

Town Ship 10 S Range 44 E B. 2nd

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SEC.

5
creek

Power
House
1250
1250
1250

76 mile

Pipe Line

1958
George Law
76.56

Dam
creek

3181

Approved October 12, 1907

James Stephenson Jr

State Engineer.

SEC. 5

1/4 Car → Not Found

SEC.

Georgetown Creek

POWER HOUSE

1/4 Cor. Obliterated

Transmission

Line

Stone

N. 18° W. (Mag)

-1990'

1949'

 $L = 83.2^\circ$

445

5.

→

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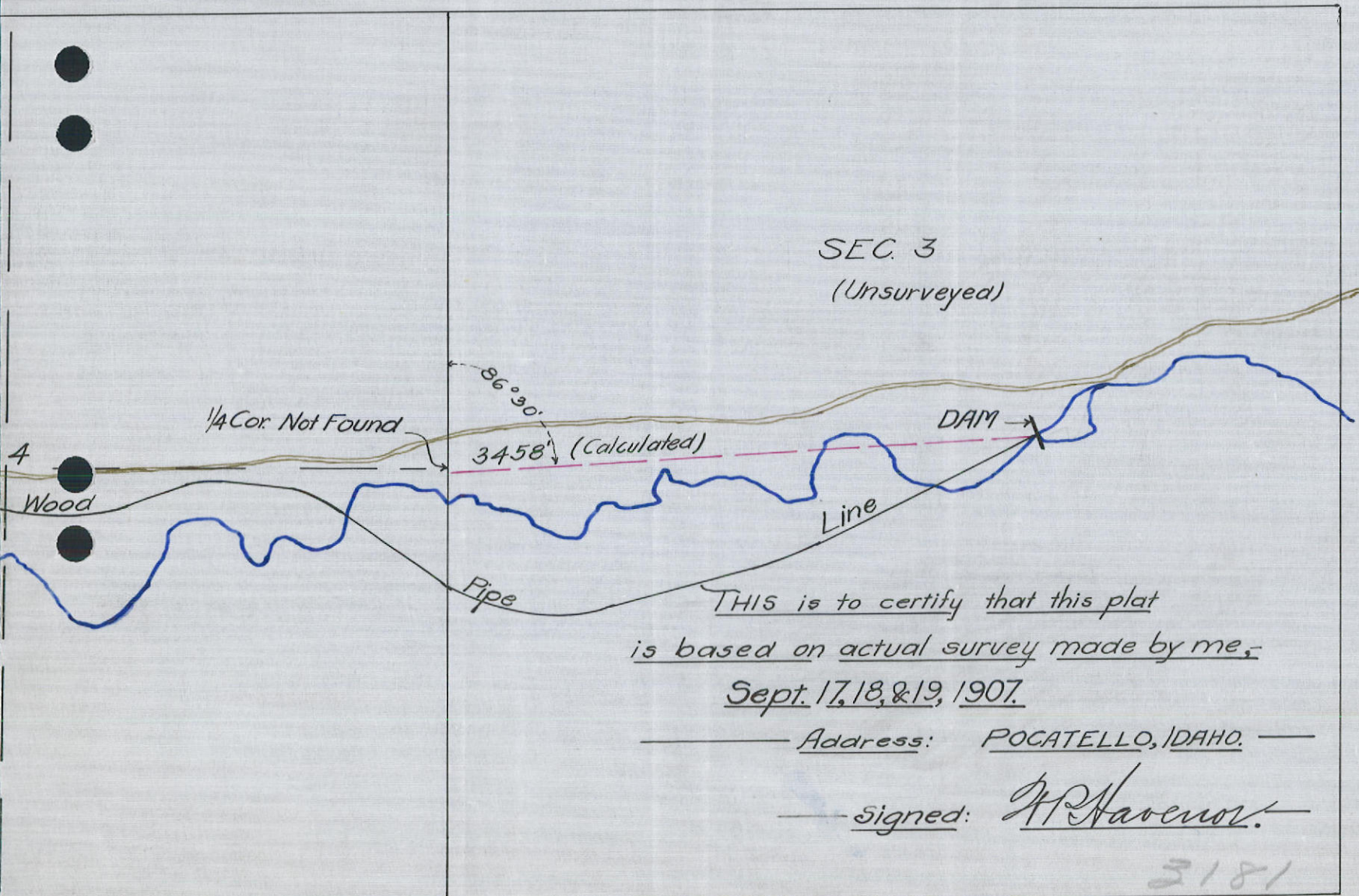
PROPERTY OF MONTPL

To Acc

APPLICATION

P/c

at of
ELIER ELECTRIC LT. CO. LTD.
company
ON No 4267



 Georgetown Creek *
 Bear Lake County *
 40 second feet. *
 Power purposes *
 Priority 8-9-1907 *

S T A T E O F I D A H O .

Water License No. 3181.

 WHEREAS, On the 9th day of August A.D. 1907, THE MONTPELIER ELECTRIC LIGHT COMPANY. LIMITED., of Montpelier, County of Bear Lake, and State of Idaho, duly made Application (No. 4268) to me for a permit to use 40 cubic feet per second of the waters of Georgetown Creek, County of Bear Lake, State of Idaho, for power purposes, and

WHEREAS, On the 12th day of October A.D. 1907 Permit No. 3181 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 12th day of October A.D. 1908, and for the application to beneficial use of said water on or before the 12th day of October A.D. 1909, and,

WHEREAS, On the 29th day of August A.D. 1908, the holder of said permit duly made proof of the completion of adequate works for the diversion of 40 cubic feet per second of said waters, as evidenced by my certificate No. 3181, dated September 9, 1908, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 40 cubic feet per second of waters with date of priority of August 9, 1907, and

WHEREAS, On the 29th day of August A.D. 1908, proof was duly made of the application to beneficial use of 40 cubic feet per second of said water;

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to the MONTPELIER ELECTRIC LIGHT COMPANY. LIMITED, of Montpelier, Idaho, the holder and owner of said Permit No. 3181, a perpetual right dating from August 9, 1907, to the use of 40 cubic feet per second of the waters of Georgetown Creek, in the county of Bear Lake, and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point at or near the junction of north and south forks of said creek, being 3458' N. 86° 30' E. from ~~the~~ cor. and conducted to the power house of the said sec. 4. township 11 south, range 44 east of Boise meridian, ~~and conducted to Georgetown, Bennington and Montpelier Electric Light Company, Ltd., situated on Georgetown Creek, Montpelier, Idaho, for the purpose of Electrical power, subject, however, to the laws of the State of~~ Idaho applicable to a license for the use of waters of the state, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS My hand and the seal of my office at Boise, Idaho, this 9th day of September, A.D.

Nineteen hundred and eight.

Jas. Stephenson, Jr

State Engineer.

(SEAL)

Recorded September 9, 1908.

No. 4267

11-2018

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

1. Name of applicant: Montpelier Electric Light Company, Limited.

Postoffice address: Montpelier.

County: Bear Lake State: Idaho.

I. If applicant is a corporation give:

(a) Date and place of incorporation: Aug. 22nd, 1902, Montpelier, Idaho.

(b) The amount of capital stock: 40,000 shares, par value \$1.00 each

(c) The amount paid in: \$35,000.00

(d) The names and addresses of directors: J.R. Brennan, M. J. Davis, J.F. O'Conner,

L. B. Leverich and D'Orr Poynter, all of Montpelier, Idaho.

II. The financial resources of the applicant are:

(a) Cash on hand: \$2,000.00

(b) Treasury Stock: 5,000 shares.

(d) Other resources: Plant of the value of \$50,000.00

2. The quantity of water claimed is Forty (40) cubic feet persecond.

3. Source of water supply: Georgetown Creek,

County of Bear Lake, State of Idaho

4. Location of point of diversion : At or near junction of North and South Forks of said creek.

being 3458' - N 86° - 30' E from E $\frac{1}{4}$ Cor. Sec. 4 T 11 S 44 E

5. To be used for.

II Mining, power, manufacturing or transportation purposes:

(a) To be used for: Power purposes.

