessee's obligation to pay all Rent payable hereunder shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation: (i) any setoff, counterclaim, recoupment, deduction, defense or other right which Lessee may have against Lessor, any manufacturer or any one else for any reason whatsoever; (ii) any defect in the title, condition, design, operation, merchantability or fitness for use of any part of the Facility; (iii) the existence of any Liens with respect to the Leased Property, whether or not resulting from claims against Lessor not related to the ownership of the Leased Property; (iv) subject to Sections 11(b) and 11(c), any loss or destruction of, or damage to, any part of the Facility or any interruption or cessation in the use or possession thereof for any reason whatsoever and of whatever duration; (v) the invalidity or unenforceability of this Lease or any other infirmity therein or any lack of power or authority of Lessor or Lessee to enter into this Lease; (vi) any insolvency, bankruptcy, reorganization or similar proceeding by or against Lessee, any General Partner, any Affiliate or Lessor; or (vii) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing. If for any reason whatsoever this Lease shall be terminated in whole or in part by operation of law or otherwise except as specifically provided herein, Lessee nonetheless agrees to pay an amount equal to each payment of Rent at the time such payment would have become due and payable in accordance with the terms hereof had this Lease not been terminated in whole or in part. Lessee hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease, except in accordance with the express terms hereof. Except as provided in Section 5(g) hereof, each payment of Rent made by Lessee shall be final, and Lessee shall not seek to recover all or any part of such payments from Lessor or any other Person for any reason whatsoever. This provision, however, shall not be construed to waive Lessee's right of action, if any, against Lessor or any other Person for damages incurred by Lessee on account of any breach by Lessor or such other Person of any provision of this Lease or any other agreement relating or not relating hereto.

(e) Adjustment of Basic Rent Factors and Casualty Loss Values. The Basic Rent Factors and Casualty Loss Values shall be adjusted upward or downward as soon as possible if any Tax Law Change occurs after the First Lease Closing Date which applies to the Leased Property so as to maintain Lessor's aggregate Net Economic Return with respect to the Leased Property. The amount of any adjustment pursuant to this Section 5(e) shall be determined by Lessor based upon the assumptions and methods of calculations employed in the original calculation of Basic Rent Factors and Casualty Loss Values and shall, in the reasonable opinion of Lessor, satisfy the requirements of Internal Revenue Procedures 75-21 and 75-28. Lessee shall notify Lessor within ten (10) days of receipt of such recalculations if Lessee does not agree therewith and, if requested by Lessee, such recalculation shall be

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verified, at Lessee's expense, by a nationally recognized certified public accounting firm acceptable to Lessor. Such adjustments shall be evidenced by the execution and delivery by Lessor and Lessee of a supplement to this Lease.

(f) Reserve Account; Escrow Account. During the Term, Lessee shall establish and maintain (i) the Lease Payment Reserve Account pursuant to the Lease Payment Reserve Agreement and (ii) the Escrow Account pursuant to the Escrow Fund Agreement.

(g) Overpayments of Rent. If Lessee shall make any payment of Rent hereunder in excess of the amount Lessee is required to pay then either (i) Lessor shall promptly refund such excess amount to Lessee, or (ii) with Lessor's prior written consent, Lessee shall deduct such excess amount from the next payment of Rent due hereunder.

Section 6. Sublease; Renewal Option.

(a) Sublease. Lessee shall not sublease the Leased Property without Lessor's prior written consent, which consent will not be unreasonably withheld. Each sublease, whether or not consented to by Lessor, shall be expressly subject and subordinate to all the terms and conditions of this Lease and shall in no way relieve Lessee from any obligations under this Lease (it being understood and agreed that Lessee shall remain primarily liable for such obligations notwithstanding any such sublease), and Lessee hereby waives any rights it may now have or hereafter acquire to avoid any such obligations by reason of such sublease or any circumstances arising from such sublease. Lessee agrees to indemnify and hold Lessor harmless against any and all reasonable out-of-pocket expenses, claims, demands and liabilities, of whatever nature, relating to or in any way arising out of such sublease, including, without limitation, reasonable out-of-pocket expenses incurred in evaluating any proposed sublease, and all reasonable out-of-pocket costs, damages, charges, attorneys' fees and expenses arising out of or necessitated by assertion of any such claim or demand with regard to such sublease. Any sublease entered into in violation of this Section 6(a) shall be void.

(b) Renewal Option. Upon 12 months' prior written notice, Lessee shall be entitled at the end of the Basic Term and at the end of each of the first three Renewal Terms, to renew this Lease for an additional term of five (5) years provided no Default shall have occurred and be continuing either at the time of election or renewal and provided that the Term of this Lease shall not exceed the expiration date of any Related Lease Document. Each such renewal shall be on the same terms and conditions hereof except (i) the Basic Rent for each Renewal Period shall be an amount equal to the Fair Market Rental Value of the Facility as of the first day of such Renewal Term and (ii) the Casualty Loss Value shall be equal to the Fair Market Value of the Facility as of the first day of such Renewal Term and shall decrease linearly over such Renewal Term to an amount equal to the Fair Market Value of the Facility at the end of such Renewal Term (as estimated as of the first day of such Renewal Term).

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(c) Valuation. Lessee and Lessor agree to negotiate in good faith the Fair Market Value or Fair Market Rental Value, as the case may be, and, if such agreement cannot be reached at least one hundred twenty (120) days prior to the last day of the applicable Term, shall, at Lessee's or Lessor's option, submit the question of value to independent appraisers in the manner specified in Section 14. Lessor and Lessee agree to be bound by the determination of such independent appraisers.

Section 7. Insurance.

(a) Required Insurance Coverages and Limits. Lessee agrees that it will at its own cost and expense and at all times during the Term carry and maintain or cause to be carried and maintained:

(i) Property Insurance -- "all risk" property insurance on the Facility, including without limitation flood and earthquake insurance (to the extent such flood and earthquake coverages are available on commercially practicable terms), in an amount at least equal to the greater of (A) the Casualty Loss Value of the Facility and (B) the replacement value of the Facility;

(ii) Business Interruption Insurance -- business interruption insurance covering actual losses sustained, including without limitation extra and continuing expenses and loss of profit (to the extent such loss of profit coverage is available on commercially practicable terms), covering the corresponding hazards under the "all risk" insurance described in clause (i) above (but only to the extent such coverage is available on commercially practicable terms with respect to flood and earthquake coverage), in an amount at least equal to $3,900,000;

(iii) Worker's Compensation -- worker's compensation insurance with respect to employees of Lessee sufficient to meet the statutory requirements of the State of Idaho and employer's liability insurance in an amount not less than $1,000,000;

(iv) Comprehensive General Liability Insurance -- comprehensive general liability insurance written on an occurrence form including without limitation blanket contractual, personal injury, XCU hazards, products/ completed operations, independent contractors, sudden and accidental pollution, gradual pollution and "failure to supply" in a minimum amount of $1,000,000 combined single limit for bodily injury and property damage on a per occurrence basis, and $2,000,000 annual aggregate; provided that gradual pollution liability, sudden and accidental pollution liability and "failure to supply" liability shall be subject to availability on commercially practicable terms;

(v) Comprehensive Automobile Liability -- comprehensive automobile liability covering all owned, non-owned, leased, and hired vehicles in performance of any obligation under this Lease and shall be in a minimum amount of $1,000,000 combined single limit for bodily injury and property damage on a per occurrence basis;

(vi) Umbrella or Excess Liability Insurance -- umbrella or excess liability in the amount of $9,000,000 per occurrence and $9,000,000 annual aggregate in excess of, and following at a minimum, the terms of the underlying insurance as set forth in clauses (a)(iii), (a)(iv), and (a)(v) above. Alternatively, umbrella or excess liability insurance may be arranged in various layers such that the layers, when combined, will at a minimum equal $9,000,000 per occurrence and $9,000,000 annual aggregate in excess of the underlying insurance as set forth in clauses (a)(iii), (a)(iv), and (a)(v) above; and

(vii) Other Insurance -- such other insurance with respect to the Leased Property in such amounts, against such insurable hazards and in such form, as corporations similar to Lessee owing or leasing and operating similar properties would carry in the prudent management of such properties.

All the foregoing insurance policies shall be subject to such deductible amounts and retentions as are usual and customary for corporations similar to Lessee owning or leasing and operating similar properties, and such deductible amounts and retentions shall in any case be as low as are available on commercially practicable terms. All the foregoing insurance policies shall be in a form acceptable to Lessor and Lessor's insurance consultant. In addition, Lessee shall require worker's compensation employer liability, automobile liability and comprehensive general liability coverage by contractors and major subcontractors at all times that any of the foregoing shall be performing services on the Site or in connection with the Facility in such amounts and types as are required to be maintained by Lessee pursuant to this Section 7.

(b) Policies. All insurance hereunder shall name Lessor and such other parties as Lessor may designate as additional insureds as their respective interests may appear (in the case of insurance required by clause (a)(iii), to the extent permitted under Applicable Law and available from the respective insurers). All insurance referred to in clauses (a)(i) and (a)(ii) above shall name Lessor as loss payee. Lessee agrees to effect all insurance provided for in this Section 7 with insurance companies legally qualified to issue insurance in Idaho and reasonably acceptable to Lessor. All such policies referred to in Section 7(a) and such other policies as to which Lessor is named as an additional insured or loss payee, as the case may be, shall;

(i) Provide that the same shall not be cancelled, materially modified or terminated for reasons other than non-payment without at least sixty (60) days' prior written notice to each insured and each loss payee named therein and for non-payment without at least ten (10) days prior to written notice to each insured and each loss payee named therein;

(ii) Provide for at least sixty (60) days' prior written notice to each insured and each loss payee named therein of the date on which such policies shall terminate by lapse of time if not renewed,

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(iii) Contain a breach-of-warranty clause providing that the respective interests of Lessor or any other additional insured or loss payee shall not be invalidated by any action or inaction of Lessee or any other Person,

(iv) Insure Lessor and any other additional insured or loss payee regardless of any breach or violation by Lessee or any other Person of any warranties, declarations or conditions contained in the policies related to such insurance,

(v) Provide that the insurer thereunder waives all right of subrogation against Lessor and waives any right of set-off or counterclaim and any other right of deduction whether by attachment or otherwise,

(vi) Be primary without right of contribution from any other insurance carried by or on behalf of Lessor with respect to any interest in the Facility,

(vii) Provide further that no person other than Lessee shall have any liability for any premiums with respect thereto, and

(viii) Include a severability of interests endorsement providing that inasmuch as the policies are written to cover more than one insured, all terms and conditions, insuring agreements and endorsements, with the exception of limits of liability, shall operate in the same manner as if there were a separate policy covering each insured.

(c) Certificate. On or prior to each of the First Lease Closing Date and the Second Lease Closing Date, and thereafter not less than five (5) days prior to the expiration dates of the expiring policies required pursuant to this Section 7, Lessee shall deliver to Lessor certificates of insurance issued by the insurers thereunder or by an insurance broker authorized to bind such insurers evidencing the insurance maintained pursuant to this Section 7; provided, however, that if the delivery of any certificate is delayed, Lessee shall deliver an executed binder with respect thereto and shall deliver the formal certificate upon receipt thereof. Upon Lessor's written request, Lessee shall promptly deliver to Lessor copies of the policies of insurance.

(d) Performance by Lessor. If Lessee shall fail to maintain insurance as herein provided, Lessor may at its option, but without obligation, provide such insurance and, in such event, Lessee shall, upon demand from time to time, reimburse Lessor for the cost thereof, together with interest on such cost at the Default Rate computed from the date of payment of such cost to the date of reimbursement.

(e) Separate Insurance. Nothing in this Section 7 shall be construed to prohibit Lessor from insuring at its own expense the Leased Property or its interest therein, and any insurance so maintained shall not provide for or result in a reduction of the coverage or the amounts payable under any of the insurance required to be maintained by Lessee under this

Section 7. If Lessor purchases additional insurance, the parties hereto agree that any insurance provided by Lessee pursuant to this Section 7 shall be considered primary.

