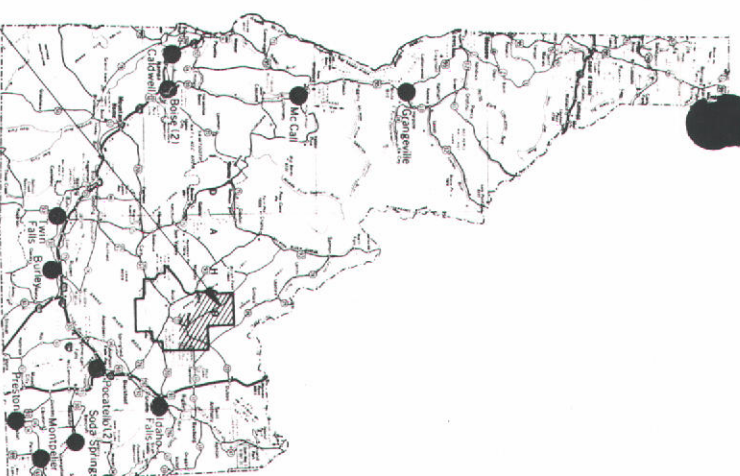
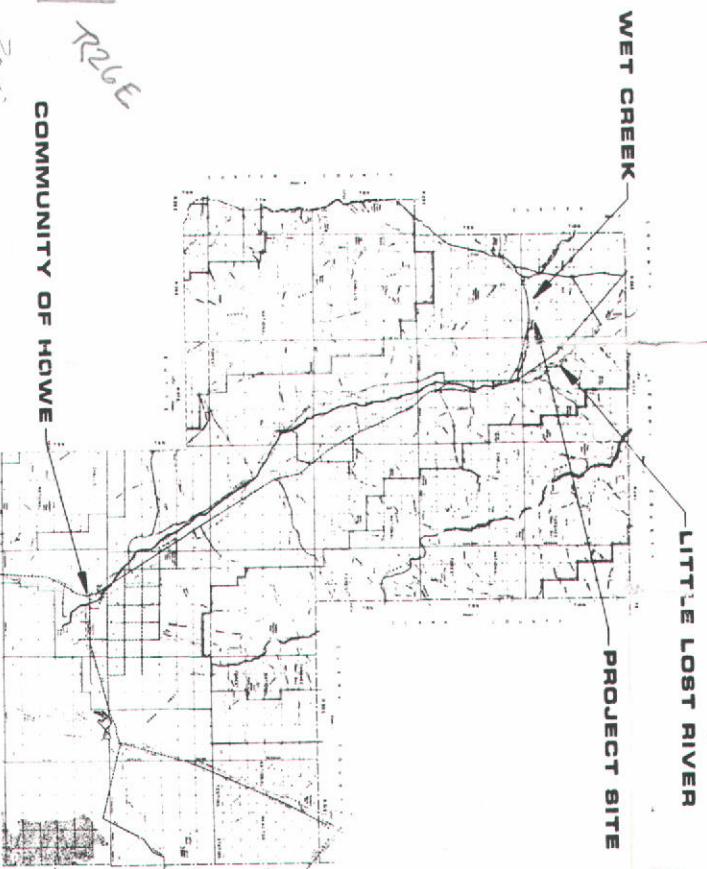
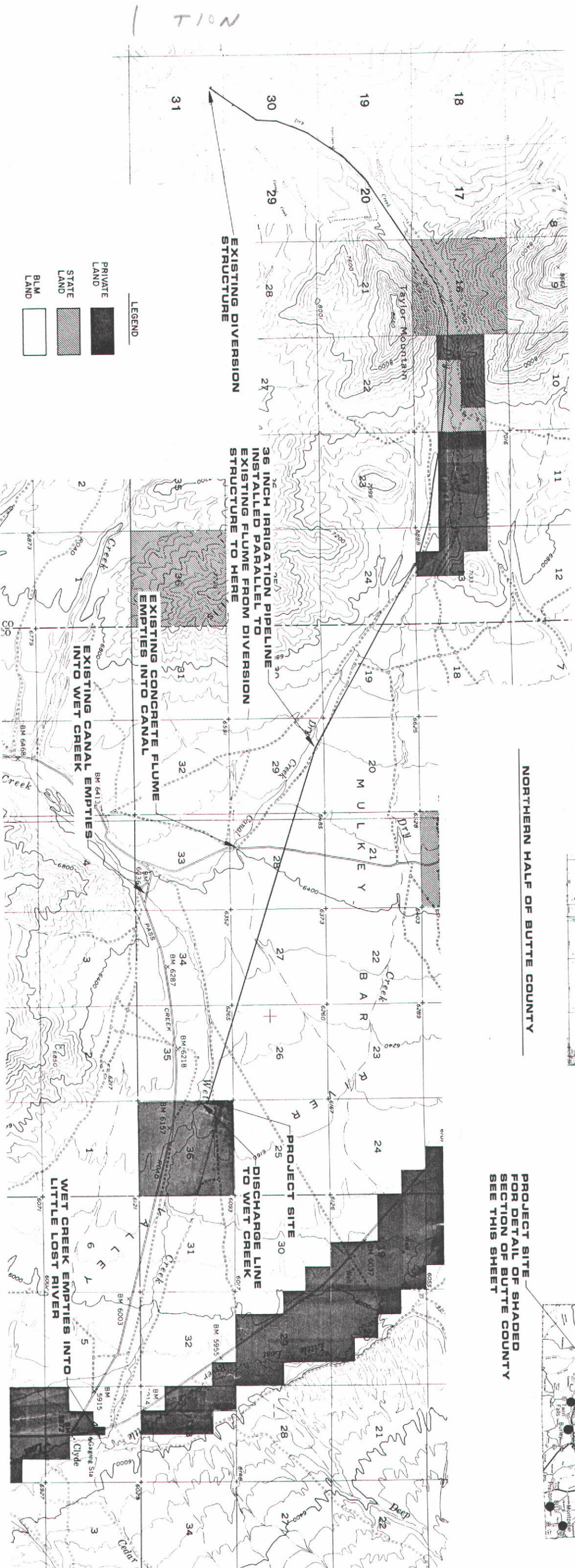