(b) Amount of power to be generated: 300 horse power.

(c) At what point: 1949 ft. N. 12° 23' E. from S.W. Cor. Sec. 4 T 11 S. R. 44 E. B. M.

(d) Is water to be returned to any stream: Yes.

(e) If so name stream and locate point of return: Georgetown creek, point of generation of power.

6. Estimated cost of works: \$40,000.00

7. Description of works for diversion:

I. Kind of works: Pipe and dam

II. Dimensions of works:

(a) Height of dam 7 feet, length of dam at top 35 feet, length of dam at bottom 38 feet. Material used in construction: Wood and concrete

(b) Capacity of reservoir: Two acre-feet.

(c) Size of headgate: Width 5 feet, height 7 feet.

(d) Conduit Pipe, 33 inches diameter, width at bottom.....feet, width at water line 4 feet, depth of water 3.5 feet. Diameter of pipe 33 inches.

Average grade per mile is 15 feet. Length of conduit is 1.77 miles, and it crosses the following quarter sections: On unsectioned land until it reaches S.E. $\frac{1}{4}$ of Sec. 4. T. 11-44 E. B. M., then crossing same into S.W. $\frac{1}{4}$ of same Sec. to point of generation to point described in 5 II (c) above which is the point of intended use.

8. Time required for the completion of the construction of such work is One year

9. Time required for the complete application of the water to the proposed use is One additional year.

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

Montpelier Electric Light Co., Ltd.,

Applicant.

By....John R. Brennan, Pres. &...Agent.

APPROVAL OF STATE ENGINEER.

The number of this permit is 3181

Date of first receipt of application 9:00 AM August 9, 1907.

Returned to applicant for correction August 10, 1907.

Corrected application received October 9, 1907.

Recorded in Book 9 Page 3181 Approved October 12, 1907.

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho and hereby grant the same, subject to the following limitations and conditions:

Good and sufficient bond to be filed in the sum of \$1,000.00 on or before December 11, 1907.

One-fifth of the work above specified to be completed on or before April 12, 1908.

The whole of said work to be completed on or before October 12, 1908.

The time for proof of beneficial use of water appropriated in accordance herewith, to extend to October 12, 1909.

Witness my hand this 12 day of October 1907.

Jas. Stephenson, Jr.,

State Engineer.

Blank notice or proof of completion mailed applicant July 1, 1908.

Notice received July 21, 1908, fixing August 11, 1908 as date and Montpelier as place of proof.

Deposition blanks mailed applicant July 21, 1908.

Notice of publication mailed Montpelier Examiner July 21, 1908

R. A. Birch authorized July 21, 1908, to make examination of works.

Bond received November 30, 1907.

Depositions, affidavit and fees and report received September 20, 1908

Certificate of completion of works issued September 10, 1908.

Permit No. 3181.

CERTIFICATE OF COMPLETION OF WORKS.

To All Whom it May Concern:

This is to certify that MONTPELIER ELECTRIC LIGHT CO. LTD. of Montpelier, County of Bear Lake, and State of Idaho, the holder of Permit No. 3181, issued upon Application No. 4267 bearing date of priority of August 9, 1907, authorizing the diversion of 40 second feet of the waters of Georgetown Creek County of Bear Lake, State of Idaho, for power purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit: that said works are adequate for diverting and conveying to the place of intended use 40 second feet of the waters of Georgetown Creek, that the point of diversion of said waters is at a point at or near the junction of the north and south forks of said creek being 3458' - N. 86° - 30' E., from ~~the~~ corner, section 4, township 11 south, range 44 east of the Boise Meridian, and that the place of the use of said water is at the power house of the said Montpelier Electric ~~and that the place of intended use is at the town of Georgetown, Bennington and Montpelier, Idaho.~~ Light Company, Ltd., located at the end of the pipe line of said corporation on Georgetown Creek in said Bear Lake County, Idaho.

Witness my hand this 9th day of September, A.D. 1908.

Jas. Stephenson, Jr.

State Engineer.

License issued for ⁴⁰~~35~~ second feet
P. 352

STATE OF IDAHO,)

County of Ada.) ss.

A F F I D A V I T.

D. W. Standrod being first duly sworn deposes and says:

That since about the year 1907 until about the month of April, 1913, he was at all times a member of the Board of Directors of the Bear Lake Power Company, a corporation organized and existing under the laws of the State of Idaho with its principal place of business at Montpelier, Bear Lake County, State of Idaho; that during said time he was acting in the capacity of secretary of said corporation for the year preceding the month of April, 1913, he was the duly elected, qualified and acting secretary of said corporation; that during all of said time he was a director of said corporation he was familiar with the operation of said corporation and was well acquainted with the power plant of said corporation situated

in Georgetown Canyon and on Georgetown Creek in said Bear Lake County, Idaho; that^h about the year 1909 the Bear Lake Power Co. purchased from the Montpelier Electric Light Company, a corporation, all interest of the said latter corporation in and to the power plant, water rights, electric line and appliances of the said latter corporation situated on Georgetown Creek aforesaid, and took from said latter company a deed for all of said property which has been duly recorded with the County Recorder of said Bear Lake County and the said Bear Lake Power Company has since the date of said purchase, owned, controlled and operated said power plant, water rights, etc.

That on the 9th day of September, A. D. 1908, one, Jas. Stephenson, Jr., State Engineer of the State of Idaho, issued to the said Montpelier Electric Light Company a certificate of the completion of works under permit No. 3181 theretofore issued by said State Engineer to the said Montpelier Electric Light Company, in which said certificate of completion of works there is this language: "And that the place of use is at the towns of Georgetown, Bennington and Montpelier, Idaho," from which it appears from the foregoing part of said certificate that such a place and places were intended to have the use of the water so appropriated and diverted.

That on the 9th day of September, 1908, water license No. 3181 was issued by said State Engineer to the said Montpelier Electric Light Company following the permit and certificate of completion of works aforesaid, in which said last mentioned water license No. 3181 appears this language: "And conducted to Georgetown, Bennington and Montpelier, Idaho, for the purpose of electrical power", from which said license it would appear that the water so diverted and appropriated was conducted to Georgetown, Bennington and Montpelier, Idaho.

Affiant says that the clauses above quoted from said certificate of completion of works and from said water license are, upon their face, an error and instead of conveying the meaning that the water was to be conducted to said Georgetown, Bennington and Montpelier, should have shown that the water was conducted to the power plant of the said Montpelier Electric Light Company situated on Georgetown Creek for the purpose of generating electrical power at said plant which electrical power was to be conveyed to Georgetown, Bennington and Montpelier and other places in said Bear Lake County; that affiant is well acquainted with the power house formerly owned by the Montpelier Electric Light Company and now owned by the said Bear Lake Power Company and has visited the same many times and knows that the waters of Georgetown Creek are conducted only to the power house aforesaid and is and was used for generating the electrical power to be conducted as aforesaid; that the water of the said Georgetown Creek is diverted and has always been diverted at the point set forth in the permit, in the Certificate of Completion of works and in the water license aforesaid, and is conducted to the power plant aforesaid situated at the end of the pipe line conveying said water on Georgetown Creek and is there permitted to flow back into the main stream of the said

Georgetown Creek and has never been used by the said Montpelier Electric Light Company or its successor in interest, the Bear Lake Power Company, at any other point or for any other purposes.

Affiant has now no interest in said Montpelier Electric Light Company or Bear Lake Power Company, but makes this affidavit on behalf of the latter named corporation, being familiar with all the facts herein set forth, and for the purposes and to the end that the said certificate of completion of works and the said water license may be corrected so that they will contain the facts as they exist and as they have always existed. On behalf of the said Bear Lake Power Company, affiant prays that said State Engineer of the State of Idaho, may correct said certificate of completion of works and of said water license on the face thereof, as follows: By striking out the following words in said certificate of completion of works, "And that the place of use is at the towns of Georgetown, Bennington and Montpelier", and inserting in lieu thereof, "And that the place of the use of said water is at the power house of the said Montpelier Electric Light Company, Ltd. located at the end of the pipe line of said corporation on Georgetown Creek in said Bear Lake County, Idaho"; and that the said water license be corrected by striking out the words, "And conducted to Georgetown, Bennington and Montpelier, Idaho", and insert in lieu thereof, "And conducted to the power house of the said Montpelier Electric Light Company, Ltd. situated on Georgetown Creek."