Section 8. Additions and Improvements.

(a) Generally. Lessee at its own expense may from time to time make such addition or improvement to the Facility as Lessee may deem desirable in the proper conduct of its business and that will not damage the Facility or its productive capacity and will not be inconsistent with the continuing operation of the Facility in accordance with its original functional purpose, provided that (i) any such addition or improvement made by Lessee pursuant to this Section 8(a) shall not diminish the Fair Market Value, productive capacity or useful life of the Facility below the Fair Market Value, productive capacity or useful life thereof immediately prior to such addition or improvement, (ii) any such addition or improvement made by Lessee pursuant to this Section 8(a) shall be made in compliance with Applicable Laws, and (iii) any such actions shall not cause this Lease to lose its characterization as a true lease for United States federal income tax purposes (as interpreted in Internal Revenue Service ruling policy set forth, to the extent then applicable, in Rev. Proc. 75-21, 1975-1 C.B. 715, Rev. Proc. 75-28, 1975-1 C.B. 752, Rev. Proc. 76-30, 1976-2 C.B. 647, and Rev. Proc. 79-48, 1979-2 C.B. 529 or any other applicable statute, regulation, Revenue Procedure, Revenue Ruling, information release, or other published Internal Revenue Service policy).

(b) Compliance With Law. Lessee agrees to make, at its own expense and without offset for Rent due hereunder, any addition or improvement required to be made to the Facility in order to satisfy Lessee's obligations set forth in Section 9(b). Any such addition or improvement shall immediately and without further act become the property of Lessor.

(c) Severable Additions. Should Lessee install any addition or improvement on the Facility (other than an addition or improvement which is required to be made to the Facility pursuant to Section 8(b)) which is readily removable without causing material damage to the Facility (i) Lessee shall, if requested by Lessor, and (ii) Lessee may, if no Default shall have occurred and be continuing, remove such addition or improvement before the Expiration Date. Lessee shall repair all damage to the Facility resulting from such installation and removal so as to restore the Facility to the condition in which it existed prior to the installation of such addition or improvement (ordinary wear and tear excepted). Any such unremoved addition or improvement shall immediately and without further act become the property of Lessor on the Expiration Date. Notwithstanding the foregoing and provided that Lessee has not exercised its option to renew this Lease pursuant to Section 6(b), at the end of the Basic Term or any Renewal Term, Lessor or any purchaser or lessee of the Leased Property shall be entitled to purchase from Lessee at its then Fair Market Value any such addition or improvement.

(d) Nonseverable Additions. Should Lessee make to the Facility any addition or improvement which is not readily removable without causing

material damage to the Facility, any such addition or improvement shall immediately and without further act become part of the Facility and the property of Lessor.

Section 9. Maintenance and Operation.

(a) Generally. Lessee, at its own expense, shall maintain, service and repair the Facility and from time to time make or cause to be made all necessary restorations thereto as are consistent with Prudent Utility Practice and reasonably satisfactory to Lessor to the extent necessary to maintain the Facility (i) in the same condition as on the First Lease Closing Date and the Second Lease Closing Date (ordinary wear and tear excepted), (ii) in good working order and operating condition, (iii) in compliance with Sections 9(b) and 9(c), (iv) in compliance with the Power Purchase Agreement and all applicable manufacturer service manuals, and (v) as may be necessary to comply with and keep in force any and all manufacturers' or sellers' guarantees or warranties. Any replacements made by Lessee to or upon the Facility shall be considered accessions to the Facility and title thereto shall be immediately vested in Lessor, without cost or expense to Lessor, but Lessor shall no longer have any interest in the replaced parts, title to which shall vest in Lessee with no further act, provided the replacements have a Fair Market Value, useful life and utility at least equal to that of the replaced parts.

(b) Compliance with Law. Lessee shall comply with and observe all requirements under the Related Documents and all Applicable Laws, whether now in force or which may in the future be promulgated, with respect to or in any way affecting the use, maintenance, condition and operation of the Facility (regardless of upon which Person such laws, rules, regulations, requirements or orders shall, by their terms, be nominally imposed), unless Lessee shall be contesting the validity thereof in good faith and by appropriate proceedings, but only so long as such proceedings, in Lessor's opinion, (i) shall not involve any substantial danger of the sale, forfeiture or loss of the Facility or the Site, title thereto or any part thereof or interest therein, and (ii) shall not result in, or involve any substantial probability of resulting in, the creation of any Lien on or with respect to the Facility or the Site, title thereto or any part thereof or interest therein, which is not a Permitted Lien. Lessee shall, and shall be responsible for, complying with all reporting, rate-setting and other requirements applicable to the Facility under the FPA, the PUHCA, state regulatory requirements and other Applicable Laws. Lessee shall maintain all records, logs and other materials required by any governmental authority having jurisdiction to be maintained in respect of the Facility (regardless of upon which Person such requirements shall, by their terms, be nominally imposed). Lessee, at its own expense, shall procure and pay for all permits, franchises, inspections and licenses necessary or appropriate in connection with the Facility and any repair, restoration, replacement, renewal, addition or improvement thereof and thereto. Upon request of Lessor, Lessee shall furnish to Lessor copies of all such permits, franchises, inspections and licenses.

(c) Operations and Maintenance Monitoring. At Lessor's option, Lessee will enter into an operations and maintenance monitoring agreement (the

"Monitoring Agreement") with an independent consultant experienced in the engineering, construction, operation and maintenance of hydroelectric facilities and satisfactory to Lessor and Lessee (the "Monitoring Consultant"), which Monitoring Agreement shall be satisfactory to Lessor and shall have a term ending no earlier than the second anniversary of the Second Lease Closing Date. Lessee shall implement all recommendations made by the Monitoring Consultant unless compliance with such recommendation is expressly waived by Lessor.

(d) Lessor's Rights and Obligations. Lessor shall not be required to maintain, service or repair or to make any repair, restoration, replacement, renewal, addition or improvement of any nature or description with respect to, the Facility, or, except to the extent specifically provided herein or in the Financing Agreement, to incur any cost or expense in connection with this Lease. If Lessee fails or is unable to perform maintenance and repairs as provided herein, Lessor shall have the right, but not the obligation, to perform the same, and Lessee shall forthwith reimburse Lessor, as Supplemental Rent, for all costs and expenses incurred by Lessor in performing the same.

(e) Inspection. Lessor and its agents and employees shall have at all reasonable times during normal business hours the right of access to the Site for the purposes of inspecting the Facility and its applicable maintenance and performance records (including records maintained pursuant to Section 9(b)) and observing its use and operation. Lessor shall have no duty to make any inspection of the Facility and shall incur no liability or obligation by reason of not making any such inspection.

(f) Qualifying Facility. Lessee shall not take any affirmative act or fail to take any action that would cause the Facility not to be a QF.

(g) Pollution Control and Hazardous Substances. Lessee shall not release, emit or discharge into the environment hazardous substances, as defined under CERCLA, or hazardous waste, as defined under the RCRA, or air pollutants as defined under the Clean Air Act, as amended, or pollutants as defined under the Clean Water Act, as amended, in excess of federally permitted releases or reportable quantities, or other concentrations, standards or limitations under the foregoing laws, Applicable Law or any state law governing the protection of health and the environment or under any other federal, state or local laws, regulations or Governmental Authorizations in connection with the construction, power generation and transmission, waste disposal or any other operations or processes relating to the Facility. Lessee shall not, except in accordance with Applicable Law, (i) store or dispose, or allow the storage or disposal, of any hazardous substance on or in the Leased Property or (ii) transport or arrange for the transportation of any hazardous substance to or from the Site. If Lessor reasonably believes that there may be the presence or the possible presence of any hazardous substance on or in the Leased Property in violation of Applicable Law, Lessee shall, upon the written request of Lessor and at Lessee's cost, take any and all actions necessary to reasonably assure Lessor that no hazardous substance is stored or disposed on or in the Leased Property in violation of Applicable

Law. Lessee shall promptly notify Lessor in writing of any release or threatened release of any hazardous substance at or from the Leased Property, or of any notice of a release or threatened release of any hazardous substance, or for the costs for the cleanup thereof (including, without limitation by assessment, containment or removal), received by Lessee or by any Person for whose conduct Lessee is or may be responsible from any federal, state or other governmental authority. To the extent allowable by law or contract, Lessee shall indemnify and hold Lessor harmless from, and defend Lessor against, any and all claims, demands and liabilities, including reasonable attorneys' fees, of whatever nature relating to or in any way arising due to the release, emission or discharge into the environment of hazardous substances, hazardous waste, air pollutants or water pollutants, as defined above, by Lessee or any prior owner or user of the Facility or the Site or arising out of Lessee's failure to observe the covenants contained in this Section 9(g). The indemnities contained herein shall survive the expiration or other termination of this Lease.

(h) High Flow Performance Tests. Lessee shall perform, and allow Independent Engineer to review, the High-Flow Performance Tests at a time when the water flow is sufficient to complete such tests and if the Facility does not pass such tests, Lessee shall make such adjustments and repairs to the Facility as are necessary for such tests to be passed to Lessor's satisfaction.

(i) Operations and Maintenance. Lessee shall enter into the Operations and Maintenance Agreement with Operator. The Operation and Maintenance Agreement shall provide that the Operator shall perform all operations and maintenance functions specified in or required by this Section 9. The execution of the Operation and Maintenance Agreement shall not relieve Lessee of any of its obligations under this Lease, including this Section 9.

Section 10. Title, Liens, Additional Covenants, Eminent Domain and Further Assurances.

(a) Title. Lessor and Lessee agree that this is an agreement of lease only and nothing herein contained shall be construed as conveying to Lessee any right, title or interest in or to the Leased Property except as a lessee. Lessee understands and acknowledges that the Facility is owned by Lessor, and Lessor and Lessee agree that, only as between themselves and their successors and assigns (including successors by operation of law), the Facility is intended to be treated as personal property to the extent permitted by Applicable Law.

(b) Liens. Lessee shall not directly or indirectly create, incur, assume or suffer to exist any Lien in or with respect to the Facility or the Site, title thereto or any interest therein except Permitted Liens. Lessee agrees to take such action (including the obtaining and recording of waivers), at its own expense, as may be necessary to prevent any third party from acquiring any right to or interest in the Facility by virtue of the Facility being deemed to be real property or part of any real property. Lessee shall promptly notify Lessor in writing of any Lien other than a Permitted Lien

(except for contested tax liens) of which Lessee is aware and which arises with respect to the Facility or the Site, title thereto or any interest therein and shall promptly, at Lessee's expense, cause any of the same which are not Permitted Liens to be duly discharged, dismissed or removed.

(c) Additional Covenants. Without the prior written consent of Lessor, Lessee will not:

(i) Sell, lease, transfer or otherwise dispose of any of its assets, whether now owned or hereafter acquired, except for sales or other dispositions in the ordinary course of its business as contemplated by the Fundamental Agreements and at fair market value;

(ii) Create, incur, assume or suffer to exist, or otherwise become or be liable in respect of any Indebtedness, other than (A) Indebtedness of Lessee under this Lease or any of the other Fundamental Agreements and (B) purchase money Indebtedness incurred in the ordinary course of constructing or operating the Facility;

(iii) So long as any Default shall have occurred and be continuing, make distribution of any form to any General Partner;

(iv) Make or commit to make any advance, loan, extension of credit or capital contributions to, or purchase any security of, or make any other investment in, any Person or become a general or limited partner in any partnership or a joint venturer in any joint venture;

(v) Issue, sell, transfer or deliver any additional partnership interests in Lessee or any securities or other rights convertible into or exchangeable for any such partnership interests or other rights calling for or permitting the issuance, transfer, sale or delivery of any such partnership interests or otherwise enter into any arrangement or contract with respect to any such partnership interests or make any other change in its capital structure or the Partnership Agreement;

(vi) Terminate or windup or take any steps in anticipation thereof;

(vii) Directly or indirectly enter into any transaction or series of transactions involving the payment or receipt of more than $10,000 in the aggregate during any calendar year with or for the benefit of an Affiliate, excluding, however, payments under the Operation and Maintenance Agreement and partnership distributions to the General Partners of Lessee;

(viii) Enter into any contractual obligations exceeding in the aggregate $10,000 per fiscal year, other than as required by the Fundamental Agreements; or

(ix) Establish or permit to be established on behalf of Lessee's employees, any ERISA Plans.