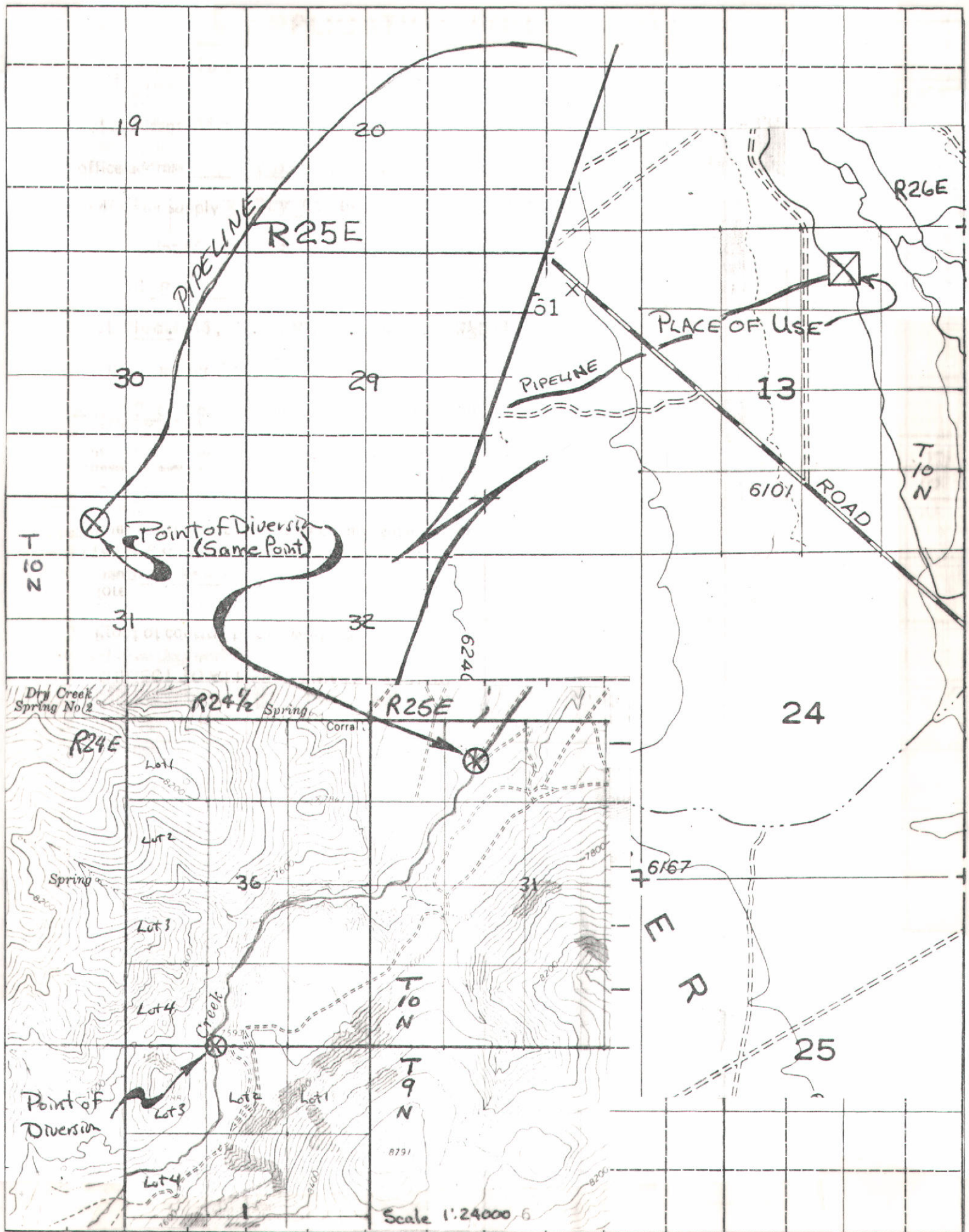


PROJECT SITE
FOR DETAIL OF SHADED
SECTION OF BUTTE COUNTY
SEE THIS SHEET

NORTHERN HALF OF BUTTE COUNTY



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



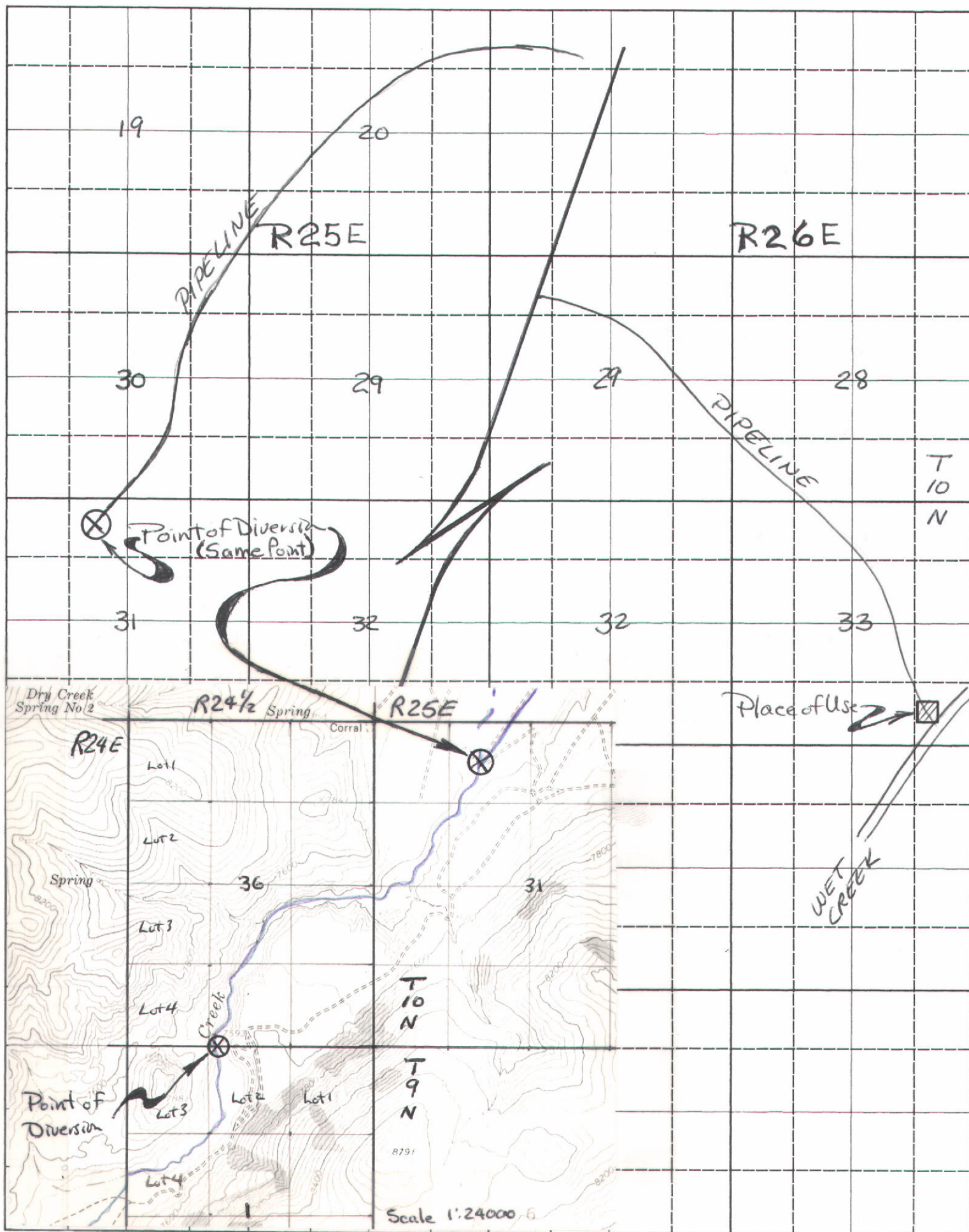
Scale: 2 inches equal 1 mile,
and
1:24000

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.

Rob Stauffer
(Applicant)

MICROFILMED

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



Scale: 2 inches equal 1 mile.

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

Rob Stauffer
(Applicant)

MICROFILMED

OUTER DIAMETER

18.050 IN

(1A)

33-7154

PIPE MATERIAL

CS, SS

33-7181

WALL THICKNESS

0.4720 IN

INNER LINING

NO LING.

KIND OF FLUID

ANOTHER

SOUND VELOCITY

1440 M/S-

SENSOR MOUNTING

U

TYPE OF SENSOR

SMALL

DATA CHANGE

NO

SPACING

14.561 IN U

ZERO MODE

AUT ZERO

00-00 00:1000

+002.60 2 A12

MODE SELECT

T0 CHECK

0644.4 MMSEC

098.58 2 T0

MODE SELECT

DATA SET

DATA SET MODE

2 PRINTER

Test #1. Upper Turbine

18

PRINTER USE

?

YES

33-7154

33-7181

00-00 00:1600

+002.60 % AI2

MODE SELECT

T0 CHECK

0644.4 MMSEC

100.26 % T0

0644.4 MMSEC

100.26 % T0

MODE SELECT

INPUT

OUTER DIAMETER

13.0500 IN

PIPE MATERIAL

? CS,SS

WALL THICKNESS

0.4720 IN

INNER LINING

? NO LING.

KIND OF FLUID

? ANOTHER

SOUND VELOCITY

1470 M/S-

SENSOR MOUNTING

? U

TYPE OF SENSOR

? SMALL

DATA CHANGE

? NO

SPACING

14.914 IN U

ZERO MODE

AUT ZERO

46% Nozzle

00-00 00:1900 *R

+ 1.225E 4GPM

Valve 84% Nozzle

00-00 00:2600 *R

+ 1.648E 4GPM

Lower Turbine
Left Hand.

②

00-00 00:4700 *R

+002.60 % A12

0642.7 MMSEC

100.04 % TO

PRINTER USE

? YES

MODE SELECT

INPUT

OUTER DIAMETER

18.5000 IN

PIPE MATERIAL

? CS.53

WALL THICKNESS

0.7020 IN

INNER LINING

? NO LINING.

KIND OF FLUID

? ANOTHER

SOUND VELOCITY

1470 M/S-

SENSOR MOUNTING

? U

TYPE OF SENSOR

? SMALL

DATA CHANGE

? NO

SPACING

15.663 IN U

ZERO MODE

AUT ZERO

MM-DD HH:MM

06-08 11:18

06-08 11:1800 *R

+002.60 % A12

MODE SELECT

TO CHECK

0642.6 MMSEC

100.03 % TO

46% Nozzle

06-08 11:1800 *R

+ 1.207E 4GPM

84% Nozzle

06-08 11:2700 *R

+ 1.794E 4GPM

Lower Turbine
Left Hand

00-00 00:4700 *R
+002.60 % AI2

0642.7 MMSEC
100.04 % T0

PRINTER USE
? YES

MODE SELECT
INPUT

OUTER DIAMETER
18.5000 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.7020 IN

INNER LINING
? NO LING.

KIND OF FLUID
? ANOTHER

SOUND VELOCITY
1470 M/S-

SENSOR MOUNTING
? U

TYPE OF SENSOR
? SMALL

DATA CHANGE
? NO

SPACING
15.668 IN U

ZERO MODE
AUT ZERO

MM-DD HH:MM
06-08 11:18

06-08 11:1800 *R
+002.60 % AI2

MODE SELECT
TO CHECK

0642.6 MMSEC
100.03 % T0

06-08 11:1800 *R
+ 1.207E 46PM

06-08 11:2700 *R
+ 1.794E 46PM

1.794E-46PM

Test #1 Upper Turbine

PRINTER USE
? YES

00-00 00:1600
+002.60 % AI2

MODE SELECT
TO CHECK

0644.4 MMSEC
100.26 % T0

0644.4 MMSEC
100.26 % T0

MODE SELECT
INPUT

OUTER DIAMETER
18.9500 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.4720 IN

INNER LINING
? NO LING.

KIND OF FLUID
? ANOTHER

SOUND VELOCITY
1470 M/S-

SENSOR MOUNTING
? U

TYPE OF SENSOR
? SMALL

DATA CHANGE
? NO

SPACING
14.914 IN U

ZERO MODE
AUT ZERO

00-00 00:1900 *R
+ 1.225E 46PM

Value 84% Kozzle

00-00 00:2600 *R
+ 1.648E 46PM

1.648E-46PM

OUTER DIAMETER
18.050 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.4720 IN

INNER LINING
? NO LING.

KIND OF FLUID
? ANOTHER

SOUND VELOCITY
1440 M/S-

SENSOR MOUNTING
? U

TYPE OF SENSOR
? SMALL

DATA CHANGE
? NO

SPACING
14.561 IN U

ZERO MODE
AUT ZERO

00-00 00:1800
+002.60 % AI2

MODE SELECT
TO CHECK

0644.4 MMSEC
098.58 % T0

MODE SELECT
DATA SET

DATA SET MODE
? PRINTER

33-07154

3513



FLUME
POINT OF
RETURN
DISCHARGE
TO WET CK.