D. W. Standrod

Subscribed and sworn to before me this 5th day of Aug. A. D. 1913.

(SEAL)

I. W. Hart, Clerk Sup.Ct.

Received and filed for record in the office of the State Engineer at Boise, Idaho, at
B 3:00 P. M. Aug. 5, 1913.

F. P. King,

State Engineer.

FOR VALUE RECEIVED, The Montpelier Electric Light Company, a corporation duly authorized under and by virtue of the laws of the State of Idaho, with its principal place of business at Montpelier, Bear Lake County, Idaho, by resolution duly presented and passed by the stockholders thereof in session for that purpose, does hereby sell, transfer, assign and set over unto the Bear Lake Power Company, a corporation, its successors and assigns, all the right, title, and interest of the said Montpelier Electric Light Co., a corporation as aforesaid, in and to that certain water license No. 3181, issued to the said Montpelier Electric Light Co., by the State of Idaho, and which said license is dated the 9th day of September, 1908, and which certificate of Completion of works is of record in the State Engineer's office of the State of Idaho, in Book 9 of Permits. at Page 3181 thereof, and which said license is of record in the said State Engineer's office in Book 1 at page 352, of Water Licenses.

And the aforesaid resolution hereby directs that the said President and the said Secretary, do all the things necessary to make this transfer and assignment, together with other acts.

IN WITNESS WHEREOF, and by authority of the said resolution, the president and secretary of the said Montpelier Electric Light Company, have hereunto set their hands and seal of the said Company, this 2nd day of August, 1913.

Montpelier Electric Light Co.,

By... John R. Brennan,

President.

Louis B. Leverich,

Secretary.

(Seal)

Witness:

Ghas. E. Harris.

Received and filed for record in the office of the State Engineer at Boise, Idaho, at 9.00 A.M. August 13, 1913.

F.P.King,

State Engineer.

See assignment under Permit No. 6032

to Utah Power & Light Co 8-25-13

**OPERATIONS AGREEMENT
FOR PACIFICORP'S BEAR RIVER SYSTEM**

This Agreement is made this 18th day of April, 2000 by and among PacifiCorp, an Oregon Corporation, the Idaho Department of Water Resources, the Utah Division of Water Resources, and the Wyoming State Engineer's Office. Collectively, Idaho, Utah and Wyoming are referred to as the "States." PacifiCorp, Idaho, Utah, and Wyoming are collectively referred to as the "Parties."

WHEREAS, the States executed the Bear River Compact in 1957, and the Amended Bear River Compact in 1978, to "remove the causes of present and future controversy over the distribution and use of the waters of Bear River; to provide for efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River; to promote interstate comity; and to accomplish an equitable apportionment of the waters of Bear River among the compacting States;" and

WHEREAS, PacifiCorp owns water rights to divert and store water in Bear Lake and water rights in the Bear River as decreed in the matter of *Utah Power & Light Company v. The Last Chance Canal Company, Limited, et al.* in Equity No. 203, July 14, 1920 (the "Dietrich Decree"), and *Utah Power & Light Company v. Richmond Irrigation Company, et al.*, February 21, 1922 (the "Kimball Decree"), as well as other water rights in the Bear River. PacifiCorp's water rights include the exclusive right to divert and store water in and release water from Bear Lake between elevations 5923.65 ft and 5902.00 ft MSL (UP&L Datum) ("Bear Lake Storage Water"). The Idaho Water Resource Board holds a license issued by the State of Idaho establishing a minimum Bear Lake elevation of 5902.00 ft; and

WHEREAS, PacifiCorp has entered into various contracts for the use and allocation of its Bear Lake Storage Water under certain terms and conditions; and

WHEREAS, PacifiCorp owns and operates six hydroelectric plants with a total capacity of 116 MW on the Bear River downstream from Bear Lake. Five of the plants are licensed by the Federal Energy Regulatory Commission ("FERC"); and

WHEREAS, FERC determined on February 12, 1998 that Bear Lake "is operated primarily to supply irrigation water to downstream users in accordance to the Bear River Compact, [and] does not provide energy generation benefits to licensed projects downstream;" and

WHEREAS, by "AGREEMENT Regarding the Bear River System" between the States, PacifiCorp, and ScottishPower dated October 5, 1999 (the "October 5, 1999 Agreement") relating to PacifiCorp's operation of Bear Lake and its hydroelectric plants downstream from Bear Lake, the Parties agreed "PacifiCorp's water rights are constrained by the historic practice of not making a delivery call for hydropower

generation;" and "Bear Lake is operated, consistent with long-standing historic practice and applicable laws, primarily as a storage reservoir to satisfy contracts for existing irrigation uses and flood control needs in the three States, with the use of water for hydropower generation being incidental to the other purposes for which the water is being released;" and

WHEREAS, the October 5, 1999 Agreement anticipated the Parties would enter into a subsequent agreement further describing PacifiCorp's operations, and the Parties have negotiated this Agreement in satisfaction of the October 5, 1999 Agreement.

NOW THEREFORE, for the mutual promises of the Parties, and for other good and valuable consideration, the Parties agree as follows:

1. Purpose of this Agreement.

A. The purpose of this Agreement is to satisfy the requirements of Paragraph 2 of the October 5, 1999 Agreement committing the parties to negotiate an enforceable Bear River System Operations Agreement that shall confirm and continue PacifiCorp's historic practice of utilizing its water rights primarily for existing irrigation uses and contractual obligations.

B. The Parties agree that Paragraph 1.a. of the October 5, 1999 Agreement describes PacifiCorp's use of its water rights in Bear River for hydropower generation. Further agreement on PacifiCorp's use of its water rights for hydropower generation is not described herein, and the scope of this Bear River Systems Operations Agreement is limited to PacifiCorp's operations at Bear Lake.

C. The Parties recognize that PacifiCorp's operations at Bear Lake and at its downstream hydroelectric power plants on Bear River are separate operations and are not related, other than water released from Bear Lake is used for hydropower generation incidental to the other purposes for which water is released.

D. The Parties do not intend by this Agreement to confirm or agree that any specific water management practice of PacifiCorp described, referred to, or implied in this Agreement, other than the limitations set forth in the October 5, 1999 Agreement, shall constitute a constraint or limitation on PacifiCorp's use of its water rights. PacifiCorp will consult with the States if it sees the need to deviate from the operation and practices outlined in this Agreement.

E. The Parties do not intend by this Agreement to set forth a detailed plan for day-to-day operations of Bear Lake, but rather to establish the framework within which PacifiCorp will develop and implement such a plan. Such plan will conform to the terms of this Agreement and the October 5, 1999 Agreement.

F. The Parties recognize that persons not party to this agreement have varying interests in the manner in which Bear Lake is managed and operated. This Agreement is not intended as a formal recognition or confirmation of the interests of persons not party to this Agreement.

G. The Parties agree that if any of the terms of this Agreement are found to be inconsistent with the terms of the October 5, 1999 Agreement, the October 5, 1999 Agreement is controlling.

PacifiCorp's Regulation of Bear Lake.

A. PacifiCorp agrees to continue to operate Bear Lake primarily for Bear Lake Storage Water delivery under its contracts, or for flood control, depending on the level of Bear Lake, the forecasted runoff, general water supply conditions, constraints of its contracts, its assessment of the hydrology and other conditions in the Bear River basin. Hydropower generation at its downstream hydroelectric plants shall continue to be an incidental use of Bear Lake Storage Water released primarily for contract deliveries or flood control.

B. PacifiCorp will not execute new Bear Lake Storage Water contracts which would result in delivery of a greater amount of Bear Lake Storage Water than the amount historically used. The extent of historical use is currently documented by interstate accounting models used by Idaho and Utah. Nothing herein will prevent the States, by agreement, from updating said models or adopting a different technical basis for determining historical use.