(d) Event of Eminent Domain. If an Event of Eminent Domain shall be threatened or occur with respect to any part of the Facility or the Site, Lessee shall:

(i) Promptly upon discovery or receipt of notice of any such threat or occurrence provide written notice of either to Lessor;

(ii) Diligently pursue all its rights to compensation against the State of Idaho or the United States, as the case may be, or against any agency, department, authority, commission, board, instrumentality or political subdivision of either (the "Condemning Authority") in respect of such Event of Eminent Domain; and

(iii) Without the written consent of Lessor, not compromise or settle any claim against the Condemning Authority.

Lessor may participate in any eminent domain proceedings, and Lessee shall from time to time deliver to Lessor all documents and instruments requested by it to permit such participation.

(e) Maintenance of Existence; Conduct of Business. Except as otherwise permitted under this Lease, Lessee:

(i) Will preserve and maintain its partnership existence and all material rights, privileges and franchises necessary or desirable in the normal conduct of its business; and

(ii) Engage solely in the business of designing, constructing and operating the Facility and selling or utilizing the electricity produced therefrom and related activities.

(f) Further Assurances. At Lessor's request, Lessee shall execute any and all documents acknowledging Lessor's ownership of the Facility and leasehold interest in the Site and as necessary or appropriate to perfect, confirm and protect the interest of Lessor in and to the Leased Property and this Lease. Lessee shall execute and file or cause to be executed and filed, at its own expense, any and all financing statements and continuation statements which are necessary or appropriate to perfect, confirm and protect the interests of Lessor in and to the Leased Property and this Lease. Lessor may file with the proper filing or recording officers any other papers or documents which it deems necessary or appropriate for the protection of its interests hereunder, and Lessee further agrees to execute and deliver to Lessor, upon its request, any and all further documents and instruments which Lessor may reasonably require to perfect, confirm and protect its interests in and to the Leased Property and this Lease. At least three (3) months prior to the expiration of any financing statement covering the interest of Lessor in the Leased Property, Lessee shall provide to Lessor an opinion of counsel for Lessee to the effect that there have been properly filed the continuation

statements necessary to continue, under the law then in effect, the effectiveness of such financing statement until the expiration of such continuation statements, specifying the date of such expiration.

Section 11. Risk of Loss; Casualty Occurrence; Special Casualty Occurrence.

(a) Generally. During the term of this Lease and prior to delivery by Lessee to Lessor of the Leased Property pursuant to Section 16, Lessee shall bear the risk of and all responsibility for loss or damage to the Facility and Site and shall replace such loss and repair such damage as provided in Section 9 except as specifically provided in this Section 11. Lessee agrees to indemnify and hold Lessor harmless against all risks to the Facility, including, without limitation, loss or damage caused by fire, lightning, sprinkler leakage, tornadoes, wind storm, water damage, explosion, smoke and smudge, aircraft and motor vehicle damage, strikes, riots, civil commotion, vandalism, malicious mischief, burglary and theft.

(b) Casualty Occurrence. (i) If the Facility shall be or become (A) lost, stolen or destroyed, (B) in Lessee's reasonable judgment, irreparably damaged or damaged beyond economic repair, from any cause whatsoever, or (C) taken, requisitioned, condemned, confiscated or appropriated by any governmental board or agency, whether de facto or de jure, by exercise of eminent domain or otherwise, resulting in the loss of possession of the Facility by Lessee for a period of more than one hundred eighty (180) consecutive days or for a period which exceeds the then remaining Term of this Lease (any such event described in clause (A), (B) or (C) herein called a "Casualty Occurrence"), Lessee shall fully inform Lessor within twenty (20) days from the date of such Casualty Occurrence of the nature of the Casualty Occurrence and any other pertinent information regarding the Casualty Occurrence in the possession of Lessee.

(ii) On the Casualty Loss Payment Date, Lessee shall pay to Lessor in immediately available funds an amount equal to (A) all accrued Basic Rent calculated on a pro rata basis due up to but not including such Casualty Loss Payment Date, (B) all accrued Excess Rent calculated on a pro rata basis due up to but not including such Casualty Loss Payment Date, (C) any unpaid Supplemental Rent and (D) the Casualty Loss Value on the Casualty Loss Payment Date (collectively, the "Casualty Payment"). Upon the making of the Casualty Payment by Lessee, Basic Rent shall cease to accrue as of the date of such payment, this Lease shall terminate and Lessor shall, upon request of Lessee, execute and deliver to, or upon the order of, Lessee a bill of sale or, if appropriate, a grant deed, in such form as Lessee may reasonably request, for the Leased Property (without warranties other than for the absence of Lessor Liens); provided, however, that Lessee may not acquire the Leased Property if the Fair Market Value of the Leased Property at such time is greater than the Casualty Loss Value unless Lessee shall pay Lessor the difference between said Fair Market Value and Casualty Loss Value. Except as provided hereinabove in this Section 11, Lessee shall not be released from its obligations hereunder in the event of any such Casualty Occurrence.

(iii) If no Default shall have occurred and be continuing, and if Lessee shall have made payment to Lessor of the Casualty Loss Value for the Leased Property, Lessee shall be entitled to receive any insurance proceeds or condemnation payments with respect to the related Casualty Occurrence up to an amount equal to such Casualty Loss Value, and any balance of such proceeds or payments shall remain the property of Lessor and its successors and assigns. All casualty insurance proceeds and condemnation payments in respect of damage to the Facility which did not result in a Casualty Occurrence shall be paid to reimburse Lessee from time to time as restoration and repair progresses for the cost of such restoration and repair upon a written application of Lessee accompanied by a certificate of an officer of Lessee showing in detail reasonably satisfactory to Lessor the nature of such restoration and repair and the estimated cost to complete restoration and repair and stating that no Default shall have occurred and be continuing under this Lease.

(c) Special Casualty Occurrence.

(i) Special Casualty Occurrence. This Lease shall terminate immediately upon the happening of either of the following events unless such event is a result solely of Lessor's breach of its representation in Section 4(a)(iv) of the Financing Agreement (each a "Special Casualty Occurrence"): (A) Lessor or any Affiliate thereof becomes, or is deemed by any federal, state or local governmental authority or regulatory commission to be, or be subject to regulation as, a "public utility," an "electric utility," an "electric utility holding company," a "public utility holding company" or an "electrical corporation" under the FPA or the PUHCA, or is otherwise subject to similar regulation; or (B) the Facility is determined in a final order from the FERC not to be a QF and as a result of such determination Lessor or any Affiliate thereof may become subject to any regulation as contemplated in clause (A).

(ii) Lessor's Rights. Upon the termination of this Lease pursuant to Section 11(c)(i), Lessor shall elect within thirty (30) days of such termination to either (A) require Lessee to return the Leased Property to Lessor in the condition and otherwise in accordance with all of the terms of Sections 9 and 16, or (B) require Lessee to irrevocably elect, by notice to Lessor within twenty (20) days from receipt of notice of Lessor's election, to either (1) purchase the Facility pursuant to Section 11(c)(iii) or (2) sell the Leased Property on behalf of Lessor at a public or private sale pursuant to Section 11(c)(iv). If Lessee elects not to purchase the Facility, Lessee shall be obligated to warrant and certify to Lessor that at the time of such election, neither the Site nor the Facility is subject to liability for contamination or cleanup within the meaning of the CERCLA or any other statute, regulation, law or order then in effect governing the transfer or cleanup of the Leased Property. Lessee shall agree to indemnify Lessor against any such liability for the Leased Property for which Lessee may be responsible.

(iii) Purchase Election. If Lessee shall have given notice of its irrevocable election to purchase the Facility pursuant to Section 11(c)(ii), Lessee shall within ten (10) days of such notice pay to

Lessor in immediately available funds (A) all accrued Basic Rent calculated on a pro rata basis due up to but not including the date of the Special Casualty Occurrence, (B) all accrued Excess Rent calculated on a pro rata basis due up but not including the date of the Special Casualty Occurrence, (C) any unpaid Supplemental Rent and (D) the greater of the Fair Market Value of the Leased Property or the Casualty Loss Value as of the last Rent Payment Date occuring on or before the Special Casualty Occurrence plus interest at the Default Rate on such amount from such Rent Payment Date until the date of actual payment. Upon payment of the foregoing amounts by Lessee, Lessor shall, upon request of Lessee, execute and deliver to, or upon the order of, Lessee a bill of sale or, if appropriate, a grant deed, in such form as Lessee may reasonably request, for the Leased Property (without warranties other than for the absence of Lessor Liens).

(iv) Sale Election.

(A) If Lessee shall have given notice of its irrevocable election to sell the Leased Property pursuant to Section 11(c)(ii), Lessee shall within ten (10) days of such notice pay to Lessor in immediately available funds (1) all accrued Basic Rent calculated on a pro rata basis due up to but not including the date of the Special Casualty Occurrence, (2) all accrued Excess Rent calculated on a pro rata basis due up but not including the date of the Special Casualty Occurrence, (3) any unpaid Supplemental Rent and (4) the Casualty Loss Value as of the last Rent Payment Date occuring on or before the Special Casualty Occurence plus interest at the Default Rate on such amount from such Rent Payment Date until the date of actual payment. Lessee shall have one hundred eighty (180) days from the date of such payment to sell the Leased Property at a private or public sale. Lessee shall, within ten (10) days of such sale, pay to Lessor an amount equal to the excess of (x) the proceeds of the sale minus (y) the sum of the reasonable costs and expenses directly related to such sale (including sales tax) and the Casualty Loss Value paid to Lessor pursuant to this Section 11(c)(iv). Upon the making of such payment by Lessee or, if the proceeds of the sale less reasonable costs directly related to such sale are less than the Casualty Loss Value paid to Lessor, upon such sale, Lessor shall execute and deliver to, or upon the order of, Lessee a bill of sale or, if appropriate, a grant deed, in such form as Lessee may reasonably request, for the Leased Property (without warranties other than for the absence of Lessor Liens).

(B) If Lessee has not completed the sale of the Leased Property within the period specified by Section 11(c)(iv)(A), Lessee shall within ten (10) days from such one hundred eighty (180) day period pay to Lessor in immediately available funds the amount of any deficiency between (1) the Fair Market Value of the Leased Property calculated as of the date of the Special Casualty Occurrence and (2) the Casualty Loss Value paid to Lessor pursuant to Subsection (i) of this Section 11(c). Upon the making of such payment by Lessee, Lessor shall, upon request of Lessee, execute and deliver to, or upon the order of, Lessee a bill of sale or, if appropriate, a grant deed, in such form as Lessee may reasonably request, for the Leased Property (without warranties other than for the absence of Lessor Liens).