WATER
LEVEL AT
DISCHARGE
FLUME

MICROFILMED

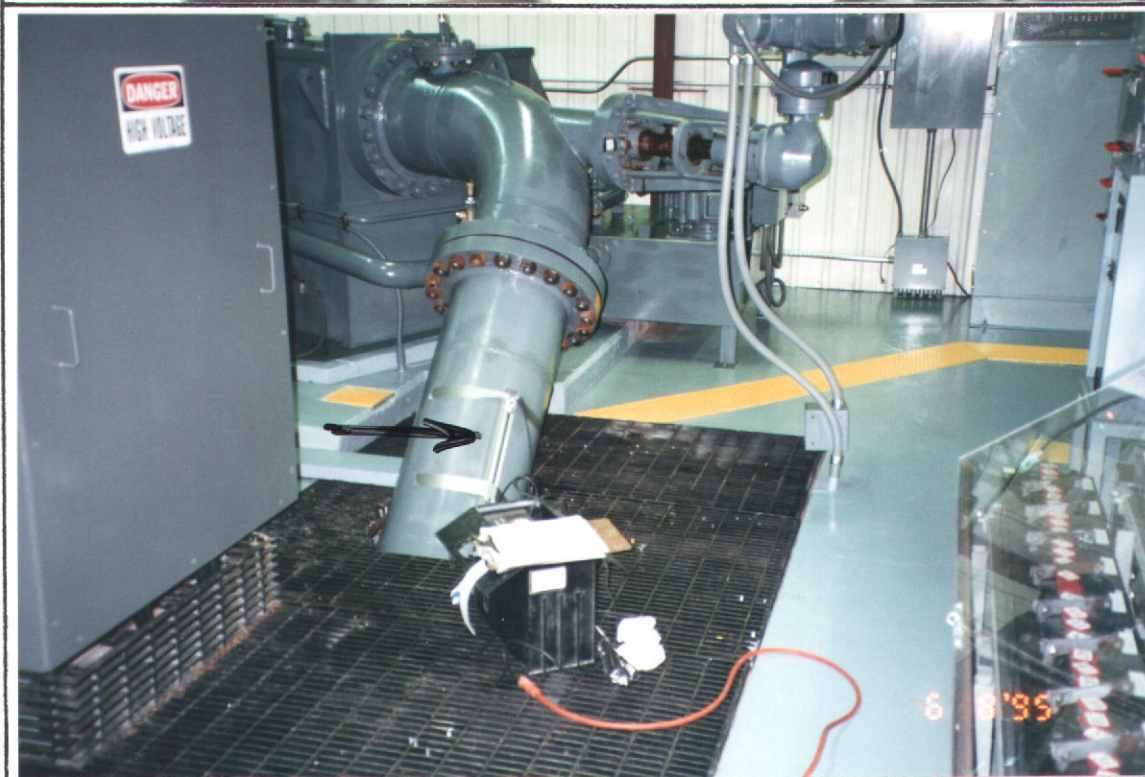
JUL 18 1997

33-07154

213



VIEW OF
SONIC METER
SENSOR
ON LOWER
TURBINE
INPUT



SONIC
METER
SENSOR
ON UPPER
TURBINE
INPUT

INTERIOR
OF TURBINE
BUILDING

MICROFILMED

33-07154

JUL 18 1997

WESTINGHOUSE ELECTRIC CORP.
POWER

1 of 3



VIEW OF
HYDRO
SYSTEM
INTAKE
AT DRY
CREEK
RESERVOIR



POWER
PLANT
BUILDING
PLACE
OF USE

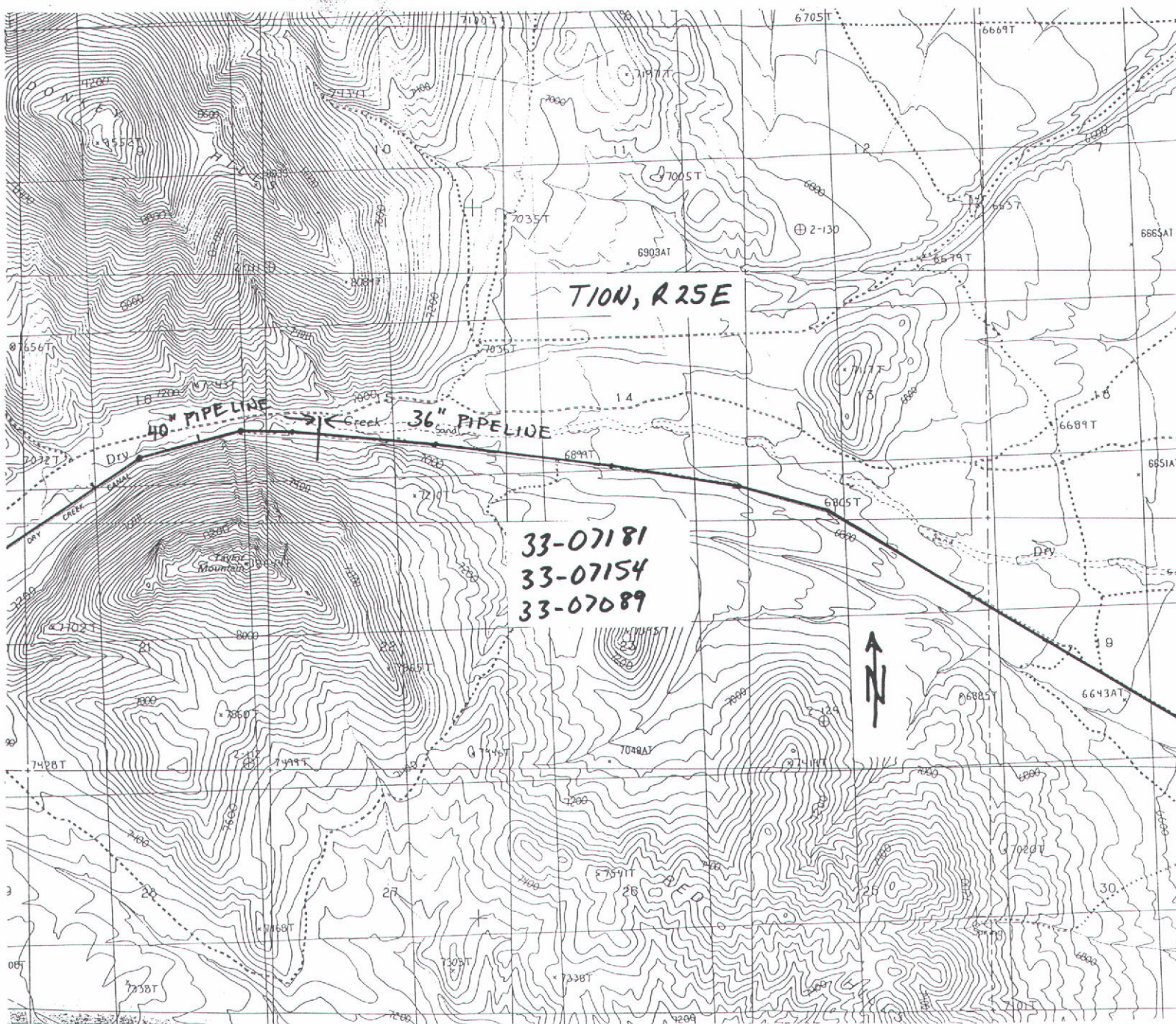
←
DISCHARGE
CHANNEL

MICROFILMED
JUL 18 1997

33-07154

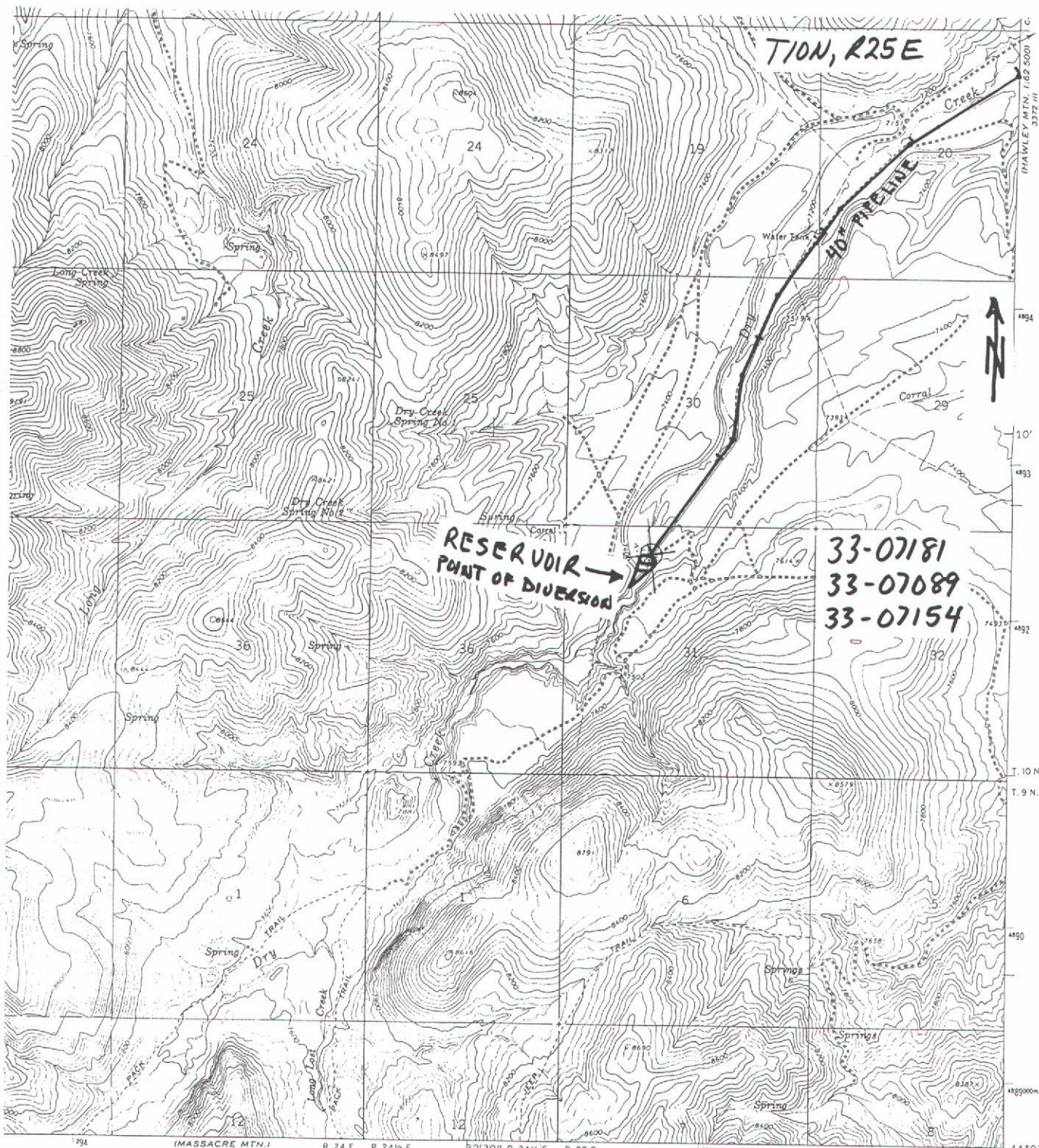


33-07154



MICROFILMED
JUL 18 1997

33-07154



ROAD CLASSIFICATION
Unimproved dirt

MICROFILMED
JUL 18 1997

33-07154

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Notice of Application filed with the Commission
(December 12, 1985)

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: Conduit Exemption
- b. Project No.: P-9134-000
- c. Date filed: April 26, 1985
- d. Applicant: D & B Stauffer
- e. Name of Project: Dry Creek
- f. Location: On an irrigation conduit between Dry and Wet Creeks in Butte County, Idaho
- g. Filled Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 552705 and 2706 as amended)
- h. Contact Person: Bruce R. Cravette
Forgren - Perkins Engineering
350 North 2nd East
Rexburg, ID 83440
JAN 21, 1986
- i. Comment Date:
- j. Description of Project: The proposed project would utilize an investigation conduit that is under construction and would consist of a powerhouse containing one generating unit having a capacity of 3.6 MW and an average annual generation of 17.7 kWh.
- k. Purpose of Exemption - An exemption, if issued, gives an exemption priority of control, development, and operation of the project under the terms of the exemption from license applicants that would seek to take or develop the project.
- l. Purpose of Project: Project power would be used to take or develop the project.
- m. This notice also consists of the following standard attachments: A3, A9, B, C, and D31

Agency Comments - The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 10 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kenneth P. Plumb

b1b.

Agency Comments - The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 10 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act.

General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative.