C. PacifiCorp's Bear Lake Target Elevation (the "PTE"). PacifiCorp has determined the PTE represents the elevation of Bear Lake to be achieved, if possible, on March 31st of each year. The PTE may range from as low as elevation 5916 ft during projected high runoff conditions to elevation 5920 ft during projected low runoff conditions. Under normal conditions, PacifiCorp sets the PTE at 5918 ft. PacifiCorp has established the PTE to best balance long term contract requirements for Bear Lake Storage Water during sustained drought periods with flood control operation during high runoff periods. Although this increase above the Bear River Compact Irrigation Reserve results in additional lost generation at the downstream hydroelectric plants during high runoff periods, it provides on average an additional 225,000 acre feet of Bear Lake Storage Water for contract deliveries in excess of the Bear River Compact Irrigation Reserve, enhanced recreational and aesthetic opportunities at Bear Lake, and maintenance of wildlife values, while still maintaining flood control capabilities.

i. Generally, PacifiCorp sets the PTE at the end of the irrigation season and updates the PTE each month during the period from the end of the irrigation season to March 31st of the following year. During extreme high runoff years, PacifiCorp may set the PTE as early as August 1st and may continue to update it into the following runoff season. Adjustments to the PTE are made to accommodate changing conditions, including weather forecasts, downstream constraints, uncertain irrigation demands, variations in runoff from month to month, and other operational constraints.

ii. Generally, if Bear Lake elevation is 5918 ft or higher at the end of the irrigation season, releases are scheduled to lower Bear Lake to elevation 5918 ft by March 31st of the following year. Conversely, if Bear Lake is below elevation 5918 ft at the end of the irrigation season, releases are curtailed until such time as the lake is predicted to reach elevation 5918 ft or until such time as high snowpack and runoff forecasts during the following winter months require PacifiCorp to make releases for flood control. At times during the period from the end of the irrigation season to March 31st of the following year, if snowpack and runoff forecasts indicate below average runoff, releases may be curtailed for the entire winter, even if the Bear Lake elevation is higher than 5918 ft. Except in emergencies, PacifiCorp will not release water from Bear Lake when the elevation is below the PTE unless consistent with flood control operation.

iii. Setting and adjusting the PTE is consistent with PacifiCorp's operation of Bear Lake since the early 1970s. In addition, the practice is consistent with PacifiCorp's FERC applications to relicense its Bear River hydroelectric facilities submitted to FERC on September 23, 1999. The FERC applications commit to continuation of historical operation. Refer to PacifiCorp's FERC applications for Soda (FERC #20) at FERC Application Exhibit B1-11 (September 1999), Grace/Cove (FERC #2401) at FERC Application Exhibit B1-14 (September 1999) and Oneida (FERC #472) at FERC Application Exhibit B1-13 (September 1999). The FERC applications do not provide for the release of Bear Lake storage water for hydro generation. From time to time, the elevation of Bear Lake may range from elevation 5902.00 ft to elevation 5923.65 ft. Nothing herein shall restrict PacifiCorp's right to store water in Bear Lake to elevation 5923.65 ft.

3. PacifiCorp's Hydroelectric Operations on Bear River

A. PacifiCorp owns and operates 6 hydroelectric plants on the Bear River downstream from Bear Lake which are listed in the table below.

<u>Hydroelectric Project</u>	<u>FERC No.</u>	<u>Current Licensed Capacity</u>
Soda	20	14.0 MW
Last Chance	4580	1.4 MW*
Grace	2401	33.0 MW
Cove	2401	7.5 MW
Oneida	472	30.0 MW
Cutler	2420	30.0 MW

(*FERC License Exemption)

PacifiCorp operates each hydroelectric plant with water rights granted by the state in which the hydroelectric plant is located. The Cutler hydroelectric plant operates with water rights recognized by both Utah and Idaho.

B. PacifiCorp agrees to continue its historic practice of regulating operation at its hydroelectric plants to meet existing downstream demands, some of which have water rights which are earlier in priority than PacifiCorp's hydro power water rights. Such historic operation is consistent with PacifiCorp's FERC licenses.

C. Nothing in this Agreement or the October 5, 1999 Agreement shall be interpreted as limiting PacifiCorp's right or ability to protest water right applications or filings in the Bear River Basin or from otherwise exercising and defending its water rights.

4. PacifiCorp regulates Bear Lake and operates its Bear River hydroelectric plants subject to various institutional, legal, and operational guidelines. The Parties recognize that said institutional guidelines may change due to conditions beyond the control of one or more of the Parties, and that such change may require adjustments in PacifiCorp's operations. If this occurs, PacifiCorp will advise the States and consult with them prior to changing its operations.

5. This Agreement is made in recognition of the existing rights and practices of the Parties.

6. This Agreement is intended to be a final and binding agreement in satisfaction of the commitment to negotiate a Bear River System Operations Agreement pursuant to Paragraph 2 of the October 5, 1999 Agreement between the States and PacifiCorp and inures to the benefit of, and is binding upon, the representatives, successors in interest, and assigns of each entity. No promise or inducement has been offered or made except as herein set forth, and this Agreement is executed without reliance upon any statement or representation by any other Party or its agent.

7. Nothing in this Agreement shall be interpreted to modify, limit or enhance any rights or obligations of the States under the laws of the States and the Amended Bear River Compact.

8. Consideration. The Parties acknowledge receiving sufficient consideration for the commitments contained in this Agreement and waive any argument that they might have in any judicial proceeding that no consideration exists to support this Agreement or that the consideration received is not sufficient.

9. Binding Effect of Agreement. This Agreement is intended to be a final and binding agreement between the States and PacifiCorp and inures to the benefit of, and is binding upon, the representatives, successors in interest, and assigns of each entity.

10. Sovereign Immunity. Each of the States and their various agencies do not waive their sovereign immunity by entering into this Agreement and fully retain all immunities and defenses provided by law with respect to any action based on or occurring as a result of this Agreement.

11. Capacity to Execute Agreement. The Parties warrant and represent that the person executing this Agreement is empowered to do so on behalf of such Party and thereby binds each entity by signing this Agreement.

12. Waivers. The failure to object to any breach of any term or condition in this Agreement shall not constitute a waiver and no failure to object shall be deemed a waiver of any prior or subsequent breach.

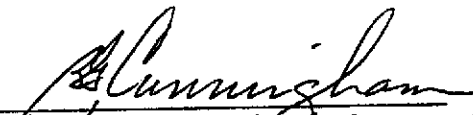
13. Modification. This Agreement may be amended or modified only by a written agreement signed by each of the Parties to this Agreement.

14. Execution of Multiple Originals. The Parties agree that this Agreement may be executed in four counterparts, each of which shall be an original.

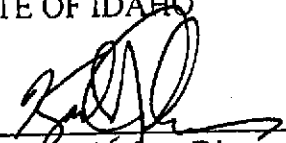
15. Signatures. In witness whereof, the Parties to this Agreement through their duly authorized representatives have executed this Agreement and certify that they have read, understood, and agreed to the terms and conditions of this Agreement as set forth herein.

IN WITNESS WHEREOF, this Agreement is executed on the date first above written.

PACIFICORP

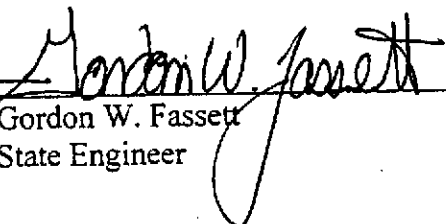
By: 
Vice President, Generation

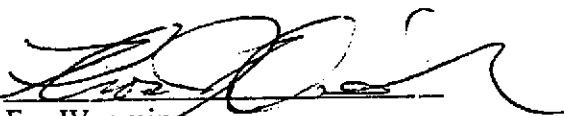
STATE OF IDAHO

By: 
Karl J. Dfeher, Director
Department of Water Resources

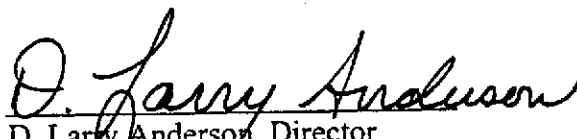
STATE OF WYOMING

APPROVED AS TO FORM

By: 
Gordon W. Fassett
State Engineer

By: 
For Wyoming

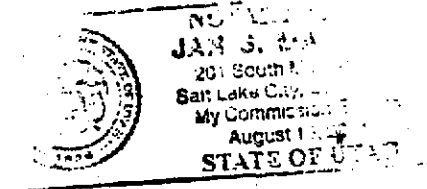
STATE OF UTAH

By: 
D. Larry Anderson, Director
Division of Water Resources

ACKNOWLEDGEMENTS

STATE OF Utah)
COUNTY OF Salt Lake) ss.