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Section 12. Disclaimer of Guarantees, Warranties and Representations. LESSEE EXPRESSLY ACKNOWLEDGES THAT LESSOR IS NOT A MANUFACTURER, DISTRIBUTOR, VENDOR OR SUPPLIER OF EQUIPMENT OR AN AGENT OF ANY MANUFACTURER, DISTRIBUTOR, VENDOR OR SUPPLIER OF EQUIPMENT. LESSOR SHALL NOT BE DEEMED TO HAVE MADE OR GIVEN, AND LESSOR HEREBY EXPRESSLY DISCLAIMS, ANY GUARANTEE, REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, VALUE, CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS FOR USE FOR ANY REASON OF THE FACILITY OR ANY PART THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED. Lessee agrees that the only guarantees, representations or warranties made with respect to the Facility or the Leased Property are those made by the seller or manufacturer thereof, and Lessor and Lessee agree that they shall cooperate in enforcing such guarantees and warranties when such action is necessary, which enforcement shall be at Lessee's expense. So long as no Default shall have occurred and be continuing, Lessor hereby assigns to Lessee, for and during the term of this Lease, any applicable seller or manufacturer warranty issued on or applicable to the Facility or Leased Property, and Lessor hereby authorizes Lessee during the term of this Lease to obtain, at Lessee's sole expense, any and all services furnished in connection therewith by any seller or any manufacturer.

Section 13. Location; Performance under Site Lease. Lessee agrees that no part of the Facility shall be removed from the Site except as may be necessary for the purpose of maintenance or repair as required by the terms of this Lease. This Lease constitutes, with respect to the Site, a sublease to Lessee of Lessor's rights under the Site Lease that accrue during the Term hereof. Lessee hereby covenants and agrees to assume and perform all obligations of "Tenant" under the Site Lease during the Term in addition to all of Lessee's obligations hereunder. There shall be no merger of this Lease nor of the leasehold estate created hereby with any other estate in the Facility or the Site, or any part thereof, by reason of the fact that the same Person may acquire or own such estates, directly or indirectly.

Section 14. Valuation of Property. For purposes of this Lease, the following procedure shall be followed for determining the Fair Market Value or Fair Market Rental Value of any property, if such a determination is necessary pursuant to the terms of this Lease: If either party hereto shall have given written notice to the other requesting determination of such value, the parties shall attempt to agree upon such value, and, failing such agreement within twenty (20) days after the giving of such notice, the parties shall consult for the purpose of appointing an Appraiser by mutual agreement. If no such Appraiser shall be so appointed within thirty (30) days after such notice shall have been given, each party shall appoint an Appraiser within thirty-five (35) days after such notice shall have been given, and the two Appraisers so appointed shall within forty (40) days after such notice shall have been given appoint a third Appraiser. If no such third Appraiser shall be so appointed within forty (40) days after such notice shall have been given, either party may apply to the American Arbitration Association (or any successor thereto) in New York, New York, for the appointment of a third Appraiser, and both parties shall be bound by any appointment made by such Association. Each Appraiser appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Value or Fair Market Rental

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Value, as the case may be, of the property in question within thirty (30) days after his or her appointment. If the parties shall have appointed a single Appraiser, his or her determination of value shall be final and binding as the Fair Market Value or the Fair Market Rental Value, as the case may be. If three Appraisers shall have been appointed as hereinabove set forth, the values determined by the three Appraisers shall be averaged, the determination which shall differ most from such average shall be disregarded, the remaining two determinations shall be averaged, and such average shall be final and binding as the Fair Market Value or the Fair Market Rental Value, as the case may be. Lessee and Lessor shall equally bear all expenses of such appraisers, provided that if three appraisers are chosen, Lessor and Lessee shall each bear all expenses of its chosen appraiser, and provided further that if the appraisal is requested in connection with the exercise of the remedies described in Section 18 all expenses of such appraisers shall be borne by Lessee.

Section 15. Notices; Reports.

(a) Notices. Lessee and Lessor shall each promptly notify the other in writing:

(i) Of the amount of any delinquent taxes assessed or charged to Lessor, Lessee or any sublessee or assignee under any law now or hereafter in force, of which Lessee or Lessor has had notice, that may reasonably subject the Facility or Site to the hazard of seizure or Lien;

(ii) Of any claim, demand, action or dispute that involves the rights of Lessor, Lessee or any sublessee or assignee hereunder, that involves the interpretation of any of the provisions of this Lease or that directly or indirectly affects the tax or other liability or rights of either Lessor, Lessee or any sublessee or assignee, in each case of which Lessee or Lessor has had notice; and if any litigation, suit or action is begun by or against Lessee or any sublessee or assignee relating to this Lease, the Facility or the Site, Lessor shall have the right, but not the obligation, to intervene in the litigation, suit or action at its own expense and assist in the prosecution or defense of same;

(iii) Within thirty (30) days after the same arise, of any claim, demand, dispute, litigation or proceeding against Lessee, any General Partner, INE, Hydro-Flow or any Shareholder (A) in which the amount involved is $10,000 or more, or (B) arising from any accident in which the Facility is directly or indirectly involved, (C) in which injunctive or similar relief is sought that could have a material adverse effect on the operations or condition (financial or otherwise) of Lessee, any General Partner, INE, Hydro-Flow or any Shareholder, or (D) involving condemnation proceedings against the Facility or any portion thereof or against any of the Collateral, or (E) which relates in any way to the enforceability or performance of this Lease, the other Fundamental Agreements, the Related Documents or the transactions contemplated hereby or thereby or the rights of Lessor thereunder or hereunder;

(iv) Of any damage to the Facility from any cause whatsoever, whether or not insured, in excess of an aggregate of $10,000; and

(v) Of any material adverse change in the operations or condition (financial or otherwise) of Lessee, any General Partner, INE, Hydro-Flow or any Shareholder.

(b) Reports. Lessee agrees to give to Lessor the following:

(i) Within ninety (90) days after the end of each calendar year, a certificate of a Responsible Officer of a General Partner on behalf of Lessee, stating that a review of the activities of Lessee during such calendar year has been made under the direction of such Responsible Officer with a view to determining whether Lessee has kept, observed, performed and fulfilled all of its obligations under this Lease, and that, to the best knowledge, information and belief of such Responsible Officer, there has occurred no Default or, if any such Default has occurred, specifying the nature thereof, the period of continuance thereof and what action Lessee has taken or proposes to take with respect thereto;

(ii) Promptly after the same shall have come to the notice of a Responsible Officer of a General Partner on behalf of Lessee, notice of the occurrence of any Default;

(iii) At least sixty (60) days prior thereto, notice of any change in the location of Lessee's chief executive office or principal place of business (as such terms are used in the Utah Uniform Commercial Code) and any change in Lessee's name, identity or structure;

(iv) Prompt notice of any exercise by Lessee of any right under any seller's or any manufacturer's warranty except with respect to any de minimus matters, or of any notice by any seller or any manufacturer with respect to any material defect in design or manufacture of any integral or structural element of the Facility;

(v) Within ninety (90) days after the end of each fiscal year of Lessee, a balance sheet of Lessee as of the end of such year, and a statement of income, partners' capital and cash flow of Lessee for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail, and accompanied by a review letter thereon of independent public accountants selected by Lessee and acceptable to Lessor, which review letter shall state that such accountants are not aware of any material modifications that should be made to such financial statements in order for them to be in conformity with GAAP;

(vi) Within forty-five (45) days after each semi-annual period of each year, financial statements of Lessee prepared in accordance with GAAP with respect to the prior six (6) month period in substantially the form required by clause (v) above, certified by the chief financial officer of a General Partner who is Lessee's chief financial officer as to accuracy and conformity with GAAP and reasonably acceptable to Lessor;

(vii) Each financial statement described in clause (vi) above shall include, at a minimum, statements as to the amount of kilowatt hours of electric energy sold each billing month during such period and the price paid by Utility for such energy, a statement of cash flow and a comparison of actual operating results with budgeted operating projections; and

(viii) Such other information on the finances, business and operations of Lessee as Lessor may reasonably request.

Section 16. Return of Leased Property.

(a) Condition of Facility. Lessee agrees that, upon the termination of this Lease, by expiration hereof or otherwise, the Leased Property shall be free and clear of all Liens and rights of others other than Lessor's Liens and exceptions in items (e) and (f) in the definition of Permitted Liens, the Facility and the Site shall be in the condition and repair required to be maintained during the term hereof under Section 9 and Lessee shall deliver to Lessor all plans, specifications, operating manuals and other warranties and documents furnished by any manufacturer or any seller with respect to the Facility and all other documents relating to the maintenance and operation of the Facility. Lessee shall warrant and certify to Lessor that at the time of such delivery, neither the Site nor the Facility is subject to liability for contamination or cleanup with the meaning of CERCLA or any other statute, regulation, law or order then in effect governing the transfer or cleanup of the Site. Lessee shall agree to indemnify Lessor against any such liability for the Leased Property for which Lessee may be responsible.

(b) Assignment of Related Documents. Lessee agrees that, upon the termination of this Lease, by expiration hereof or otherwise, Lessee shall, at Lessor's sole option, assign and transfer to Lessor or Lessor's assignee all of Lessee's right, title and interest in and under such Related Documents as Lessor shall request in writing subject to governmental or agency approval as required under Applicable Law.

(c) Dismantlement. At the expiration of the Term or upon the occurrence of an Event of Default, Lessee shall, if directed by Lessor in writing not later than the date of such expiration, but at Lessee's expense and risk, (i) completely sever and disconnect the Facility from the Site, all without any liability of Lessor to Lessee, or to anyone claiming by, through or under Lessee, for damage or loss caused by such severance or disconnection; (ii) disassemble and prepare the components of the Facility for normal shipment; (iii) marshall and store such components at Lessee's risk and expense at the Site for a period of up to ninety (90) days after all components are ready for shipment; and (iv) deliver possession of the Facility to Lessor at the nearest railhead, together with all plans, logs, reports and records maintained by Lessee and all operating manuals and other warranties and documents furnished by the materials suppliers and contractors which supplied materials or performed construction work with respect to the Facility and other documents reasonably accessible to Lessee relating to the maintenance and operation of the Facility. If Lessee is required to return

the Facility to Lessor pursuant to the terms of this Section 16(c), Lessee shall bear the risk of loss with respect to the Facility until such return is made.

(d) Abandonment. Lessor may, at its option, abandon the Facility to Lessee and transfer to Lessee all right, title and interest of Lessor in and to the Leased Property by delivery to, or upon the order of, Lessee a bill of sale, or if appropriate, a grant deed, in such form as Lessee may reasonably request, for the Leased Property (without warranties other than the absence of Lessor Liens).

(e) Survival. The provisions of this Section 16 shall survive the expiration or earlier termination of this Lease.

Section 17. Default. The following events shall constitute Events of Default hereunder:

(a) Lessee shall fail to make any payment of Basic Rent, Excess Rent, Casualty Loss Value any Casualty Payment, any Special Casualty Payment or any payment of principle or interest on the Revolving Loans within five (5) Business Days after the same shall become due.

(b) Notwithstanding the provisions of Section 17(a), Lessee shall fail to make any payment of Basic Rent when the same shall become due after three (3) prior failures to promptly pay Basic Rent.

(c) Lessee shall fail (i) at any time, to carry and maintain insurance as provided by Section 7 or (ii) to discharge any Lien as provided in Section 10 within forty-five (45) days after the existence thereof shall have first become known to Lessee (unless Lessee shall be contesting the same in good faith with due diligence and by appropriate proceedings but only so long as such proceedings do not in Lessor's opinion, involve any risk of the sale, forfeiture or loss of any Leased Property, title thereto or any interest therein).