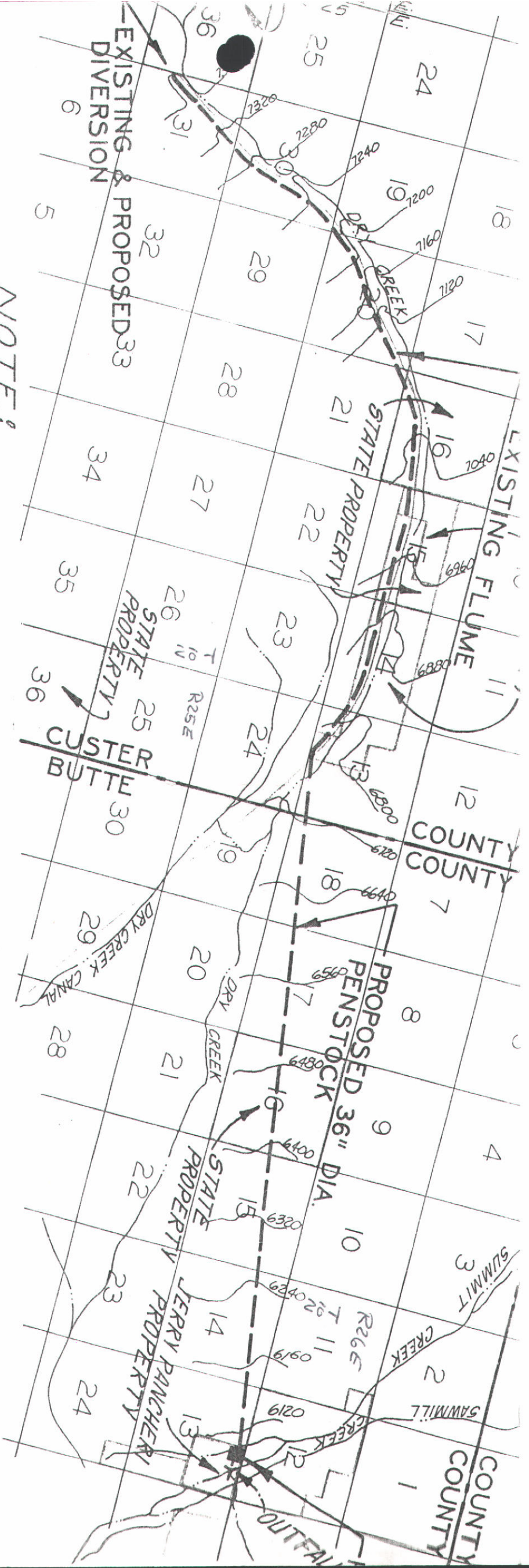
Kenny E. Plumb

MICROFILMED

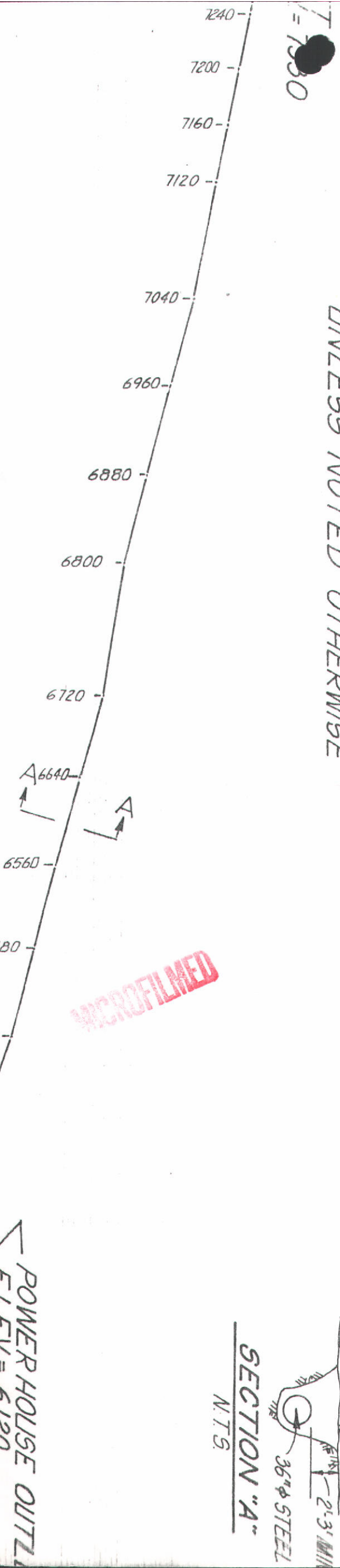
b3b. Agency Comments - The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exception must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exception. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kenggel, Fair Plumb

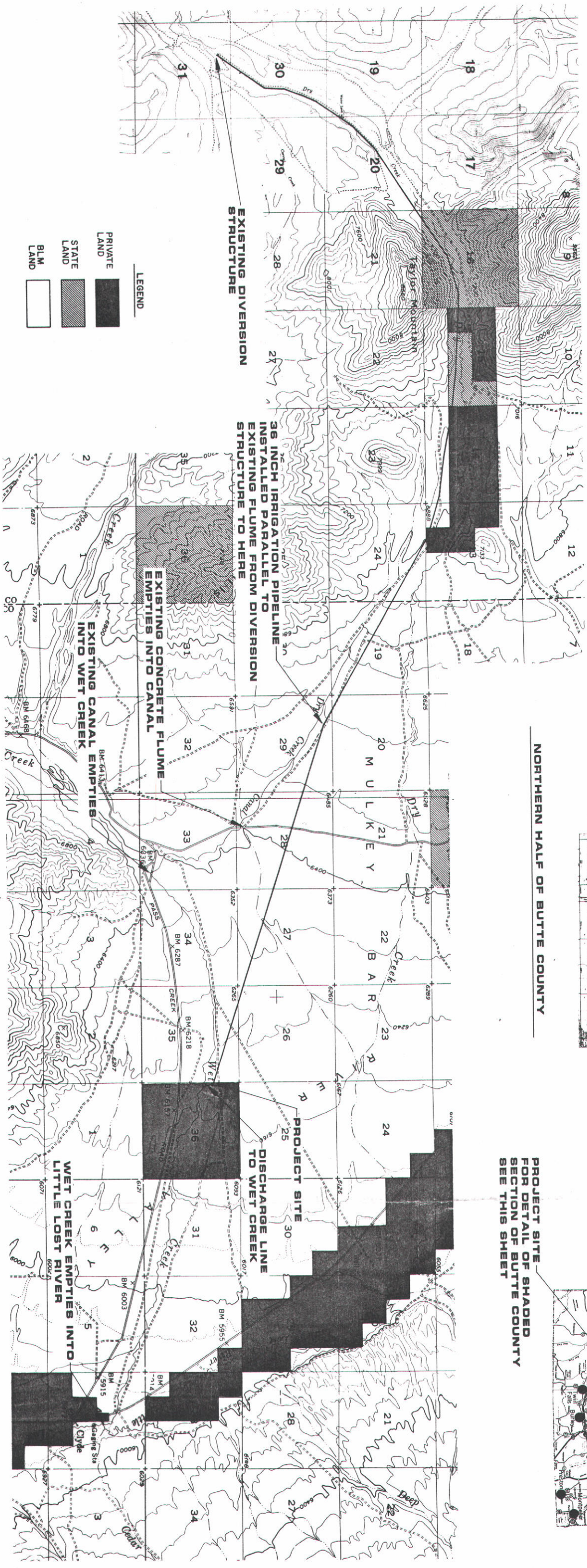
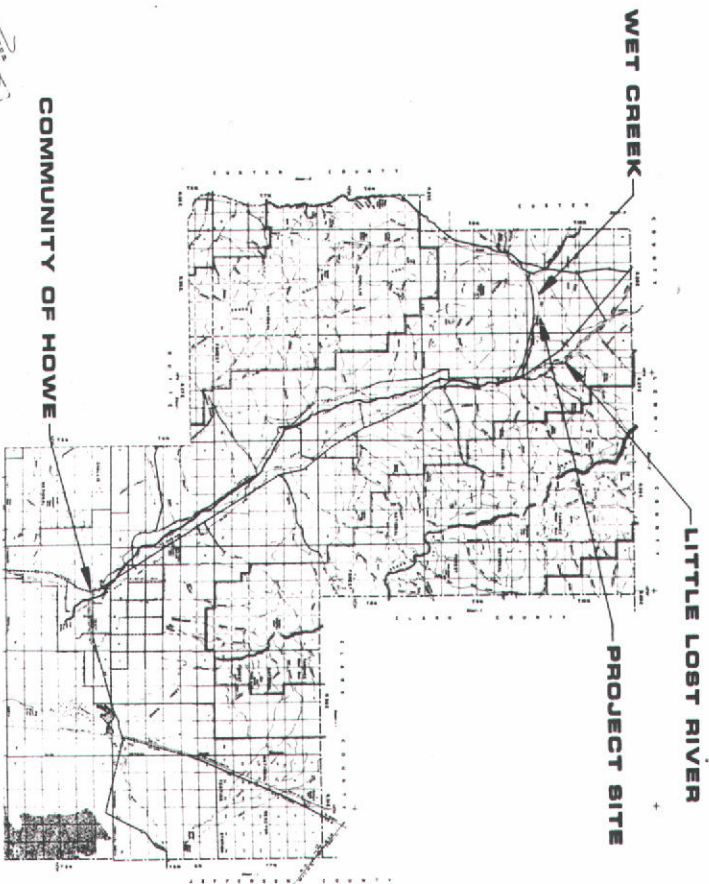
MICROFILMED