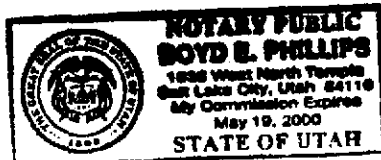
On the 5th day of April, 2000, before me, Jan S. Mahoney, a notary public, personally appeared Barry G. Cunningham, a Vice President Operation of PacifiCorp, known or identified to me to be the person who executed the foregoing instrument on behalf of PacifiCorp, and he acknowledged to me that he executed the same.



Jan S. Mahoney
NOTARY PUBLIC
residing at:

STATE OF Utah)
COUNTY OF Salt Lake) ss.

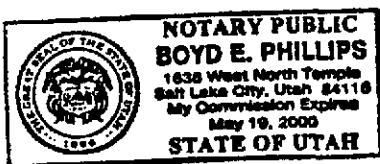
On the 18th day of April, 2000, before me, Boyd E. Phillips, a notary public, personally appeared Karl J. Dreher, Director, Idaho Department of Water Resources, known or identified to me to be the person who executed the foregoing instrument on behalf of the State of Idaho, and he acknowledged to me that he executed the same.



Boyd E. Phillips
NOTARY PUBLIC
residing at:
Bountiful, Utah

STATE OF Utah)
COUNTY OF Salt Lake) ss.

On the 18th day of April, 2000, before me, Boyd E. Phillips, a notary public, personally appeared Gordon W. Fassett, Wyoming State Engineer, known or identified to me to be the person who executed the foregoing instrument on behalf of the State of Wyoming, and he acknowledged to me that he executed the same.

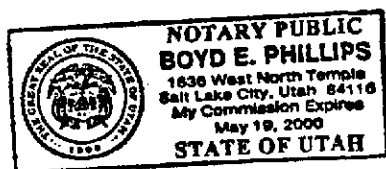


Boyd E. Phillips
NOTARY PUBLIC

residing at:

STATE OF Utah)
COUNTY OF Salt Lake) ss.

On the 18th day of April, 2000, before me, Boyd E. Phillips, a notary public, personally appeared D. Larry Anderson, Director of the Utah Division of Water Resources, known or identified to me to be the person who executed the foregoing instrument on behalf of the State of Utah, and he acknowledged to me that he executed the same.



Boyd E. Phillips
NOTARY PUBLIC

residing at:

AGREEMENT Regarding the Bear River System

This Agreement is entered into this 5th day of October, 1999, by and among PACIFICORP, an Oregon corporation ("PacifiCorp"); SCOTTISH POWER plc, a public limited company registered in Scotland ("ScottishPower"); the STATE OF IDAHO, by and through the Director of the Department of Water Resources ("Idaho"); the STATE OF UTAH, by and through the Director of the Division of Water Resources, ("Utah"); and the STATE OF WYOMING, by and through the State Engineer ("Wyoming"). PacifiCorp, ScottishPower, Idaho, Utah, and Wyoming are individually referred to as a "Party" and collectively as the "Parties."

RECITALS

A. PacifiCorp operates hydroelectric plants on the Bear River and holds water rights in the Bear River and Bear Lake (such hydroelectric plants and water rights referred to herein as "Bear River System"). PacifiCorp's water rights in the Bear River System are subject to the Amended Bear River Compact among the States of Idaho, Utah and Wyoming, as well as the laws of the three States, and other obligations.

B. PacifiCorp and ScottishPower are parties to a merger transaction that is currently the subject of approval proceedings before the public utility commissions in the States of Idaho, Utah and Wyoming.

C. The Parties recognize the need to assure the public utility commissions of the States of Idaho, Utah, and Wyoming, and the other public officials and water users of the three States that PacifiCorp's merger with ScottishPower will not affect the operation of the Bear River System or PacifiCorp's ownership or exercise of its Bear River water rights.

D. By this Agreement, PacifiCorp and ScottishPower intend to assure the States of Idaho, Utah and Wyoming that PacifiCorp or ScottishPower will not make any separate agreement with any State individually regarding PacifiCorp's or ScottishPower's water rights in the Bear River System.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES AS FOLLOWS:

- I. Both ScottishPower and PacifiCorp agree that:
 - a. PacifiCorp's water rights are constrained by the historic practice of not making a delivery call for hydropower generation; and
 - b. Bear Lake is operated, consistent with long-standing historic practice and applicable laws, primarily as a storage reservoir to satisfy

contracts for existing irrigation uses and flood control needs in the three States, with the use of water for hydropower generation being incidental to the other purposes for which the water is being released.

2. The Parties agree to jointly negotiate an enforceable Bear River System Operations Agreement consistent with the provisions set forth in paragraph 1. With respect to the Bear River, the Operations Agreement shall confirm and continue PacifiCorp's historic practice of utilizing its water rights primarily for existing irrigation uses and contractual obligations. The Operations Agreement shall be made available for public review and comment in each of the three States.

3. This Agreement, the Operations Agreement, or any other agreement that may be entered into with PacifiCorp and/or ScottishPower concerning utilization of PacifiCorp's water rights in the Bear River System may be recorded in the County Records' Offices of the appropriate counties and shall be provided to the public utility commissions of the respective States within 10 days of execution of the document.

4. Approval and execution of the Operations Agreement by each of the States of Idaho, Utah, and Wyoming shall be required for the Operations Agreement to be effective.

5. The Parties commit to use their best efforts to complete negotiation, review, and execution of the Bear River System Operation Agreement within sixty (60) days of the execution of this Agreement.

6. No agreements between PacifiCorp and/or ScottishPower and one or more of the States concerning utilization of PacifiCorp's water rights in the Bear River System shall be effective unless jointly approved by all three States.

7. Nothing in this Agreement, nor in any Operations Agreement, shall be interpreted to modify, limit or enhance any rights or obligations of the three States under the laws of the States and the Amended Bear River Compact.

8. Consideration. ScottishPower and PacifiCorp acknowledge receiving sufficient consideration for the commitments contained in this Agreement and waive any argument that they might have in any judicial proceeding that no consideration exists to support this Agreement or that the consideration received is not sufficient.

9. Binding Effect of Agreement. This Agreement is intended to be a final and binding settlement agreement between the three States and ScottishPower and PacifiCorp, jointly and severally, and inures to the benefit of, and is binding upon, the representatives, successors in interest, and assigns of each entity.

10. Sovereign Immunity. Each of the three States and their various agencies do not waive their sovereign immunity by entering into this Agreement and fully retain all immunities and defenses provided by law with respect to any action based on or occurring as a result of this Agreement.

11. Capacity to Execute Agreement. ScottishPower and PacifiCorp each warrant and represent that the person executing this Agreement is empowered to do so on behalf of such company and thereby binds each entity by signing this Agreement.

12. Waivers. The failure to object to any breach of any term or condition in this Agreement shall not constitute a waiver and no failure to object shall be deemed a waiver of any prior or subsequent breach.

13. Entirety of Agreement. This Agreement represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations and oral agreements. No promise or inducement has been offered or made except as herein set forth and this Agreement is executed without reliance upon any statement or representation by any other Party or their agent.

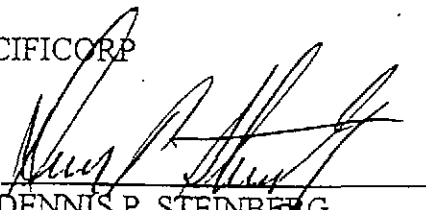
14. Modification. This Agreement may be amended or modified only by a written agreement signed by each of the Parties to this Agreement.