(d) Lessee, any General Partner, INE, Hydro-Flow, any Shareholder or any Affiliate shall fail to make any other payment or perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder, under the Financing Agreement, the other Fundamental Agreements, the Related Documents or any other agreement, document or instrument delivered by Lessee, any General Partner, INE, Hydro-Flow, any Shareholder or any Affiliate pursuant thereto which failure is not otherwise an Event of Default under this Section 17, and such failure shall continue unremedied for a period of thirty (30) days after written notice thereof to Lessee by Lessor, provided that such period shall be extended to one hundred twenty (120) days so long as (i) such Event of Default is curable other than by the payment of money, (ii) Lessee or such other Person diligently pursues such cure and completes the cure within such one hundred twenty (120) days and (iii) the cure does not, in Lessor's opinion, involve any risk of the sale, forfeiture or loss of any of the Leased Property, title thereto or any interest therein;

(e) Any representation or warranty made by Lessee, any General Partner, INE, Hydro-Flow, any Shareholder or any of their Affiliates, herein, in the Financing Agreement or in any certificate furnished to Lessor in connection herewith or therewith or pursuant hereto or thereto shall prove to be incorrect or misleading in any material respect when made;

(f) Any of the Fundamental Agreements or the Related Documents shall cease to be in full force and effect, or the validity or enforceability of any of the Fundamental Agreements or the Related Documents shall be contested by Lessee or any other Person or party thereto (other than Lessor), or Lessee or any such Person (other than Lessor) shall deny that it has any or further liability under any of the Fundamental Agreements or the Related Documents to which it is a party.

(g) The Second Lease Closing shall not have occurred on or prior to March 31, 1990.

(h) Any General Partner shall assign its interest in Lessee without Lessor's prior written consent;

(i) Lessee, any General Partner, INE, Hydro-Flow or any Shareholder shall (i) apply for or consent to the appointment of a trustee, receiver, liquidator, custodian or the like of itself or its property, (ii) with the exception of May, be unable, or admit in writing the inability, to pay its debts as they mature, (iii) make an assignment for the benefit of creditors, (iv) commence a voluntary case under a chapter of the Bankruptcy Reform Act of 1978, as amended, or file a petition or answer seeking reorganization or an agreement with creditors or to take advantage of any insolvency law or other law providing for the relief of debtors or an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceeding, or (v) take any partnership or corporate action, as the case may be, for the purpose of effecting any of the foregoing;

(j) An involuntary case under a chapter of the Bankruptcy Reform Act of 1978, as amended, shall be commenced, or any other proceeding shall be instituted without the application, approval or consent of Lessee, any General Partner, INE, Hydro-Flow or any Shareholder seeking in respect thereof reorganization, dissolution, winding up, liquidation, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator, custodian or the like of Lessee, any General Partner, INE, Hydro-Flow or any Shareholder or of all or any substantial part of its assets or other like relief or the issuance of a writ of attachment, execution or similar process in a material amount against any material part of the property of Lessee, any General Partner, INE, Hydro-Flow or any Shareholder and Lessee, any General Partner, INE, Hydro-Flow or any Shareholder shall either fail to contest such proceeding in good faith or such proceedings shall continue for any period of ninety (90) consecutive days; or

(k) There shall have occurred an Event of Default under any Fundamental Agreement or there shall have occurred a Default by any party other than Lessor under any material term, condition, provision,

representation or warranty contained in any of the Related Documents and such default shall continue unremedied for thirty (30) days after notification from Lessor to Lessee.

Section 18. Remedies.

(a) Generally. Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, Lessor may, at its option, declare this Lease to be in default, and at any time thereafter Lessor may do one or more of the following with respect to the entire Facility and the Site Lease as Lessor in its sole discretion shall elect, to the extent permitted by, and subject to compliance with, any mandatory requirements of Applicable Law:

(i) Recovery of Facility. Lessor may cause Lessee, upon the written demand of Lessor and at Lessee's expense, to deliver the Facility to Lessor at the Site, in the condition and otherwise in accordance with all of the terms of Sections 9 and 16, or Lessor, at its option, may enter upon the Site, if this can be done without breach of the peace (provided that entry on the Site without Lessee's consent shall not alone constitute a breach of the peace) and take immediate possession of and remove the Facility or any part thereof by summary proceedings or otherwise, all without liability to Lessee for or by reason of such entry or taking of possession, whether for the restoration of damage to property caused by and reasonably necessary to such taking or otherwise.

(ii) Sale, Lease or Use of Facility. Lessor may sell the Leased Property or any part thereof, at public or private sale, with notice to Lessee but with or without advertisement as Lessor may determine, or otherwise dispose of, hold, use, operate, lease to others or keep idle the Leased Property or any part thereof as Lessor in its sole discretion may determine, all free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto except to the extent required by clause (iv) below if Lessor elects to exercise its rights under said clause in lieu of its rights under clause (iii) below.

(iii) Payment Generally. Whether or not Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under clauses (i) and (ii) above, Lessor, with respect to the Leased Property, by written notice to Lessee specifying a payment date not earlier than fifteen (15) days from the date of such notice (the "Payment Date"), may cause Lessee to pay to Lessor, on the Payment Date, as liquidated damages for loss of a bargain and not as a penalty, (A) any unpaid Basic Rent due up to but not including the Rent Payment Date (or the date which would have been such Rent Payment Date but for the termination of this Lease) preceding the Payment Date, (B) any unpaid Supplemental Rent, (C) any unpaid Excess Rent due up to but not including the Rent Payment Date (or the date which would have been such Rent Payment Date but for the termination of this Lease) preceding the Payment Date and (D) whichever of the following amounts Lessor, in its sole

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discretion, shall specify in such notice together with interest on such amount at the Default Rate from the Rent Payment Date to the date of actual payment):

(1) an amount equal to the Casualty Loss Value of the Leased Property as of such Rent Payment Date; provided, however, that Lessor shall be entitled without deduction to such amount for the Leased Property only if Lessor shall have demanded possession of the Facility and the Site pursuant to clause (i) above and Lessee shall have failed to deliver such possession in accordance with the terms of such clause; or

(2) an amount equal to the excess, if any, of such Casualty Loss Value over the aggregate Fair Market Rental Value of the Leased Property for the remainder of the Term hereunder after discounting at the Default Rate such Fair Market Rental Value on such periodic basis as Basic Rent is payable hereunder to present worth as of such Rent Payment Date; or

(3) an amount equal to the excess, if any, of such Casualty Loss Value over the aggregate Fair Market Value of the Leased Property as of such Rent Payment Date.

(iv) Payment After Sale. If Lessor, pursuant to clause (ii) above, shall have sold the Leased Property, Lessor, in lieu of exercising its rights under clause (iii) above with respect to the Leased Property, may, if it shall so elect, cause Lessee to pay Lessor, as liquidated damages for loss of a bargain and not as a penalty, (A) any unpaid Basic Rent due up to but not including the Rent Payment Date (or the date which would have been such Rent Payment Date but for the termination of this Lease) preceding the date of such sale, (B) any unpaid Supplemental Rent, (C) any unpaid Excess Rent due up to but not including the Rent Payment Date (or the date which would have been such Rent Payment Date but for the termination of this Lease) preceding the date of such sale, and (D) an amount equal to any deficiency between the net proceeds of such sale and the Casualty Loss Value of the Leased Property as of such Rent Payment Date, together with interest at the Default Rate on such amount from the date of such Rent Payment Date until the date of actual payment.

(v) Payment After Re-Lease. If Lessor, pursuant to clause (ii) above, shall have leased the Facility to others, Lessor, in lieu of exercising its rights under clause (iii) above, may elect to cause Lessee to pay to Lessor, as liquidated damages for loss of a bargain and not as a penalty, the sum of (A) any unpaid Basic Rent due up to but not including the Rent Payment Date (or the date which would have been such Rent Payment Date but for the termination of this Lease) preceding the date of such re-lease, (B) any unpaid Supplemental Rent, (C) any unpaid Excess Rent due up to but not including the Rent Payment Date (or the date which would have been such Rent Payment Date but for the termination of this Lease) preceding the date of such re-lease, and (D) the amount of any deficiency between (1) the Casualty Loss Value as of such Rent Payment Date and (2) the average rentals under such re-lease on a monthly basis for the number of months remaining on the Term of this Lease, after discounting such rentals at the Default Rate monthly to the present worth as of such Rent Payment Date, together with interest at the

Default Rate on such amount from such Rent Payment Date until the date of actual payment.

(b) Other Amounts and Expenses. In addition, Lessee shall be liable for any and all unpaid Supplemental Rent due hereunder before, after or during the exercise of any of the foregoing remedies and for all reasonable legal fees and other costs and expenses incurred by Lessor by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto, including all costs and expenses incurred by Lessor in connection with gaining possession of the Leased Property in accordance with the terms hereof, the placing of the Leased Property in the condition required hereunder or any sales or broker's commissions.

(c) Other Remedies. Lessor may exercise any other right or remedy which may be available to it under Applicable Law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof or to terminate or rescind this Lease.

(d) Election of Remedies. Except as otherwise expressly provided above, no remedy referred to in this Section 18 is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity. The exercise or beginning of exercise by Lessor of any one or more of such remedies shall not preclude the simultaneous or later exercise by Lessor of any or all such other remedies. To the extent permitted by applicable law, Lessee hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to take any judicial proceedings in connection with the Leased Property or to give any notice or to sell, lease or otherwise use the Leased Property in mitigation of Lessor's damages as set forth in this Section 18 or which may otherwise limit or modify any of Lessor's rights or remedies under this Section 18.

Section 19. Indemnities.

(a) General Indemnity.

(i) Generally. To the extent allowable by law or contract, Lessee shall indemnify and hold Lessor harmless from, and defend Lessor against, any and all claims, demands and liabilities, including reasonable attorneys' fees of whatever nature relating to or in any way arising out of this Lease or the possession, use, delivery, installation, operation, control, nondelivery, return, nonuse or disposition of the Facility or the Site, including, without limitation, any claim, demand or liability:

(1) arising by reason of latent and other defects whether or not discoverable by Lessor or Lessee,

(2) based upon the negligence of Lessor or upon any infringement of any patent, copyright or other similar right,

(3) arising under the strict liability doctrine in tort or under CERCLA, or

(4) arising by reason of the existence, at the time Lessor takes possession of the Facility pursuant to Section 18, of any lien or right of others against the Facility or the Site,

but excluding for the purposes of this Section 19 claims arising from Lessor's willful misconduct or gross negligence. Lessor shall make available to Lessee all of Lessor's rights under any similar indemnification from any seller or manufacturer of any part of the Facility. The indemnities contained herein shall survive the expiration or other termination of this Lease with respect to all claims which arise during the Term hereof or which arise out of acts or omissions which occur during the Term hereof and prior to delivery of the Leased Property to Lessor pursuant to Section 18.

(b) General Tax Indemnity.

(i) General.

(A) Indemnified Taxes. Lessee agrees that each payment of Rent shall be free of all withholdings of any nature whatsoever except for withholdings with respect to taxes excluded by Section 19(b)(i)(C), and in the event that any withholding is required, Lessee shall pay an additional amount of Rent such that after the deduction of all amounts required to be withheld, the net amount of Rent actually received by Lessor will equal the amount of Rent that would be due absent such withholding other than Excluded Taxes collected by way of withholding. In addition, Lessee shall pay, indemnify and hold harmless Lessor from and against, and reimburse Lessor for, each Tax that is described in Section 19(b)(i)(B) and that is not excluded by Section 19(b)(i)(C) (such indemnified Tax herein referred to as an "Indemnified Tax").