NOTE:
ALL PROPERTY SHOWN IS B.L.M OWNED
UNLESS NOTED OTHERWISE



POWERHOUSE OUTLET
ELEV = 6190

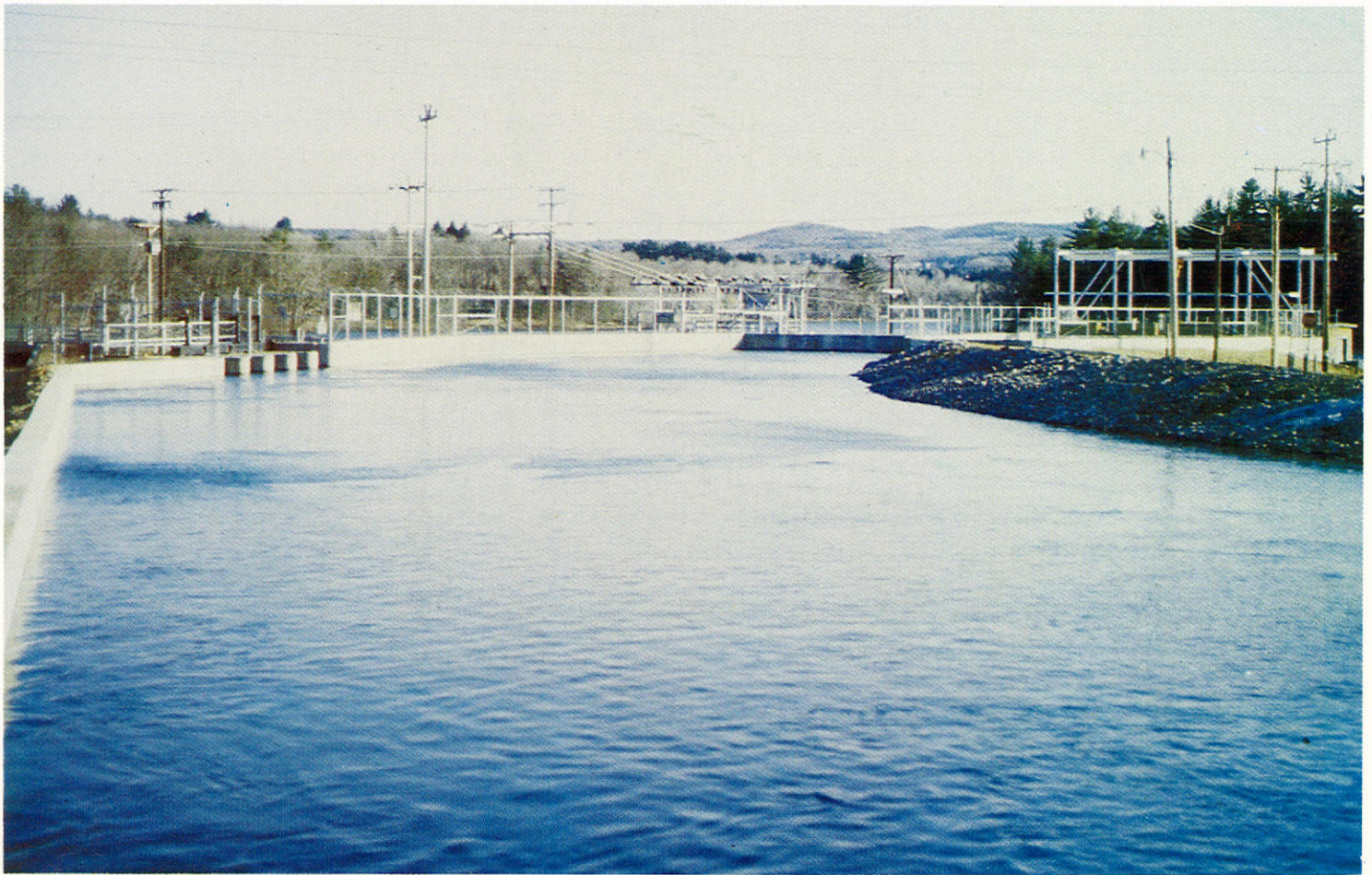


DRY CREEK
HYDRO PROJECT

EXHIBIT B-1

PLAN VIEW OF PHYSICAL STRUCTURES
OF THE HYDROELECTRIC FACILITY
IN RELATION TO THE CONDUIT
AND DIVERSION STRUCTURE

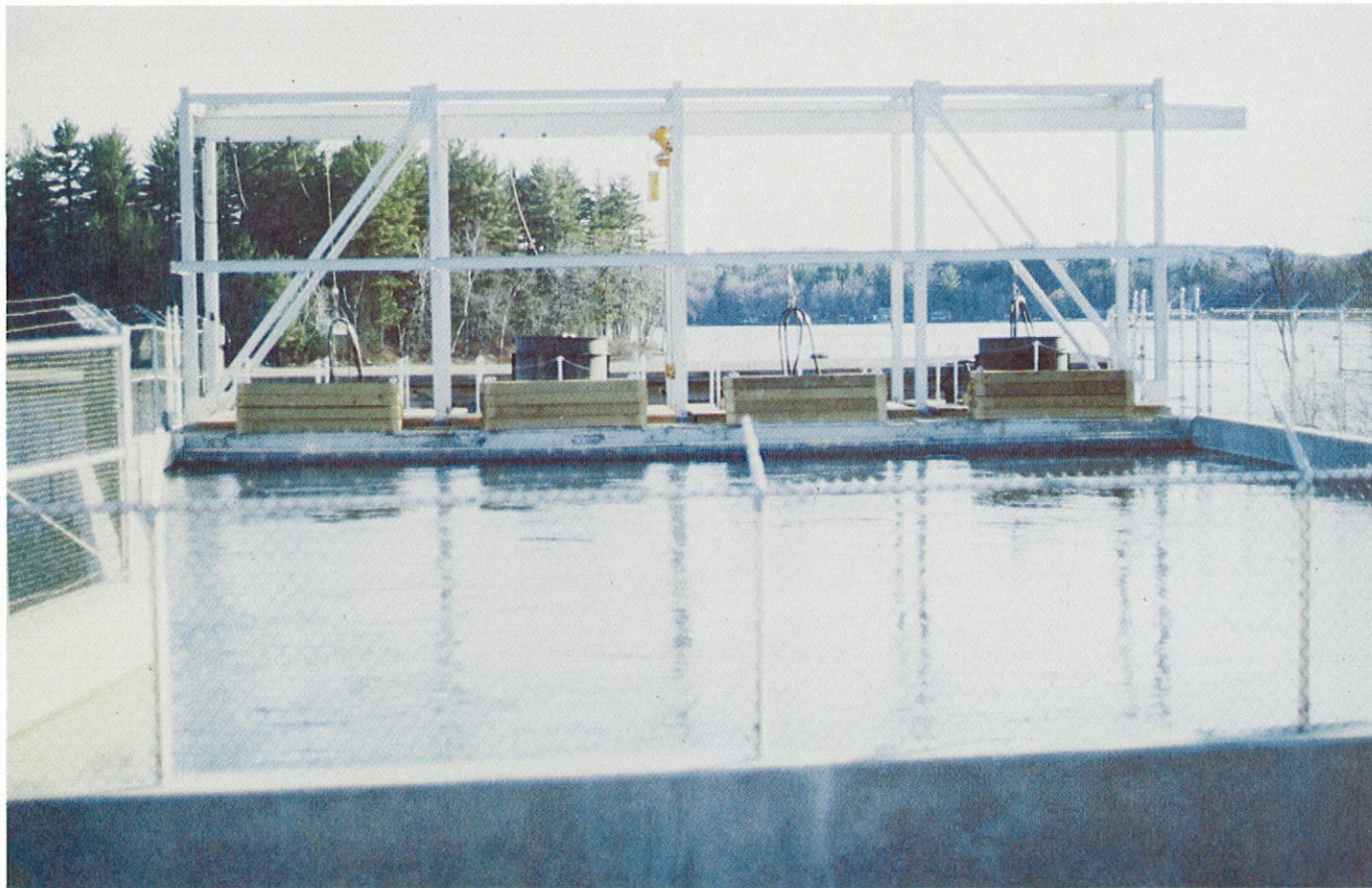
HYDROELECTRIC DEVELOPMENT INC.