15. Execution of Agreement in Parts. Due to time constraints, the Parties acknowledge that it is not possible to have all Parties sign the same copy of this Agreement. Therefore, the Parties agree that this Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16. Signatures. In witness whereof, the Parties to this Agreement through their duly authorized representatives have executed this Agreement and certify that they have read, understood, and agreed to the terms and conditions of this Agreement as set forth herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and the year first above written.

PACIFICORP

By: 

DENNIS P. STEINBERG

Senior Vice President of PacifiCorp

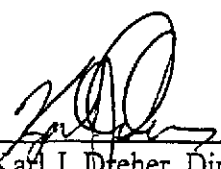
SCOTTISH POWER plc

By: 

MATTHEW R. WRIGHT

Manager of Scottish Power plc

STATE OF IDAHO

By: 

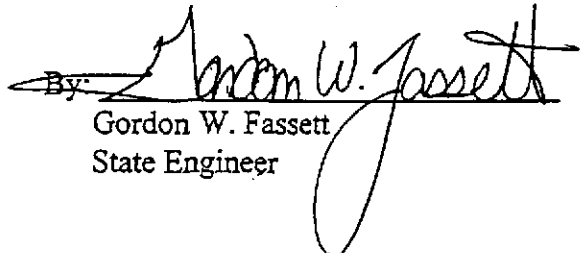
Karl J. Dreher, Director
Department of Water Resources

STATE OF UTAH

By: 

Larry Anderson, Director
Division of Water Resources

STATE OF WYOMING

By: 

Gordon W. Fassett
State Engineer

APPROVAL AS TO FORM:

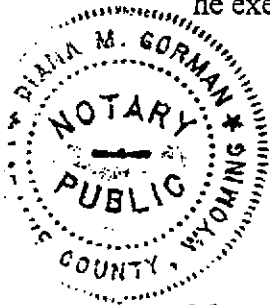
By: 

for Wyoming

ACKNOWLEDGMENTS

STATE OF Wyoming)
) ss.
COUNTY OF Laramie)

On this 5th day of October, 1999, before me, Diana M. Gorman, a notary public of the State of Wyoming, personally appeared DENNIS P. STEINBERG, a Senior Vice President of PacifiCorp, known or identified to me to be the person who executed the foregoing instrument on behalf of PacifiCorp, and he acknowledged to me that he executed the same.

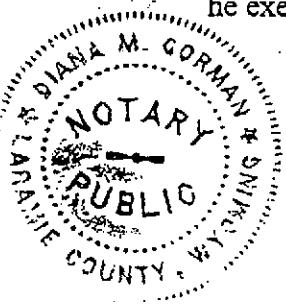


Diana M. Gorman
NOTARY PUBLIC FOR WYOMING
residing at:
739 Cypress Lane
Cheyenne, WY 82009

My commission expires: 2/21/02

STATE OF Wyoming)
) ss.
COUNTY OF Laramie)

On this 5th day of October, 1999, before me, Diana M. Gorman, a notary public of the State of Wyoming, personally appeared MATTHEW R. WRIGHT, a Manager of Scottish Power plc, known or identified to me to be the person who executed the foregoing instrument on behalf of Scottish Power plc, and he acknowledged to me that he executed the same.



Diana M. Gorman
NOTARY PUBLIC FOR WYOMING
residing at:
739 Cypress Lane
Cheyenne, WY 82009

My commission expires: 2/21/02



Office of the Attorney General

Governor
Jim Geringer

Water & Natural Resources Division
123 Capitol Building
Cheyenne, Wyoming 82002
307-777-6946 Telephone
307-777-3542 Fax

Deputy Attorney General
Thomas J. Davidson

Attorney General
Gay Woodhouse

October 22, 1999

Mr. Norman K. Johnson
Utah Attorney General's Office
Natural Resources Division
Post Office Box 140855
Salt Lake City, Utah 84114-0855

Mr. Brent R. Kunz
Hathaway, Speight & Kunz, LLC
Post Office Box 1208
Cheyenne, WY 82003-1208

Mr. Phillip J. Rassier
State of Idaho
Office of the Attorney General
Natural Resources Division
Water Resources Unit
1301 North Orchard Street
Boise, ID 83706-2237

Mr. Paul J. Hickey
Hickey, Mackey & Evans
Post Office Box 467
Cheyenne, WY 82003-0467

Dear Norm, Phil, Brent, and Paul:

Enclosed please find one of five originals of the *Agreement Regarding the Bear River System*, dated October 5, 1999, with original signatures of each of the five signatories. On behalf of the Wyoming Attorney General's Office and the State Engineer's Office, we wish to express our sincere appreciation to each person involved in negotiating this agreement for their diligent efforts. We enjoyed working with you and look forward to doing so in the future.

Truly yours,

Thomas J. Davidson
Deputy Attorney General

Brian C. Shuck
Assistant Attorney General

Enclosure

cc: Jim Fell, Jody Williams, Jeff Fassett, Sue Lowry

RECEIVED

MICROFILM OCT 27 1999

FEB 16 2000

Department of Water Resources

PACIFICORP'S BEAR RIVER BASIN WATER RIGHTS IDAHO

Bear Lake Storage water rights are underlined

<i>RIGHT NO.</i>	<i>AMOUNT</i>	<i>PRIORITY DATE</i>	<i>STATUS</i>	<i>TYPE OF USE</i>	<i>PLACE OF USE</i>
<u>11-00248</u>	<u>3000 cfs</u>	<u>03/01/1911</u>	<u>Decree</u>	<u>Irrigation / Power Storage / Other</u>	<u>Bear Lake</u>
<u>11-00249</u>	<u>2500 cfs</u>	<u>09/11/1912</u>	<u>Decree</u>	<u>Irrigation / Power Storage / Other</u>	<u>Bear Lake</u>
<u>11-00250</u>	<u>300 cfs</u>	<u>09/01/1912</u>	<u>Decree</u>	<u>Irrigation / Power Storage / Other</u>	<u>Bear Lake</u>
<u>11-00251</u>	<u>200 cfs</u>	<u>09/01/1912</u>	<u>Decree</u>	<u>Irrigation / Power Storage / Other</u>	<u>Bear Lake</u>
11-04004	0.5 cfs / 97.5 cfs	03/01/1894	Decree	Irrigation	Bear Lake
11-04355	0.12 cfs	09/03/1918	Claim	Domestic/ Irrigation	Lifton Pump
11-00228	0.94 cfs	05/01/1890	Decree	Irrigation	
11-00242	0.5 cfs	05/01/1902	Decree	Irrigation	
11-04356	1.4 cfs	07/08/1933	Claim	Irrigation	Soda Springs Golf Course
11-01096	7.5 cfs	03/14/1889	Decree	Irrigation	Ovid Creek

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FEB 16 2000

11-01114	7.5 cfs	06/01/1955	Decree	Irrigation	Ovid Creek
11-01116	1.660 cfs	06/01/1955	Decree	Irrigation	Ovid Creek
HYDRO PROJECTS • Bear River hydro water rights appear in bold print					
<i>RIGHT NO.</i>	<i>AMOUNT</i>	<i>PRIORITY DATE</i>	<i>STATUS</i>	<i>TYPE OF USE</i>	<i>PLACE OF USE</i>
11-00086	70 cfs	02/03/1910	Decree	Power	Paris Hydro
11-02081	1500 cfs	06/12/1922	License	Power	Soda Hydro
11-02084	1 cfs	06/09/1923	License	Domestic / Irrigation	Soda Hydro
11-04354	0.02 cfs	01/01/1922	Claim	Irrigation	Soda Hydro
11-04357	400 cfs	01/01/1922	Claim	Power	Soda Hydro
11-04358	0.08 cfs	01/01/1922	Claim	Domestic	Soda Hydro
13-04128	600 cfs	01/01/1922	Claim	Power / Storage	Soda Hydro
13-00957	500 cfs	12/28/1905	Decree	Power	Grace Hydro
13-00958	500 cfs	07/06/1908	Decree	Power	Grace Hydro