(B) Included Taxes. The Taxes for which Lessee must indemnify Lessor under Section 19(b)(i)(A) are, except as excluded by Section 19(b)(i)(C), any and all Taxes imposed upon or asserted against Lessor, Lessee, or the Leased Property, or any part or portion thereof or interest therein by any federal, state or local government or other taxing authority in the United States, or by any foreign government or any political subdivision or taxing authority thereof, or by any territory or possession of the United States, or by any international taxing authority, in connection with or relating to

(1) the manufacture, design, construction, preparation, installation, testing, mortgaging, financing, refinancing, ownership, purchase, acquisition, acceptance, rejection, importation, delivery, nondelivery, lease, insuring, inspection, regulation, assembly, possession, repossession, use, operation, leasing, subleasing, condition, maintenance, modification, rebuilding, products, by-products, waste, presence, repair, sale, return, abandonment, storage, redelivery, transfer of title, exportation or other application or disposition of, or the imposition of any Lien (or the

incurrence of any liability to refund or pay over any amount as a result of any Lien) on, the Leased Property, or any part or portion thereof or rights or interest therein;

(2) payments of Basic Rent, Excess Rent or Supplemental Rent or the receipts or earnings rising therefrom or received with respect to the Leased Property or any part or portion thereof or interest therein, or payable pursuant to the Lease;

(3) any Fundamental Agreement or any Related Document or amount paid or payable pursuant to any Fundamental Agreement or any Related Document;

(4) the Leased Property, or any part or portion thereof or any interest therein, the Lease, the Site Lease or any sublease to the Leased Property, or any part or portion thereof or any interest therein;

(5) the payment of any claim, refund, warranty payment or rebate to Lessee or Lessor (including replacement of any part or portion of the Leased Property) by any person including manufacturers and contractors, provided that this clause (5) shall not be construed to extend to a refund or rebate of an amount to Lessor (a) to the extent Lessee establishes that such refund or rebate does not reimburse Lessor for any loss or expense or diminution in value of the Leased Property and (b) for which there is no offsetting obligation to pay such amounts to Lessee; or

(6) otherwise with respect to or in connection with the transactions contemplated by the Fundamental Agreements.

(C) Excluded Taxes. The Taxes described in Section 19(b)(i)(B) for which Lessee is not required to provide indemnification under Section 19(b)(i)(A) are the following:

(1) any Tax included in Lessor's Cost;

(2) any Tax that is (a) imposed on, based on or measured by the gross income or receipts (other than gross receipts taxes in the nature of property taxes, sales, value added, use or similar taxes) or net income of Lessor (including without limitation and however described capital gains taxes, minimum taxes on income, taxes on items of tax preference, unincorporated business taxes, franchise taxes and any withholding of such taxes), (b) computed by reference to multiple bases one of which is net income, or (c) an income tax or surcharge, addition to tax, penalty, fine or other similar charge in respect thereof, of Lessor other than with respect to any item referred to in Section 19(b)(i)(B)(5);

(3) any Tax (or any allocable portion thereof) imposed against Lessor by any state or local taxing authority in the United States which constitutes a doing business, franchise or similar tax;

(4) any Tax resulting from the willful misconduct or gross negligence of Lessor;

(5) any Tax enacted in substitution for any of the foregoing;

(6) any Tax on the disposition of the Leased Property by Lessor unless after an Event of Default has occurred and is continuing (or would be continuing but for the exercise of remedies); and

(7) any Tax to the extent incurred or imposed in respect of any period after the earlier of the termination of this Lease in accordance with the terms hereof or, if an Event of Default shall have occurred and be continuing, the date upon which Lessor, in the exercise of its remedies under the Lease, transfers title to or possession of the Leased Property to a Person other than Lessee.

Notwithstanding anything to the contrary contained in this Section 19(b)(i)(C), the provisions of this Section 19(b)(i)(C) shall not apply to any Taxes imposed in respect of the receipt or accrual of any indemnity payment made by Lessee pursuant to this Section 19(b).

(ii) Payment of Taxes, Indemnity Amounts and Refunds.

(A) Tax Filings and Payments. Lessee shall timely prepare and file all reports and returns that are required to be made with respect to Indemnified Taxes. Lessee shall, to the extent permitted by law, cause all billings of such Indemnified Taxes to be made to Lessor in care of Lessee, make payment thereof and, from time to time on written request of Lessor, submit written evidence of such payment. Lessor shall furnish Lessee, promptly after receipt, copies of all requests for information from any taxing authorities relating to any Indemnified Taxes with respect to Lessor, and shall request such taxing authority to contact Lessee regarding any such information; provided, however, that the failure of Lessor to give such written notice to Lessee shall not (1) reduce Lessee's obligations under this Section 19(b) or (2) release Lessee from its obligations under this Section 19(b), unless such failure materially, adversely affects Lessee's ability to contest such claim.

(B) Date of Indemnity Payment. Except as provided in Section 19(b)(ii)(A) above (dealing with Indemnified Taxes paid in connection with a return or report prepared and filed by Lessee), each amount payable to Lessor pursuant to this Section 19(b) in respect of Indemnified Taxes (an "Indemnity Payment") shall be paid in immediately available funds within thirty (30) days after written notice by Lessor to Lessee certifying that such Taxes have first been paid, directly or by offset by Lessor.

(iii) Subsequent Refunds. If Lessor shall obtain a refund (including without limitation the offset of a refund against a further tax liability) of all or any part of any Tax paid by Lessee, Lessor shall pay Lessee an amount equal to the sum of (A) the amount of such refund, (1) reduced by reasonable

expenses not previously reimbursed and Taxes payable with respect to receipt thereof, but (2) increased by the amount of any tax benefit realized by Lessor in connection with such payment to Lessee, and (B) any amounts payable under Section 19(b)(iv) below (relating to interest); provided, however, that notwithstanding the foregoing portion of this sentence, Lessor shall not be obligated to make any payment to Lessee pursuant to this sentence as long as an Event of Default shall have occurred and be continuing under this Lease or any other Fundamental Agreement.

(iv) Interest. If Lessor receives a refund (including without limitation the offset of refund against further tax liability) of all or part of any Indemnified Taxes for which an Indemnity Payment was made by Lessee pursuant to this Section 19(b), Lessor shall pay promptly to Lessee any interest actually received from or credited by the taxing authority with respect thereto, computed after taking into account any taxes payable by Lessor as a result of the receipt or accrual of such interest, and increased by any taxes saved by reason of the deductibility of the payment or accrual by Lessor of the amount payable to Lessee hereunder or of the taxes described in this Section 19(b)(iv).

(v) Reimbursements by Lessor Generally. If, for any reason, Lessee is required to make any payments with respect to any Taxes imposed on Lessor in respect of the transaction contemplated by the Fundamental Agreements or the Facility which Taxes are not the responsibility of Lessee under this Section 19(b), then Lessor shall pay to Lessee an amount that equals the amount paid by Lessee with respect to such Taxes.

(vi) Survival. The obligations contained in this Section 19(b) shall survive the termination of this Lease. The obligations of Lessee in respect of all such indemnities, obligations, adjustments and payments are expressly made for the benefit of, and shall be enforceable by, Lessor, at the option of Lessor without declaring this Lease to be in default or taking other action hereunder.

(c) After-Tax Basis. The indemnity amounts payable under this Section 19 shall be computed on an "after-tax" basis, so that any such indemnity payment shall be an amount which, when reduced by the increase in the federal, state and local tax liability of Lessor based upon or measured by Lessor's net income as a result of such payment and after taking into account any present or future tax benefits (such as offsets resulting from any additional deductions or credits due to increased tax liabilities to any taxing authorities), shall equal the claim in respect of which such indemnity is payable.

(d) Control of Litigation, Subrogation. Provided no Default shall have occurred and be continuing, Lessee shall have the right to control litigation related to any claim against Lessor for which Lessee would be liable under this Section 19, using legal counsel reasonably acceptable to Lessor, and to determine the settlement of claims therein. To the extent that Lessee has made an indemnity payment to Lessor pursuant to this Section 19 or

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otherwise, Lessee shall be subrogated to Lessor's rights in the affected transaction.

Section 20. Assignment.

(a) Generally. This Lease shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto.

(b) Assignment by Lessor. Lessor may not assign any interest under this Lease (i) if such assignment would constitute a breach under the Power Purchase Agreement, (ii) in any manner that will cause the Facility to lose its status as a QF or (iii) in any manner that will subject the Facility or Lessee to additional regulation by any federal, state or local governmental authority or regulatory commission (including, without limitation, the SEC, the FERC and the PUC) as a "public utility," a "public utility holding company," an "electric utility," an "electric utility holding company" or an "electrical corporation" under any federal, state or local law rule or regulation (including, without limitation, the PUHCA, the FPA and the State PUC Law). Otherwise, Lessor may assign and reassign (whether as security or otherwise) all or any part of its rights, title and interest in and to this Lease or the Leased Property or the Rent due or to become due to Lessor hereunder to a person experienced in financing, owning or operating hydroelectric or alternative energy projects. Any such assignment shall be subject to the rights of Lessee under this Lease.

(c) Assignment by Lessee. Lessee shall not, without Lessor's prior written consent, which consent shall not be unreasonably withheld, assign to anyone its rights hereunder or any of its interest in the Leased Property. In connection with any such consent of Lessor, Lessee shall provide such information concerning the proposed assignee and the proposed assignment as Lessor shall reasonably request. Lessor may withhold such consent if such information is not provided by Lessee to Lessor's reasonable satisfaction or if the information provided indicates, in Lessor's judgment, that such assignment is likely to have such an adverse impact that is not insubstantial. Lessee may not assign any interest under this Lease (i) if such assignment would constitute a breach under the Power Sales Agreement, (ii) in any manner that will cause the Facility to lose its status as a QF or (iii) subject the Facility or Lessee to regulation by any federal, state or local governmental authority or regulatory commission (including, without limitation, the SEC, FERC and the PUC) as a "public utility," a "public utility holding company," an "electric utility," an "electric utility holding company" or an "electrical corporation" under any federal, state or local law rule or regulation (including, without limitation, the PUHCA, the FPA and the State PUC Law). Unless specifically agreed by Lessor, no assignment, whether or not consented to, shall in any way relieve Lessee from any obligation under this Lease, and Lessee hereby waives any rights it may now have or hereafter acquire to avoid any such obligation by reason of such assignment or any circumstances arising from such assignment. Lessee agrees to indemnify and hold harmless Lessor against any and all, claims, demands, liabilities and reasonable out-of-pocket expenses, of whatever nature, relating to or in any way arising out of such assignment, including, without limitation, reasonable

out-of-pocket expenses incurred in evaluating any proposed assignment, and all reasonable out-of-pocket costs, damages, charges, attorneys' fees and expenses arising out of or necessitated by assertion of any such claim or demand with regard to such assignment. Any assignment entered into in violation of this Section 20(c) shall be void.

Section 21. Addresses and Payments.

(a) Addresses. All notices or other communications required or permitted to be given hereunder shall be in writing, shall be addressed as provided below and shall be considered as properly given (i) if delivered in person, (ii) if sent by overnight delivery service (including, without limitation, Federal Express, ETA, Emery, Purolator, DHL, Air Borne and other similar overnight delivery services), (iii) in the event overnight delivery services are not readily available, if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested or (iv) if sent by prepaid telegram, facsimile copy or by telex and confirmed. Notice so given shall be effective upon receipt by the addressee; provided, however, that if any notice is tendered to an addressee and the delivery thereof is refused by such addressee, such notice shall be effective upon such tender. For the purposes of notice, the addresses of the parties shall be as set forth below; provided, however, that any party shall have the right to change its address for notice hereunder to any other location within the continental United States by giving of thirty (30) days' notice to the other parties in the manner set forth hereinabove. The initial addresses of the parties hereto are as follows:

(1) Lessor:
Westinghouse Credit Corporation
One Oxford Centre
Pittsburgh, Pennsylvania 15219
Attention: Manager, Administration,
Major Industries
Finance Group
Facsimile: (412) 393-3387

(2) Lessee:
Smith Falls Hydropower
699 East South Temple
Salt Lake City, Utah 84102
Attention: David B. Van Otten
Facsimile: (801) 363-6661

(b) Payments. All payments required or permitted hereunder shall be made in lawful currency of the United States. Any wire fund transfers shall be paid to the account of the intended recipient as set forth below. Any party may change its account by giving notice to the other party in the manner set forth above.