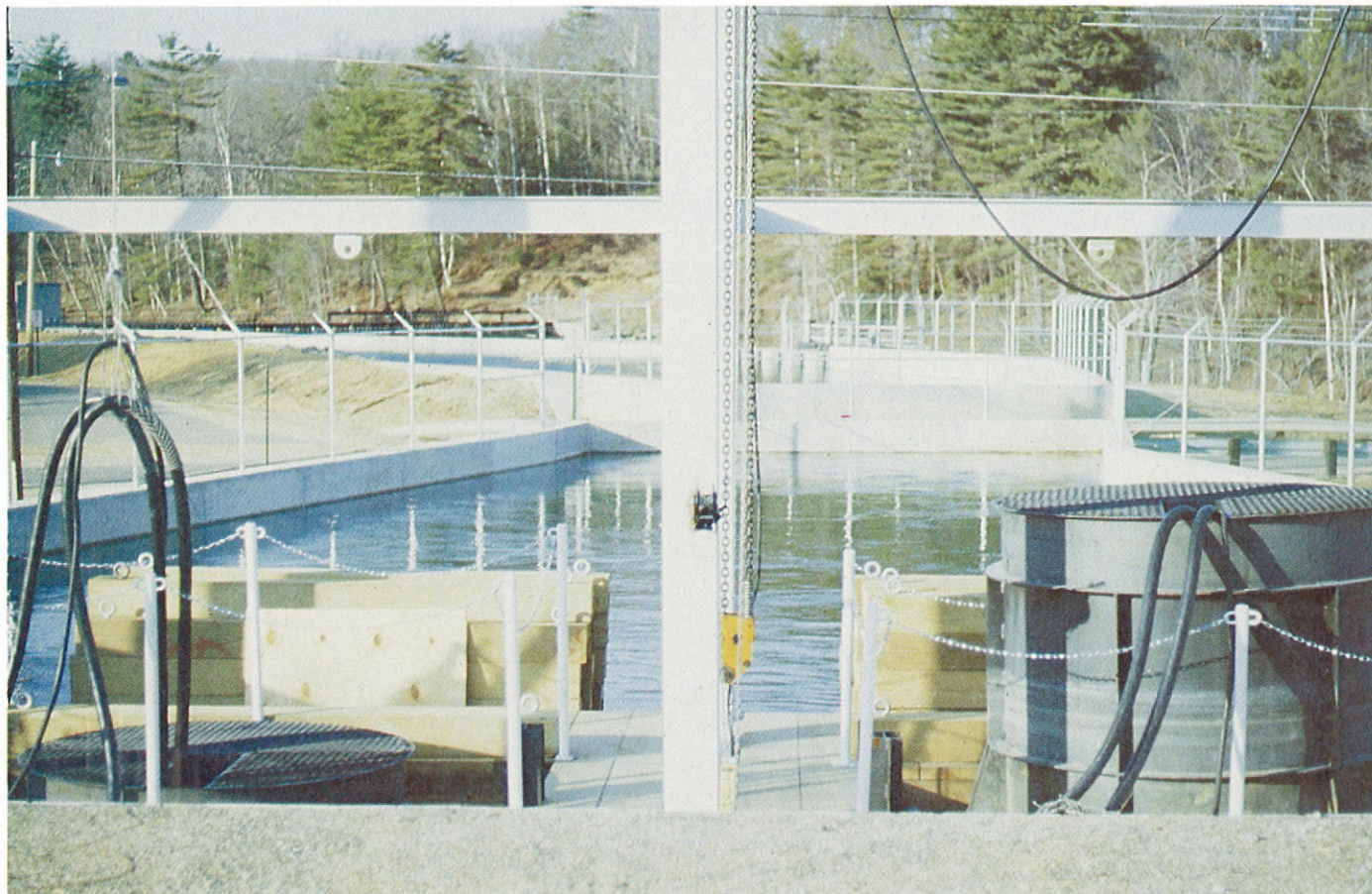
STATEMENT
OF
QUALIFICATIONS

1986

MICROFILMED



Lochmere Forebay



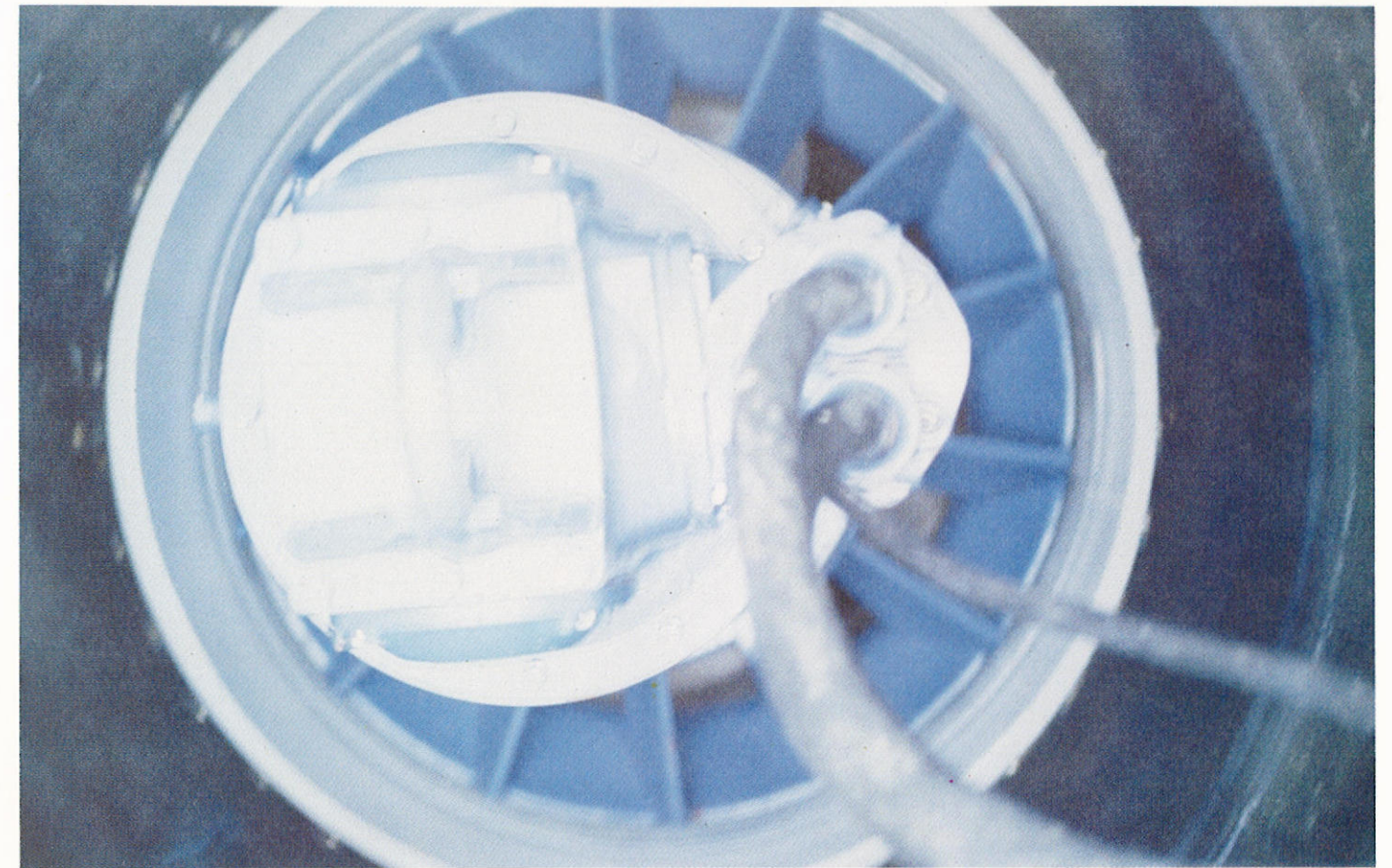
Lochmere Powerhouse and Cylinder Gates

BACKGROUND OF HYDROELECTRIC DEVELOPMENT, INC. ("HDI")

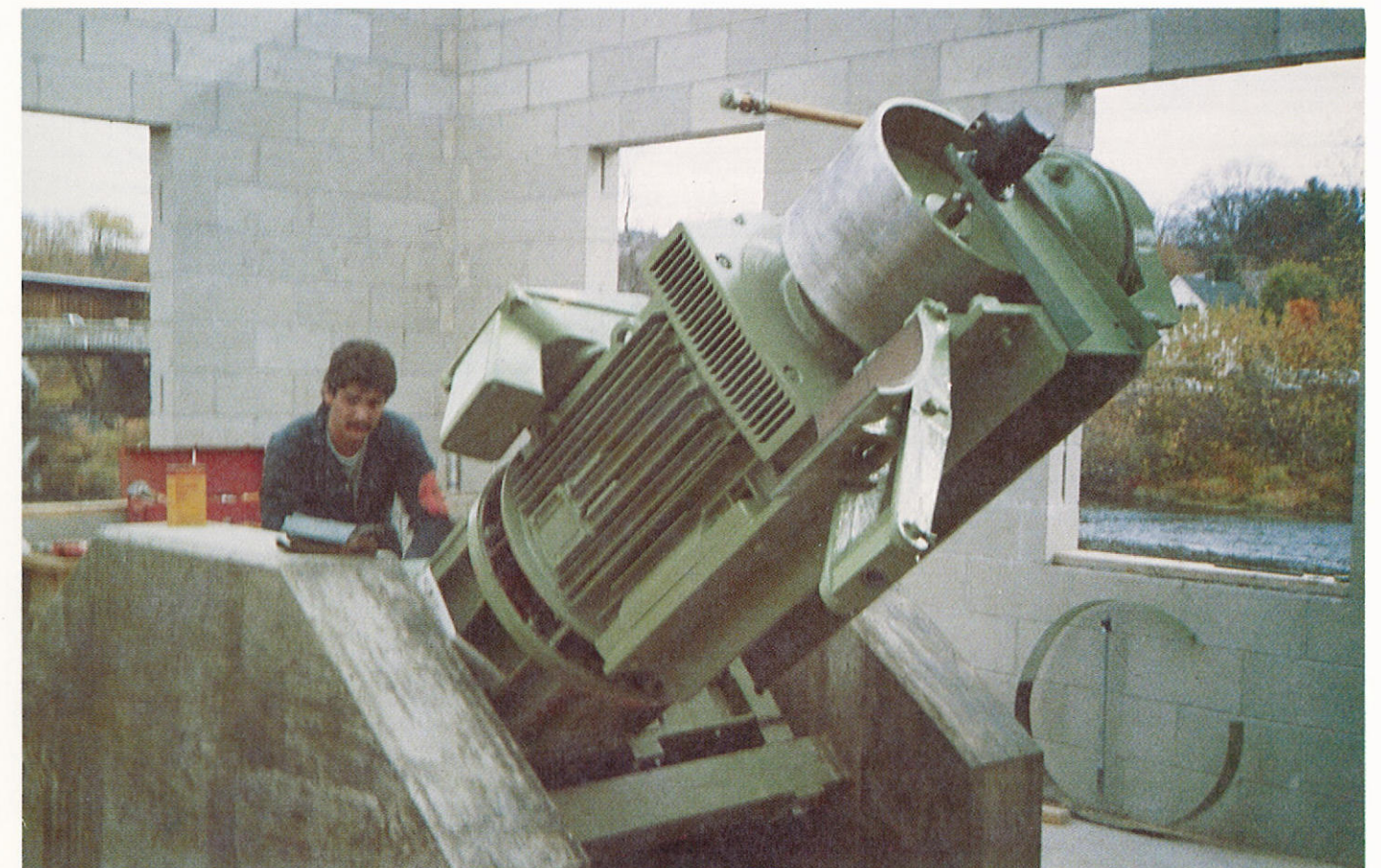
HDI was incorporated in Colorado in April, 1981. The corporation was initially capitalized with \$400,000 and had eleven shareholders. The initial Board of Directors consisted of Michael Demos, who also serves as President, John Gray, and Robert Kane. John Gray, who until recently served as Chairman of the Board of Qmark Industries in Portland, Oregon, is the majority shareholder of HDI. The Board of Directors has increased to five since HDI's original election of Directors. The additional Board members are Mark Parsinen and David M. Kirr.

Don Pope was hired as Corporate Counsel for HDI in November 1981. Last year his title changed to include Vice President, Secretary and General Counsel. Rick Peterson was hired as Controller for the corporation in the fall of 1984 and is responsible for project financial analysis, financial statements and preparing the corporate tax returns.

MICROFILMED

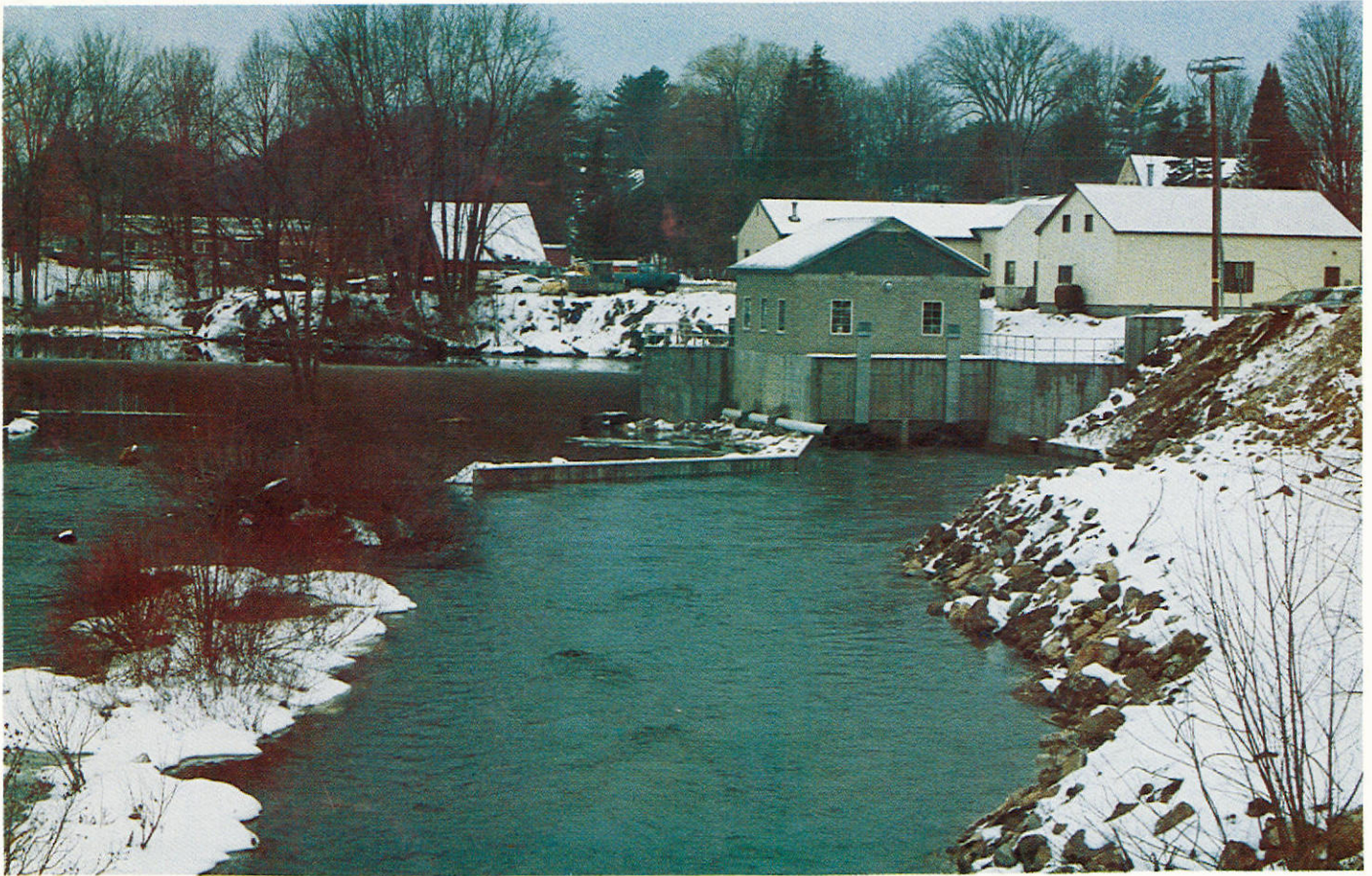


Lochmere — Flygt Turbine/Generator



256 KW Hopkinton, N.H. Hydroelectric Project

Hopkinton Dam and Powerhouse



Hopkinton Tailrace

RECEIVED

FEB - 6 2002

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

Department of Water Resources

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
<u>33-07089</u>	_____	_____	_____	_____	_____
<u>33-07154</u>	_____	_____	_____	_____	_____
<u>33-07181</u>	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