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 FEB 16 2000

13-04333	0.04 cfs	06/01/1905	Claim	Domestic	Grace Hydro
13-04334	0.01 cfs	06/01/1905	Claim	Irrigation	Grace Hydro
RIGHT NO.	AMOUNT	PRIORITY DATE	STATUS	TYPE OF USE	PLACE OF USE
13-04335	0.06 cfs	05/01/1905	Claim	Irrigation	Grace Hydro
13-04336	0.25 cfs	05/01/1905	Claim	Domestic / Irrigation	Grace Hydro
13-00893	0.07 cfs	06/01/1913	Decree	Domestic	Oneida Hydro
13-00967	1000 cfs	06/17/1910	Decree	Power	Oneida Hydro
13-00968	1500 cfs	01/18/1911	Decree	Power	Oneida Hydro
13-04129	700 cfs	01/01/1910	License	Power	Oneida Hydro
13-04337	0.08 cfs	06/17/1910	Claim	Domestic	Oneida Hydro
13-04338	0.08 cfs	06/17/1910	Claim	Irrigation	Oneida Hydro
13-00962	1500 cfs	03/09/1916	Decree	Power	Cove Hydro
13-00963	4000 af	03/28/1916	Decree	Power	Cove Hydro
13-00976	270 cfs	12/01/1903	Decree	Power	Cutler Hydro

FEB 16 2000

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13-00977	135 cfs	12/01/1906	Decree	Power	Cutler Hydro
13-00978	135 cfs	12/01/1908	Decree	Power	Cutler Hydro
RIGHT NO.	AMOUNT	PRIORITY DATE	STATUS	TYPE OF USE	PLACE OF USE
13-00979	500 cfs	12/12/1912	Decree	Power	Cutler Hydro
11-02018	40 cfs	08/09/1907	License	Power Generation	Georgetown Hydro
13-02013	50 cfs	12/23/1905	License	Power Generation	High Creek Hydro

PACIFICORP'S BEAR RIVER BASIN WATER RIGHTS UTAH

Bear Lake Storage water rights are underlined

WATER RIGHT	AMOUNT	PRIORITY DATE	STATUS	TYPE OF USE	PLACE OF USE
	<u>3000 cfs</u>	<u>03/01/1911</u>	<u>Decree</u>	<u>Irrigation / Power Storage / Other</u>	<u>Bear Lake</u>
	<u>2500 cfs</u>	<u>09/11/1912</u>	<u>Decree</u>	<u>Irrigation / Power Storage / Other</u>	<u>Bear Lake</u>
	<u>300 cfs</u>	<u>09/01/1912</u>	<u>Decree</u>	<u>Irrigation / Power Storage / Other</u>	<u>Bear Lake</u>

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	<u>200 cfs</u>	<u>09/01/1912</u>	<u>Decree</u>	<u>Irrigation / Power Storage / Other</u>	<u>Bear Lake</u>
23-1844	0.6 cfs	00/01/1910	Diligence	Stockwater/ Storage	Swan Creek
25-9437	102.72 af	05/01/1880	Decree	Irrigation	Cutler Area
<i>WATER RIGHT</i>	<i>AMOUNT</i>	<i>PRIORITY DATE</i>	<i>STATUS</i>	<i>TYPE OF USE</i>	<i>PLACE OF USE</i>
25-9827	2 cfs / 162.4 af	10/11/1955	Application / WUC	Irrigation / Storage	Bear River
25-9828	91.2 af	07/26/1973	Application / WUC	Irrigation	Bear River
25-9829	52.4 af	03/24/1953	Certificate	Irrigation	Bear River
25-9830	16 af	12/26/1952	Certificate	Irrigation	Bear River
25-9831	16 af	02/18/1960	Application / WUC	Irrigation	Bear River
25-1844	25 cfs / 22.35 af	01/01/1901	Decree	Stockwater / Irrigation	Cutler Area
25-1867	25 cfs/663.54 af	05/01/1880	Decree	Stockwater / Irrigation	Cutler Area
25-2014		05/01/1880	Diligence	Stockwater	Cutler Area
25-2031	25 cfs / 693.3 af	01/01/1880	Decree	Stockwater / Irrigation	Cutler Area
25-2739	.006 cfs		Diligence	Stockwater	Cutler Area

FEB 16 2000

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25-2741	.002 cfs	01/01/1900	Diligence	Stockwater	Cutler Area
25-2743	.004 cfs	01/01/1900	Diligence	Stockwater	Cutler Area
25-4405		01/01/1858	Diligence	Stockwater	Cutler Area
WATER RIGHT	AMOUNT	PRIORITY DATE	STATUS	TYPE OF USE	PLACE OF USE
25-4406		01/01/1858	Diligence	Stockwater	Cutler Area
25-4408		01/01/1858	Diligence	Stockwater	Cutler Area
25-4411		01/01/1958	Diligence	Stockwater	Cutler Area
25-4413		01/01/1958	Diligence	Stockwater	Cutler Area
25-4688	0.05 cfs	05/01/1878	Decree	Stockwater / Irrigation	Cutler Area
25-4789	.01 cfs	01/01/1935	Diligence	Stockwater	Cutler Area
25-4928	20 af	10/13/1965	Application / WUCS	Irrigation / Storage	Spring
25-4930	40 af	02/16/1963	Application / WUCS	Irrigation / Storage	Spring
25-5883	136.8 af	05/01/1860	Decree	Stockwater / Irrigation	Cutler Area
25-6626	3 cfs / 160.4 af	05/01/1918	Decree	Irrigation	Pump

25-6852	.35 cfs/ 209.2 af	04/16/1976	Application / WUCS	Stockwater / Irrigation	BR Slough
25-6943	7.5 af	10/31/1965	Application / WUCS	Irrigation / Storage	Spring
25-7780		01/01/1860	Diligence	Stockwater	BR Project
WATER RIGHT	AMOUNT	PRIORITY DATE	STATUS	TYPE OF USE	PLACE OF USE
29-1953 (a21627)		01/01/1900	WUC	Stockwater	Cutler Area
25-9637		09/18/1995	Application	Stockwater	Cutler Area
HYDRO PROJECTS • Bear River hydro water rights appear in bold print					
WATER RIGHT	AMOUNT	PRIORITY DATE	STATUS	TYPE OF USE	PLACE OF USE
29-1506	2500 cfs	12/19/1923	Certificate	Power	Cutler Hydro
29-1855	270 cfs	12/01/1903	Decree	Power	Cutler Hydro
29-2146	135 cfs	12/01/1906	Decree	Power	Cutler Hydro
29-2147	135 cfs	02/01/1908	Decree	Power	Cutler Hydro
29-2148	500 cfs	12/02/1912	Decree	Power	Cutler Hydro

25-8186	32.5 cfs	08/11/1980	Application	Power	High Creek Hydro
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FEB 16 2000

Moulton Idaho

Aug 27/1908

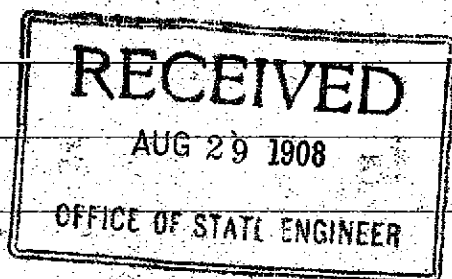
Mr Jas Stephenson Jr

Inclosed please find cond
map of the Moulton Electric
Light Company. I have examined
their works and find that they
comply fully with the terms
of their Permit - # 31,81.