(1) Lessor:
Lessor's account at
Citibank, N.A.
399 Park Avenue
New York, New York
Account No. 3848-7299
Attention: ABA No. 021-000089

(2) Lessee: Lessee's account at
First Security Bank of Utah
15 East 100 South
Salt Lake City, Utah 84111
Account No. 060 00556 10
Attention: Christian M. Feinauer
Cash Management Officer
(801) 350-5163

Section 22. Waivers. Lessor's failure at any time to require strict performance by Lessee of any of the provisions hereof shall not waive or diminish Lessor's right thereafter to demand strict compliance therewith or with any other provision. No express or implied waiver by Lessor of any Default or Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Default or Event of Default or of any other Default or Event of Default. Failure by Lessor to collect the Rent reserved herein or any other sums as and when the same fall due, or to exercise its right to take possession of the Facility or the Site as herein provided, shall not waive or in any way affect Lessor's rights under this Lease or extend the time for making said payments. None of the conditions or provisions of this Lease shall be held to have been waived by any act or knowledge of Lessor, its agents or employees, but only by an instrument in writing signed by an officer of Lessor and delivered to Lessee.

Section 23. Quiet Enjoyment. Lessor covenants that Lessee and its permitted successors and assigns, so long as no Default shall have occurred and be continuing, may and shall peaceably and quietly have, hold, possess, use and enjoy the Leased Property as provided in this Lease without suit, molestation or interruption by Lessor or by reason of Lessor's acts.

Section 24. Lessor's Right to Perform for Lessee. If Lessee fails to make any payment of Rent required to be made by it hereunder or fails to perform or comply with any of its agreements contained herein, Lessor may itself, upon ten (10) days' prior written notice to Lessee, make such payment or perform or comply with such agreement, and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the Default Rate, shall be deemed Supplemental Rent, payable by Lessee upon demand.

Section 25. Resistance to Regulatory Change. If the FERC or the PUC shall issue any order, judgment, regulation or decision the effect of which is to rescind, terminate, repeal, invalidate, suspend, enjoin, amend or modify the Power Purchase Agreement, then, under such circumstances, if such regulatory change shall be known to Lessee and if, as a result of such regulatory change, there shall exist in the good faith opinion of Lessor a reasonable possibility that such regulatory change will have a material and adverse effect on any of the Fundamental Agreements, the Related Documents or the documents contemplated thereby, Lessee shall diligently and timely (a) make all filings, (b) pursue all remedies and appeals and (c) take such other lawful action, in each case as shall be necessary or, in the good faith

opinion of Lessee or Lessor, desirable to (i) prevent such regulatory change from becoming final and nonappealable or otherwise irrevocable, (ii) postpone the effectiveness of such regulatory change and (iii) cause such regulatory change to be revoked or amended or modified so as to eliminate the reasonable possibility of such material adverse effect.

Section 26. Distributions to General Partners. Lessee hereby convenants that it shall not make any distribution of cash, securities or other property to any General Partner while any Default shall have occurred and be continuing.

Section 27. Governing Law; Entire Agreement. This Lease shall be governed by the laws of the State of Idaho and, together with the Financing Agreement and the other Fundamental Agreements, constitutes the entire agreement between the parties pertaining to the lease of the Leased Property by Lessor to Lessee. No other agreement, oral or written, express or implied, has been made between the parties, except as referred to herein.

Section 28. Amendment; Invalidity; Payments. This Lease may not be altered or amended except by an agreement in writing signed by Lessor and Lessee. If any provision of this Lease or the application thereof to any party or circumstances is held invalid or unenforceable, the remainder of this Lease and the application of such provision to other parties or circumstances shall not be affected thereby, and to this end the provisions of this Lease are declared severable. Notwithstanding any provision hereof to the contrary, any payment required under this Lease which is due on a day which is not a Business Day may be paid on the next day which is a Business Day.

Section 29. Counterparts. THIS LEASE WILL BE SIMULTANEOUSLY EXECUTED IN TWO (2) COUNTERPARTS, EACH OF WHICH, WHEN SO EXECUTED AND DELIVERED, SHALL CONSTITUTE AN ORIGINAL, FULLY ENFORCEABLE COUNTERPART FOR ALL PURPOSES EXCEPT THAT ONLY THE COUNTERPART STAMPED OR MARKED "COUNTERPART NUMBER 1", THE RECEIPT OF WHICH HAS BEEN ACKNOWLEDGED BY LESSOR, SHALL CONSTITUTE "CHATTEL PAPER" OR OTHER "COLLATERAL" WITHIN THE MEANING OF THE UNIFORM COMMERCIAL CODE IN EFFECT IN ANY JURISDICTION.

Section 30. Scope of Liability. Notwithstanding any other provision of this Agreement or any of the other Fundamental Agreements, there shall be no recourse against the Shareholder, the General Partners, Hydro-Flow, INE or any of their respective Affiliates (other than Lessee), stockholders, officers, directors or employees, for any liability to Lessor arising in connection with any breach or default under this Lease except to the extent the same is enforced against Lessee or the Collateral, and Lessor shall look solely to Lessee and the Collateral in enforcing rights and obligations under and in connection with this Lease, provided, however, the foregoing provisions of this Section 30 shall not:

(a) Constitute a waiver, release or discharge of any of the indebtedness under, or of any of the terms, covenants, conditions or provisions of, this Lease or any other Fundamental Agreement, and the same shall continue until fully paid, discharged, observed, or performed;

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(b) Limit or restrict the right of Lessor to name Lessee or any other Person as a defendant in any action or suit for a judicial foreclosure or for the exercise of any other remedy under or with respect to this Lease, the Collateral Documents or any other Fundamental Agreement, or for injunction or specific performance; or

(c) In any way limit or restrict any right or remedy of Lessor (or any assignee or beneficiary thereof or successor thereto) with respect to, and Lessee and any other party hereto shall remain fully liable to the extent that it would otherwise be liable for, any fraud, misrepresentation or misappropriation of Facility revenues, Proceeds or any other earnings, revenues, rents, issues, profits or proceeds from or of the Collateral that should or would have been paid as provided herein or paid or delivered to Lessor (or any assignee or beneficiary thereof or successor thereto) towards any payment required under this Lease or any other Fundamental Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Lease as of the date first above written.

LESSOR: WESTINGHOUSE CREDIT CORPORATION

By _____
Title: Senior Investment Manager

LESSEE: SMITH FALLS HYDROPOWER
by its general partners:

AMERICAN PACIFIC POWER CORP.

By: _____
David B. Van Otten, President

PACIFIC WEST POWER CORP.

By: _____
Gary E. May, President

AMERICA WEST HYDRO, INC.

By: _____
R. Fred Moss, President

ACKNOWLEDGMENT

Receipt of Counterpart Number 1 of the Lease is hereby acknowledged.

LESSOR: WESTINGHOUSE CREDIT CORPORATION

By _____
Title: Senior Investment Manager

SCHEDULE II

DESCRIPTION OF SITE

3323H

SCHEDULE II

DESCRIPTION OF FEE PROPERTY

A tract of land in the West Half of the Northeast Quarter (W 1/2 NE 1/4) of Section Twenty-six (26), Township Sixty-five (65) North, Range Two (2) West, B.M., Boundary County, Idaho; more particularly described as follows:

Beginning at a point on the north line of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), which is North 89 degrees 46' 32" East, 476.29 feet from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4); thence North 00 degrees 13' 23" West, 175.00 feet; thence North 89 degrees 46' 32" East, 313.48 feet; thence South 18 degrees 13' 11" East, 184.00 feet; thence South 12 degrees 40' 05" East, 49.72 feet, to the center of Smith Creek; thence up the center of Smith Creek, South 28 degrees 20' 26" West, 127.92 feet; thence leaving the centerline of the creek, South 89 degrees 46' 32" West, 319.88 feet; thence North 00 degrees 13' 23" West, 160.90 feet, to the TRUE POINT OF BEGINNING.

TOGETHER WITH an easement 100 feet in width for access and utilities through the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section Twenty-six (26); said strip being 50 feet on each side of the following described centerline:

Beginning at a point on the north line of the above described property which is South 89 degrees 46' 32" West, 52.57 feet from the northeast corner of the above described property; thence North 18 degrees 13' 13" West, 27.77 feet; thence North 62 degrees 49' 13" West, 68.33 feet; thence North 03 degrees 42' 02" West, 115.88 feet; thence North 25 degrees 59' 34" West, 116.34 feet; thence North 42 degrees 21' 30" East, 130.65 feet; thence North 49 degrees 57' 12" East, 106.56 feet; thence North 01 degrees 39' 14" West, 132.54 feet; thence North 38 degrees 40' 06" West, 96.06 feet; thence North 24 degrees 43' 39" East, 138.37 feet; thence North 07 degrees 38' 20" East, 140.62 feet; thence North 43 degrees 47' 47" East, 220.51 feet; thence North 85 degrees 12' 25" East, 165.20 feet to the westerly right of way of the county road known as the West Side road, and the terminus of this easement; with the sidelines of said easement to intersect the county road right of way and adjacent boundaries.

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(continued)

TOGETHER WITH an easement 100 feet in width for a pipeline through the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26); said easement being 50 feet on each side of the following described centerline:

Beginning at a point on the west line of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of said Section Twenty-six (26), which is South 00 degrees 18' 07" East, 249.21 feet from the northwest corner of said Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4); thence North 69 degrees 29' 36" East, 507.41 feet, to the west boundary of the above described property with the sidelines of said easement to be extended or shortened to intersect adjacent boundaries.

SCHEDULE III

BASIC RENT FACTORS AND CASUALTY LOSS VALUES

PART A: BASIC RENT FACTORS

Rent Payment Date	Basic Rent Factor - %
6/30/90	5.352
12/30/90	5.352
6/30/91	5.308
12/30/91	5.308
6/30/92	5.261
12/30/92	5.261
6/30/93	5.212
12/30/93	5.212
6/30/94	5.161
12/30/94	5.161
6/30/95	5.107
12/30/95	5.107
6/30/96	5.050
12/30/96	5.050
6/30/97	5.122
12/30/97	5.122
6/30/98	5.066
12/30/98	5.066
6/30/99	5.008
12/30/99	5.008
6/30/2000	4.775
12/30/2000	4.775
6/30/01	5.114
12/30/01	5.114
6/30/02	4.988
12/30/02	4.988
6/30/03	4.887
12/30/03	4.887
6/30/04	4.783
12/30/04	4.783
6/30/05	4.704
12/30/05	4.704
6/30/06	4.621
12/30/06	4.621
6/30/07	4.534
12/30/07	4.534
6/30/08	4.486
12/30/08	4.486
6/30/09	4.398
12/30/09	4.398

PART B: CASUALTY LOSS VALUES

Payment Date	Casualty Loss Value
30 DEC 1989	92.23667377
30 JAN 1990	101.87764032
30 FEB 1990	101.94068058
30 MAR 1990	102.00993034
30 APR 1990	102.07531860
30 MAY 1990	102.13835999
30 JUN 1990	102.20761091
30 JUL 1990	102.21990401
30 AUG 1990	102.23807665
30 SEP 1990	102.26216708
30 OCT 1990	102.28364213
30 NOV 1990	102.31105643
30 DEC 1990	102.34444859
30 JAN 1991	101.21642145
30 FEB 1991	101.08203919
30 MAR 1991	101.07683852
30 APR 1991	101.07354675
30 MAY 1991	101.06890743
30 JUN 1991	101.06999030
30 JUL 1991	101.01556340
30 AUG 1991	100.96653496
30 SEP 1991	100.92294007
30 OCT 1991	100.87773558
30 NOV 1991	100.83798952
30 DEC 1991	100.80373736
30 JAN 1992	99.61003736
30 FEB 1992	99.40950457
30 MAR 1992	99.33767259
30 APR 1992	99.26792923
30 MAY 1992	99.19635170
30 JUN 1992	99.13001044
30 JUL 1992	99.00814372
30 AUG 1992	98.89118629
30 SEP 1992	98.77917009
30 OCT 1992	98.66504483
30 NOV 1992	98.55587921
30 DEC 1992	98.45170546
30 JAN 1993	97.18843527
30 FEB 1993	96.91782678
30 MAR 1993	96.77541031
30 APR 1993	96.63456863
30 MAY 1993	96.49129550
30 JUN 1993	96.35273933
30 JUL 1993	96.15855391
30 AUG 1993	95.96875442
30 SEP 1993	95.78336936