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) Westinghouse II Stanwix Street Rm 1188
Pittsburgh, PA 15222
4. New Owner/Claimant(s) Dry Creek, L.L.C.
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 5203 South 11th East
- City, State and ZIP Code Idaho Falls, ID 83404
- New Telephone Number 0 (208) 522-8069
5. Date you acquired the property 9/15/00

See file # 33-7089 for support documentation

MICROFILMED

APR 03 2002

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

7. Signature of New Owner(s) or Claimant(s) T. M. H.
(include title if applicable) Member

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 <u>J. Masi</u>	Date <u>2/6/02</u>	Fee <u>\$75.00</u>	
Received by <u>J. Masi</u>	Date <u>2/6/02</u>	Receipt No. <u>0059774</u>	
Processed by <u>AJ</u>	Date _____	WR _____	Date _____

MICROFILMED

APR 03 2002

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 33-07154

Priority: May 5, 1985

Maximum Diversion Rate: 52.00 CFS
Maximum Diversion Volume: 37580.0 AF

This is to certify, that WESTINGHOUSE ELECTRIC CORP

C/O CHUCK STERN
FINANCIAL SERVICES UNIT
11 STANWIX ST. RM 1188
PITTSBURGH PA 15222

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated May 3, 1985; and has submitted Proof of Beneficial Use on November 3, 1994. An examination indicates that the works have a diversion capacity of 76.000 cfs of water from:

DRY CREEK tributary to LITTLE LOST RIVER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
POWER	01/01 to 12/31	52.00 CFS	37580.0 AF

LOCATION OF POINT(S) OF DIVERSION: NENW , Sec. 31, Township 10N, Range 25E
CUSTER County

PLACE OF USE: POWER
TWN RGE SEC
10N 26E 36 SWNW

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Use of water under this right shall be non-consumptive.
6. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
7. Use of water under this water right will be regulated by the watermaster of State Water District No. 33.

JUL 18 1987

State of Idaho
Department of Water Resources**WATER RIGHT LICENSE**

WATER RIGHT NO. 33-07154

CONDITIONS OF APPROVAL AND REMARKS

8. 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.
9. Water used under this right when discharged into a natural channel or subsurface system shall meet Idaho Water Quality Standards.
10. The diversion and use of water for hydropower purposes under this license is subject to review by the Director on or after November 1, 2024. 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.
11. A measuring device and lockable controlling works of a type acceptable to the Department shall be maintained as part of the diverting works.
12. Rights 33-07089, 33-07154, and 33-07181 in combination shall not exceed a total diversion rate of 76.0 cfs.
13. Rights 33-07089 and 33-07181 are also diverted through the point(s) of diversion described above.
14. Facility known as Dry Creek Project.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 25TH
day of JUNE, 1997.


Acting for KARL J. DREHER, Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
33-07154 IN THE NAME OF)
WESTINGHOUSE ELECTRIC CORP.)
_____)

ORDER ADVANCING
DATE OF PRIORITY

This matter having come before the Department of Water Resources (department) as a result of preparing Permit No. 33-07154 for the issuance of a license, the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. On October 14, 1986, the department approved Application for Permit No. 33-07154 to appropriate water with a proposed priority date of May 3, 1985.

2. The department notified the permit holder on August 31, 1994, by certified mail that proof was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use on or before November 1, 1994; and,

3. On November 3, 1994, the permit holder submitted proof of beneficial use. The proof was submitted two (2) days late and the department issued an order advancing the date of priority to May 5, 1984. However, the advancement of the date of priority should have been calculated from May 3, 1985, not May 3, 1984;

CONCLUSIONS OF LAW

1. The Department should issue an order showing that the priority has been advanced to May 5, 1985.

ORDER

IT IS THEREFORE HEREBY ORDERED that the date of priority of Permit No. 33-07154 is advanced to May 5, 1985.

Dated this 22nd day of January, 1997.



L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED

JUL 18 1987

RECEIVED

DEC 27 1994

Department of Water Resources

- Signature of permit holder: Melvin E. Wintz Sr. Investment Mgr. Date: 12/16/94
(include your title, if on behalf of company or organization)

JAN 19 1995

WATER RIGHT SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT CFS
Original Application	33-07154	Rick Stauffer Rob Stauffer	52.0
Full Assignment	33-07154	HDI Associates IV	52.0
Full Assignment	33-07154	Westinghouse Credit Corp	52.0
Full Assignment	33-07154	Westinghouse Electric Corp	52.0

RECEIVED

MAY 25 1993

IN THE MATTER OF PERMIT NO. 33-07154)
)
) **ORDER OF**
IN THE NAME OF WESTINGHOUSE ELECTRIC CORP.) **REINSTATEMENT**
)

JAN 19 1995

HOLLAND & HART
ATTORNEYS AT LAW

DENVER
DENVER TECH CENTER
COLORADO SPRINGS
ASPEN
BILLINGS
BOISE
CHEYENNE
JACKSON
WASHINGTON, D.C.

SUITE 1400
WEST ONE PLAZA
BOISE, IDAHO 83702-7714
MAILING ADDRESS
P.O. BOX 2527
BOISE, IDAHO 83701-2527

RECEIVED
MAY 13 1993
Department of Water Resources
TELEPHONE (208) 342-5000
FACSIMILE (208) 343-8869

Dana L. Hofstetter

May 13, 1993

HAND DELIVERED

Idaho Department of Water Resources
Water Allocation Section
1301 North Orchard
Boise, ID 83706

Re: Idaho Water Permit Nos. 33-7089, 33-7154 and 33-7181

Dear Sir/Madam:

We are writing this letter to request that the Idaho Department of Water Resources ("IDWR") amend its records to reflect the transfer to Westinghouse Electric Company of Idaho Water Permit Nos. 33-7089, 33-7154 and 33-7181.

WCC was a wholly owned subsidiary of Westinghouse Electric Corporation. On May 3, 1993, WCC merged into Westinghouse Electric Corporation, the surviving corporation of the merger. As a result of the merger, all of WCC's personal and real property has been transferred to Westinghouse Electric Corporation. Enclosed are copies of the Articles of Merger, the Agreement and Plan of Merger, the First Amendment to Agreement and Plan of Merger and a Pennsylvania Certificate of Merger.

Section 2.2 of the Agreement and Plan of Merger indicates that all of WCC's real and personal property would be transferred upon merger to Westinghouse Electric Corporation. As a result of the merger, Westinghouse Electric now is the owner of the Dry Creek Hydroelectric Project and the three water right permits associated with that project, Nos. 33-7089, 33-7154 and 33-7181. The Dry Creek Hydroelectric Project is operational and Westinghouse Electric plans to continue operation of the Project.

We also enclose the following documents in support of our request that IDWR amend its records to reflect the new ownership:

1. A State of Idaho Certificate of Corporate Status for Westinghouse Electric Corporation dated May 10, 1993,

FILED
MAY 25 1993

indicating that Westinghouse Electric Corporation has the authority to do business in the State; and

2. A January 29, 1987 Transfer Agreement and Water Service contract granting HDI Associates IV, a limited partnership, all of Dry Creek Development, Inc.'s right, title and interest in irrigation facilities used by the Dry Creek Hydroelectric Project. As a result of the prior foreclosure of HDI's interest in the Dry Creek Hydroelectric Project and the recent merger of WCC into Westinghouse Electric Corporation, Westinghouse Electric Corporation has succeeded to HDI's interest under this January 29, 1987 agreement.

Please let me know if you have any questions or need further documentation. Thank you for your attention to this matter.

Sincerely,

HOLLAND & HART

Dana Hofstetter
Dana L. Hofstetter

DLH:dkb
Enclosures
29031/19623.1002

RECEIVED
MAY 25 1993

State of Idaho

Department of State

CERTIFICATE OF CORPORATE STATUS OF

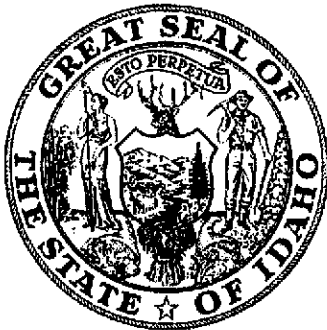
WESTINGHOUSE CREDIT CORPORATION

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that I am the custodian of the corporation records of this State.

I FURTHER CERTIFY That the records of this office show that the above-named corporation was incorporated under the laws of Delaware and was issued a certificate of Qualification in Idaho on May 7, 1956.

I FURTHER CERTIFY That the corporation's authority to do business has not been forfeited.

Dated: December 19, 1991



Pete T. Cenarrusa

SECRETARY OF STATE

Jonya Coulson

Corporation Clerk

MAY 25 1993

BEFORE THE DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

IN THE MATTER OF PERMITS TO)
APPROPRIATE WATER NOS. 33-7154)
& 33-7181 IN THE NAME OF HDI)
ASSOCIATES IV)

ORDER ESTABLISHING
TERM OF WATER RIGHT

This matter having come before the Idaho Department of Water Resources (Department) as a result of permits being issued for Applications to Appropriate Water Nos. 33-7154 and 33-7181, and upon a request of the HDI Associates IV (HDI) that the general term of years condition contained in the original permits be quantified, the Department Finds, Concludes, and Orders as follows:

FINDINGS OF FACT

1. The Department of Water Resources issued permits for diversion of water for hydropower generation for Application Nos. 33-7154 and 33-7181 on October 14, 1986.

2. Condition i. of the Conditions of Approval imposed on both permits stated: "The director retains jurisdiction of this permit in order to limit the use of water for hydropower generation purposes to a specific term of years as required by Section 42-203B (7), Idaho Code."