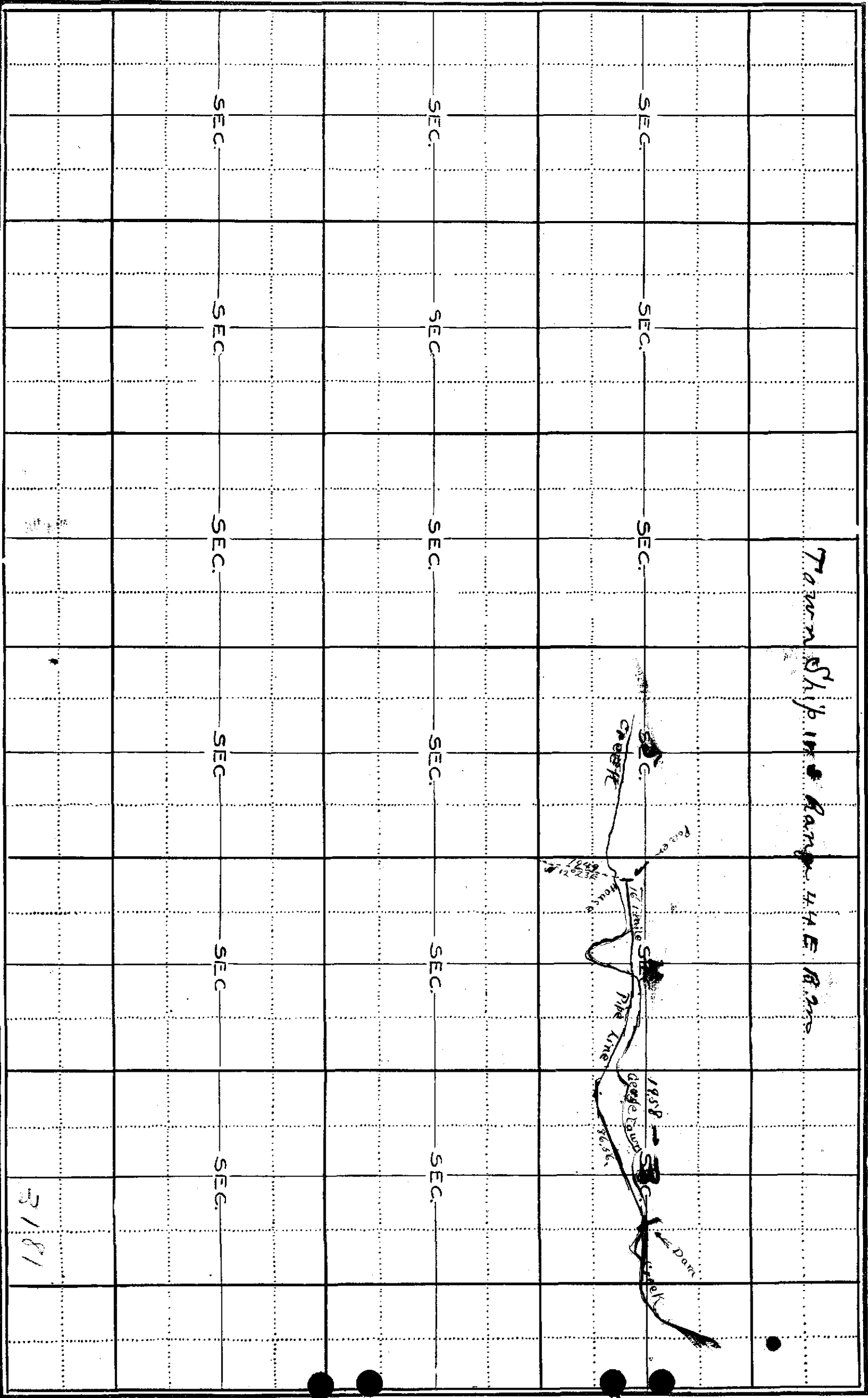
The dam being 10 feet high and
38 feet long on top and 35 feet on
the bottom in length. Constructed
of Cement & the pipe is 33 inches
in diameter on the inside
and 35 inches on the outside
with sufficient bands of Iron
from $\frac{1}{4}$ to $\frac{3}{4}$ inches placed
close enough to hold the pressure

3181

Average grade is 16 feet to
miles Length of pipe
68.89 feet - Hoping this will
meet your approval
I am Respc Yours
R A Borch



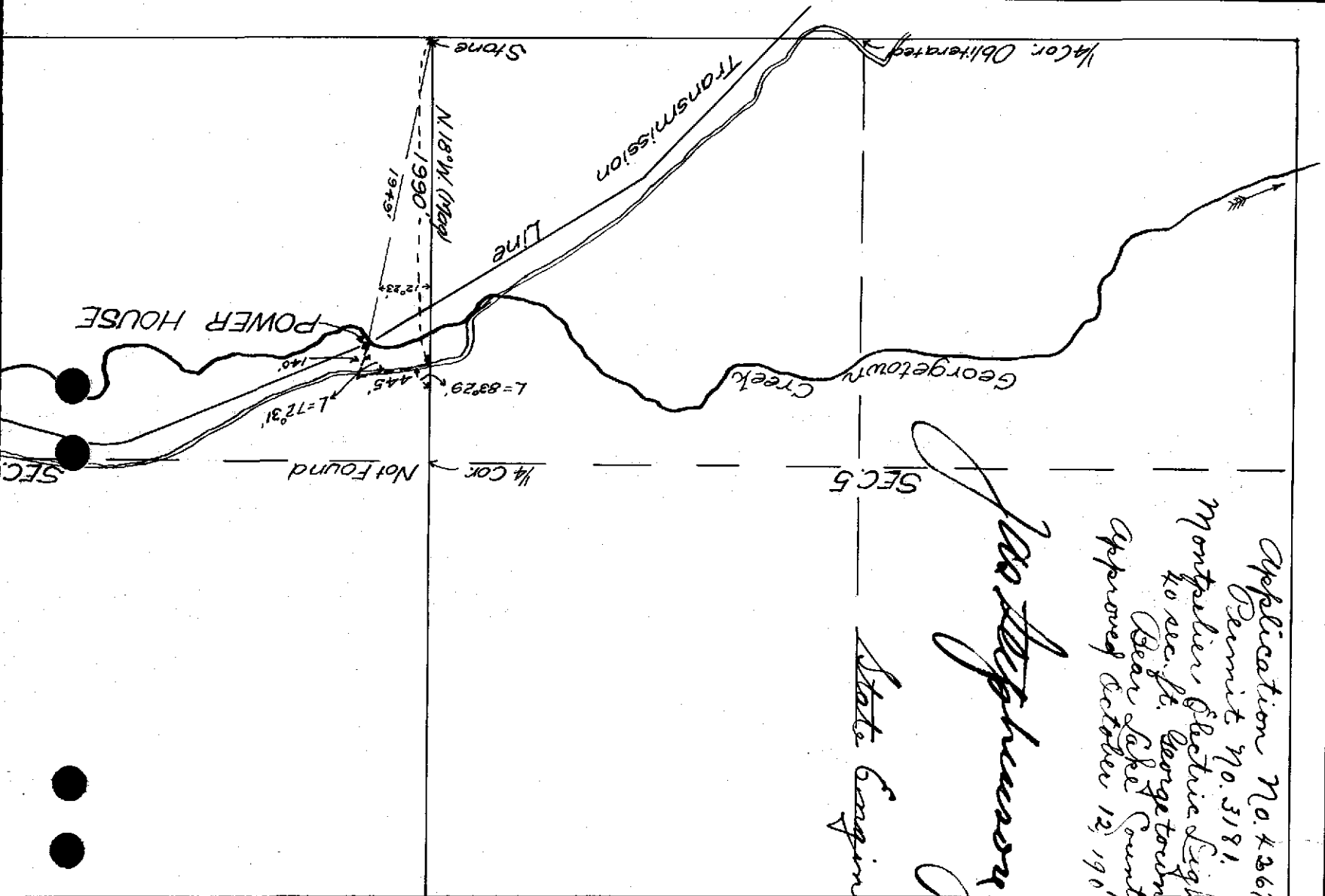
3181



P 3181

Application No. 4267
Permit No. 3181.
Montpelier Electric Light Co. Ltd.
40 ac. ft. Georgetown Creek.
Bear Lake County.
Approved October 12, 1907

State Engineer



PROPERTY of MONTPELIER
To Acco
APPLICATION

at of
ELIER ELECTRIC LT. CO. LTD.
company
ON No 4267