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Payment Date	Casualty Loss Value
30 OCT 1993	95.59526322
30 NOV 1993	95.41158254
30 DEC 1993	95.23235607
30 JAN 1994	93.89431759
30 FEB 1994	93.54839888
30 MAR 1994	93.33012670
30 APR 1994	93.11284395
30 MAY 1994	92.90649283
30 JUN 1994	92.70439274
30 JUL 1994	92.46063602
30 AUG 1994	92.22088711
30 SEP 1994	91.98517206
30 OCT 1994	91.76026881
30 NOV 1994	91.53949595
30 DEC 1994	91.32288034
30 JAN 1995	89.96202039
30 FEB 1995	89.59307326
30 MAR 1995	89.35156438
30 APR 1995	89.11702011
30 MAY 1995	88.89470230
30 JUN 1995	88.67647313
30 JUL 1995	88.41844119
30 AUG 1995	88.16426567
30 SEP 1995	87.91397166
30 OCT 1995	87.67580170
30 NOV 1995	87.44161730
30 DEC 1995	87.21144439
30 JAN 1996	86.95084272
30 FEB 1996	86.69401931
30 MAR 1996	86.44099873
30 APR 1996	86.19545784
30 MAY 1996	85.96191645
30 JUN 1996	85.73232927
30 JUL 1996	85.46328896
30 AUG 1996	85.19797204
30 SEP 1996	84.93640273
30 OCT 1996	84.68672870
30 NOV 1996	84.44090398
30 DEC 1996	84.19895361
30 JAN 1997	83.90544639
30 FEB 1997	83.61558165
30 MAR 1997	83.32938309
30 APR 1997	83.05048489
30 MAY 1997	83.78356721
30 JUN 1997	82.52046491
30 JUL 1997	82.21715301
30 AUG 1997	81.91741985
30 SEP 1997	81.62128869
30 OCT 1997	81.33702600

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Payment Date	Casualty Loss Value
30 NOV 1997	81.05646591
30 DEC 1997	80.77963249
30 JAN 1998	80.47180853
30 FEB 1998	80.16747343
30 MAR 1998	79.86664990
30 APR 1998	79.57302434
30 MAY 1998	79.29112985
30 JUN 1998	79.01289282
30 JUL 1998	78.69476426
30 AUG 1998	78.38005758
30 SEP 1998	78.06879502
30 OCT 1998	77.76914885
30 NOV 1998	77.47304472
30 DEC 1998	77.18050567
30 JAN 1999	76.85775043
30 FEB 1999	76.53832347
30 MAR 1999	76.22224642
30 APR 1999	75.91316324
30 MAY 1999	75.61554853
30 JUN 1999	75.32142557
30 JUL 1999	74.98774403
30 AUG 1999	74.65731973
30 SEP 1999	74.33017384
30 OCT 1999	74.01437898
30 NOV 1999	73.70195765
30 DEC 1999	73.39293180
30 JAN 2000	73.08303547
30 FEB 2000	72.77629885
30 MAR 2000	72.47274247
30 APR 2000	72.17596538
30 MAY 2000	71.89009907
30 JUN 2000	71.60754870
30 JUL 2000	71.28725301
30 AUG 2000	70.97004941
30 SEP 2000	70.65595800
30 OCT 2000	70.35266480
30 NOV 2000	70.05257422
30 DEC 2000	69.75570711
30 JAN 2001	69.36444659
30 FEB 2001	68.97618447
30 MAR 2001	68.59094023
30 APR 2001	68.21214051
30 MAY 2001	67.84464986
30 JUN 2001	67.48031214
30 JUL 2001	67.07516473
30 AUG 2001	66.67292542
30 SEP 2001	66.27361312
30 OCT 2001	65.88547650
30 NOV 2001	65.50035859

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Payment Date	Casualty Loss Value
30 DEC 2001	65.11827901
30 JAN 2002	64.71640771
30 FEB 2002	64.31732840
30 MAR 2002	63.92105923
30 APR 2002	63.53127610
30 MAY 2002	63.15238598
30 JUN 2002	62.77643728
30 JUL 2002	62.36055324
30 AUG 2002	61.94737008
30 SEP 2002	61.53690536
30 OCT 2002	61.13719917
30 NOV 2002	60.74029906
30 DEC 2002	60.34622326
30 JAN 2003	59.92892093
30 FEB 2003	59.51420085
30 MAR 2003	59.10207980
30 APR 2003	58.69614022
30 MAY 2003	58.30071077
30 JUN 2003	57.90800579
30 JUL 2003	57.47600938
30 AUG 2003	57.04649969
30 SEP 2003	56.61949287
30 OCT 2003	56.20285920
30 NOV 2003	55.78881213
30 DEC 2003	55.37736848
30 JAN 2004	54.94371489
30 FEB 2004	54.51242538
30 MAR 2004	54.08351532
30 APR 2004	53.66049085
30 MAY 2004	53.24758150
30 JUN 2004	52.83717110
30 JUL 2004	52.38812400
30 AUG 2004	51.94134088
30 SEP 2004	51.49683648
30 OCT 2004	51.06230752
30 NOV 2004	50.63013696
30 DEC 2004	50.20034011
30 JAN 2005	49.74495384
30 FEB 2005	49.29170469
30 MAR 2005	48.84060654
30 APR 2005	48.39508759
30 MAY 2005	47.95931998
30 JUN 2005	47.52581705
30 JUL 2005	47.05411665
30 AUG 2005	46.58444730
30 SEP 2005	46.11682219
30 OCT 2005	45.65880469
30 NOV 2005	45.20290720

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Payment Date	Casualty Loss Value
30 DEC 2005	44.74914351
30 JAN 2006	44.27088561
30 FEB 2006	43.79452616
30 MAR 2006	43.32007750
30 APR 2006	42.85090765
30 MAY 2006	42.39110692
30 JUN 2006	41.93332464
30 JUL 2006	41.43780603
30 AUG 2006	40.94407365
30 SEP 2006	40.45213909
30 OCT 2006	39.96942564
30 NOV 2006	39.48858167
30 DEC 2006	39.00961933
30 JAN 2007	38.50730461
30 FEB 2007	38.00663751
30 MAR 2007	37.50762872
30 APR 2007	37.01358308
30 MAY 2007	36.52850523
30 JUN 2007	36.04518707
30 JUL 2007	35.52461647
30 AUG 2007	35.00557477
30 SEP 2007	34.48807192
30 OCT 2007	33.97938436
30 NOV 2007	33.47230296
30 DEC 2007	32.96683818
30 JAN 2008	32.43196863
30 FEB 2008	31.89848305
30 MAR 2008	31.36639044
30 APR 2008	30.83892938
30 MAY 2008	30.32009507
30 JUN 2008	29.80274899
30 JUL 2008	29.24829493
30 AUG 2008	28.69509752
30 SEP 2008	28.14316490
30 OCT 2008	27.59969991
30 NOV 2008	27.05756301
30 DEC 2008	26.51676283
30 JAN 2009	25.95337051
30 FEB 2009	25.39108134
30 MAR 2009	24.82990248
30 APR 2009	24.27303875
30 MAY 2009	23.74123799
30 JUN 2009	23.21074579
30 JUL 2009	22.66058602
30 AUG 2009	22.11161544
30 SEP 2009	21.56384177
30 OCT 2009	21.04119018
30 NOV 2009	20.51990662
30 DEC 2009	20.00000000

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SCHEDULE IV

EXCESS RENT AMOUNTS

Rent Payment Date	Excess Rent Amount
6/30/90	107,072.67
12/30/90	107,072.66
6/30/91	112,383.60
12/30/91	112,383.60
6/30/92	113,462.00
12/30/92	113,462.00
6/30/93	111,534.34
12/30/93	111,534.33
6/30/94	112,759.65
12/30/94	112,759.65
6/30/95	114,065.35
12/30/95	114,065.35
6/30/96	115,454.67
12/30/96	115,454.67
6/30/97	106,127.36
12/30/97	106,127.36
6/30/98	107,156.98
12/30/98	107,156.98
6/30/99	108,259.21
12/30/99	108,259.20
6/30/2000	135,626.25
12/30/2000	135,626.25
6/30/01	103,714.41
12/30/01	103,714.41
6/30/02	109,883.56
12/30/02	109,883.56
6/30/03	113,746.34
12/30/03	113,746.33
6/30/04	86,182.73
12/30/04	86,182.73
6/30/05	123,223.65
12/30/05	123,223.65
6/30/06	125,005.33
12/30/06	125,005.33
6/30/07	126,904.02
12/30/07	126,904.01
6/30/08	125,354.12
12/30/08	125,354.12
6/30/09	126,849.79
12/30/09	126,849.78

APPENDIX A
TO THE
FACILITY AND
SITE LEASE

CERTIFICATE OF DELIVERY AND ACCEPTANCE

SMITH FALLS HYDROPOWER (Lessee under that certain Facility and Site Lease ("Lease") dated as of _____, 19__, between Lessee and WESTINGHOUSE CREDIT CORPORATION, ("Lessor")) hereby acknowledges and accepts delivery of the following Facility and a leasehold under the Ground Lease dated as of May 25, 1989 between Lessor and Lessee pertaining to the following real property:

Site: Fee titles in certain parcels and easements as to other parcels, all of which parcels are situated in Boundary County, Idaho; all of such parcels and interests are more particularly described in Appendix A to the Lessee Fee Mortgage and the Lessee Easement Mortgage.

Facility:

The 38.15MW (Gross) hydroelectric facility located on the Site, in Boundary County, Idaho, including, without limitation, any and all alterations and components from time to time incorporated in or installed as part of such Facility.

Capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease.

Lessor hereby leases to Lessee, and Lessee hereby accepts and leases from Lessor, the Facility and the Site pursuant to the Lease.

Dated: _____, 19__

SMITH FALLS HYDROPOWER
by its general partners:

PACIFIC WEST POWER CORP.

BY: _____
Gary E. May, President

AMERICAN PACIFIC POWER CORP.

By: _____
David B. Van Otten, President

AMERICA WEST HYDRO, INC.

By: _____
R. Fred Moss, President

3323H

ACKNOWLEDGMENT

This Certificate of Delivery and Acceptance is hereby acknowledged and agreed to this ____ day of _____, 19__.

Lessor

WESTINGHOUSE CREDIT CORPORATION

By _____
Title: Senior Investment Manager

3323H

APPENDIX B
TO THE
FACILITY AND
SITE LEASE

CERTIFICATE OF DELIVERY AND ACCEPTANCE

SMITH FALLS HYDROPOWER (Lessee under that certain Facility and Site Lease ("Lease") dated as of _____, 19__, between Lessee and WESTINGHOUSE CREDIT CORPORATION, ("Lessor")) hereby acknowledges and accepts delivery of the Second Large Turbine.

Capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease.

Lessor hereby leases to Lessee, and Lessee hereby accepts and leases from Lessor, the Second Large Turbine as part of the Facility pursuant to the Lease.

Dated: _____, 19__

SMITH FALLS HYDROPOWER
by its general partners:

PACIFIC WEST POWER CORP.

BY: _____
Gary E. May, President

AMERICAN PACIFIC POWER CORP.

By: _____
David B. Van Otten, President

AMERICA WEST HYDRO, INC.

By: _____
R. Fred Moss, President

3323H

ACKNOWLEDGMENT

This Certificate of Delivery and Acceptance is hereby acknowledged and agreed to this ____ day of _____, 19__.

Lessor

WESTINGHOUSE CREDIT CORPORATION

By _____
Title: Senior Investment Manager

3323H