3. Under Idaho Code § 42-203B (7), the Director is required to establish a term of years for a hydropower application at the time a permit is issued or as soon thereafter as practicable.

4. HDI has requested that the Department quantify the term of years.

MICROFILMED

APR 01 1988

5. The request by HDI was accompanied by a submittal of information relative to the term of the power purchase contract, and the policy of the Idaho Public Utilities Commission (IPUC).

6. The Department's files contain an exemption granted by the Federal Energy Regulatory Commission (FERC) and a summary of downstream users from the hydropower site that has been compiled from the Department's files.

7. The power purchase contract with Utah Power & Light Company establishes a cogeneration period of 35 years.

8. IPUC policy dictates a general life expectancy period of 35 years for the operation of a hydrogeneration facility. The applicant also informed the Department that the IPUC project expectancy for this particular project is 35 years. This information was provided verbally by the applicant.

9. The exemption granted by FERC does not contain a term of years because an exemption does not require a renewal.

10. Water for the proposed hydropower facility is to be diverted from Dry Creek through a ten mile long pipeline, and will finally discharge into Wet Creek, which is tributary to the Little Lost River. According to Department records, there are a substantial number of water users on the Little Lost River downstream from its confluence with Wet Creek. The downstream water users rely on water currently delivered from Dry Creek through a flume into Wet Creek.

CONCLUSIONS OF LAW

1. Idaho Code § 42-203B (7) states:

The director in the exercise of the authority to limit a permit or license for power purposes to a specific term of

MICROFILMED

APR 01 1988

years shall designate the number of years which the term of the license shall extend and for purposes of determining such a date shall consider among other factors:

- (A) The term of any power purchase contract which is, or reasonably may become, applicable to such permit or license;
- (B) The policy of the Idaho Public Utilities Commission (IPUC) regarding the term of power purchase contracts administered by the IPUC under and pursuant to the authority of the Public Utility Regulatory Policy Act of 1978 (PURPA);
- (C) The term of any Federal Energy Regulatory Commission (FERC) license granted, or which reasonably may be granted, with respect to any particular permit or license for power purpose;
- (D) Existing downstream water uses established pursuant to state law.

2. The Department of Water Resources has reviewed the information set forth in the Findings of Fact above. The power purchase contract between HDI and Utah Power & Light Company and the policy of the Idaho Public Utilities Commission set the term of generation at 35 years. FERC has not imposed any time limitation on the generation project.

3. The records of the Department of Water Resources reveal that a substantial number of users take water from downstream sources. The irrigation flume which the delivery pipeline to the generation plant will replace delivers water to these downstream users.

4. Water will continue to be diverted to the downstream users through the pipeline or other means of conveyance in future years, making upstream development remote.

5. The establishment of a term of years does not violate Condition j of the Conditions of Approval, which subordinates the

MICROFILMED
APR 01 1988

water rights to other upstream beneficial uses.

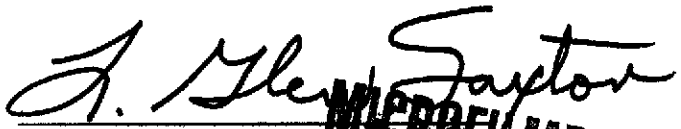
6. From the facts available to the Department, the license period should extend 35 years from the date of application of the water to beneficial use. See 42-203B (7)(d). The exact term of the license can be established at the time of licensing by taking into account the period of beneficial use prior to licensing.

ORDER

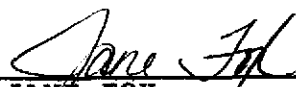
IT IS HEREBY ORDERED that the term of years established for the hydropower use under Permit No. 33-7181 and Permit No. 33-7154 is 35 years from the date of the first beneficial use of the water. The exact term of the license shall be established at the time of licensing by taking into account the period of beneficial use prior to licensing. After the expiration of the term of years, the Department will review the license to determine if continuation of the license is in the public interest.

IT IS FURTHER ORDERED that the water rights acquired under Permit No. 33-7181 and Permit No. 33-7154 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 these permits 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 these permits.

Dated this th16 day of March, 1987.


L. GLEN SAXTON,
Operations Bureau
MICROFILMED
APR 01 1988

I hereby certify that on this 17th day of March, 1987, I sent a copy of this Order, postage prepaid, to the person and address listed below.


JANE FOX
Receptionist

HDI Associates IV
10394 West Chatfield Avenue, #108
Littleton, CO 80127

MICROFILMED

APR 01 1988

TRANSFER AGREEMENT AND WATER SERVICE CONTRACT

THIS AGREEMENT, Made this 29th day of January, 1987, between HDI, Associates IV, Limited Partnership, a limited partnership, and Dry Creek Development, Incorporated, an Idaho corporation;

WITNESSETH:

WHEREAS, HDI, Associates IV, Limited Partnership, has acquired the rights, permits, licenses, exemptions, and other governmental authorizations necessary to develop a hydroelectric project which will utilize waters of Dry Creek, a stream located in Custer and Butte Counties, Idaho; and

WHEREAS, Dry Creek Development, Inc., constructed a diversion structure on Dry Creek and an attached concrete canal in 1965, which improvements are utilized to divert and convey the waters of Dry Creek for irrigation purposes; and

WHEREAS, Dry Creek Development, Inc., financed the construction costs of said diversion structure and concrete canal with a loan obtained from the Farmer's Home Administration, which loan has an outstanding balance of \$59,535.82 and is secured by a mortgage encumbering said diversion structure and concrete canal; and

WHEREAS, Dry Creek Development, Inc., possesses a right-of-way (easement) for the construction, operation, and maintenance of said diversion structure and concrete canal, which was granted by the Bureau of Land Management on behalf of the fee owner of the real property, the United States Government; and

WHEREAS, Dry Creek Development, Inc., possesses a right-of-way (easement) for the construction, operation, and maintenance of said

MAY 25 1993

concrete canal, which was granted by the fee owner of the real property, the State of Idaho, and

WHEREAS, The diversion structure and concrete canal, which was constructed by Dry Creek Development, Inc., are in need of substantial repair or complete replacement in order to properly divert and transport the waters of Dry Creek; and

WHEREAS, HDI, Associates IV, Limited Partnership, desires to utilize the existing Dry Creek diversion structure and make substantial improvements thereto as part of its Dry Creek hydroelectric project; and

WHEREAS, HDI, Associates IV, Limited Partnership, desires to construct a buried steel pipeline, which will be connected to the diversion structure and will convey the waters of Dry Creek for irrigation and hydroelectric purposes; and

WHEREAS, HDI, Associates IV, Limited Partnership, desires to utilize the rights-of-way (easements), previously granted to Dry Creek Development, Inc., by the Bureau of Land Management and the State of Idaho, for the construction, operation, and maintenance of the diversion structure improvements and the buried steel pipeline; and

WHEREAS, The Bureau of Land Management has required HDI, Associates IV, Limited Partnership, to cover the existing Dry Creek concrete canal as a condition of the assignment of the said right-of-way (easement) from Dry Creek Development, Inc., to HDI, Associates IV, Limited Partnership, which condition has been incorporated as part of the Federal Energy Regulatory Commission exemption from licensing for the Dry Creek hydroelectric project; and

MAY 25 1993

WHEREAS, The Farmer's Home Administration has refused to release the mortgage encumbering the Dry Creek diversion structure and concrete canal unless HDI, Associates IV, Limited Partnership, and Dry Creek Development enter into a water delivery contract, which is acceptable to the Farmer's Home Administration; and

WHEREAS, Dry Creek Development, Inc., desires to enter into a water delivery contract with HDI, Associates IV, Limited Partnership, which is acceptable to the Farmer's Home Administration; and

WHEREAS, Dry Creek Development, Inc., desires to convey, transfer, and assign to HDI, Associates IV, Limited Partnership, the rights-of-way (easements), previously granted to Dry Creek Development, Inc., by the Bureau of Land Management and the State of Idaho; and

WHEREAS, Dry Creek Development, Inc., desires to convey the Dry Creek diversion structure and concrete canal to HDI, Associates IV, Limited Partnership;

NOW, THEREFORE, In consideration of the mutual and dependent stipulations and covenants herein contained, it is hereby mutually agreed by and between the parties as follows:

1. Dry Creek Development, Inc., hereby transfers, conveys, grants, and assigns to HDI, Associates IV, Limited Partnership, and its successors in interest, all of its right, title, and interest in the Dry Creek diversion structure and concrete canal owned by Dry Creek Development, Inc., and the rights-of-way (easements) for said structures, previously granted to Dry Creek Development, Inc., by the Bureau of Land Management and the State of Idaho, for which HDI,

RECEIVED

MAY 25 1993

Associates IV, Limited Partnership, agrees to pay Dry Creek Development, Inc., \$1.00 (one dollar) U.S. currency and other valuable consideration, which consideration is hereby acknowledged by the parties.

2. HDI, Associates IV, Limited Partnership, agrees to construct, operate, and maintain improvements to the Dry Creek diversion structure and a buried steel pipeline, which will convey the waters of Dry Creek to a discharge point in Wet Creek, after the waters have been used to generate hydroelectric power.

3. HDI, Associates IV, Limited Partnership, agrees to convey the waters of Dry Creek through the transferred diversion structure and buried steel pipeline and discharge said waters into Wet Creek from March 15 through November 15 of each year, so that said waters can be used for irrigation purposes by the shareholders of Dry Creek Development, Inc. This obligation shall commence only after the construction of the buried steel pipeline is complete. Prior to that event, HDI, Associates IV, Limited Partnership, agrees to convey the waters of Dry Creek through the transferred diversion structure and concrete canal, and discharge said waters into Wet Creek from March 15, 1987, until the buried steel pipeline is operational.

4. Dry Creek Development, Inc., in exchange for the water delivery described above in paragraph 3, agrees to pay a water delivery fee, payable on or before March 1 of each year. The fee shall be \$13,515.00 for each of the years 1987-1990. The total water delivery fees shall not exceed the total of \$59,535.82 plus any accrued interest owed to the Farmer's Home Administration by Dry Creek Development, Inc. The water delivery fee for 1991 shall be in

FILED
MAY 25 1993

the amount of the balance of the Farmer's Home Administration loan and shall be payable on or before January 1, 1991. In lieu of payment of such water delivery fees to HDI, Associates IV, Limited Partnership, such payments shall be made to the Farmer's Home Administration in said amounts to be applied as payments on said loan and upon receipt thereof by Farmer's Home Administration shall constitute satisfaction of the payment of water delivery fees hereunder to the extent of such payment amount. After the Farmer's Home Administration loan has been fully repaid, no further water delivery fees shall be required.

5. Dry Creek Development, Inc., agrees that HDI, Associates IV, Limited Partnership, shall have the right to terminate the delivery of water through the transferred diversion structure and concrete canal or the buried steel pipeline to the discharge point in Wet Creek, for the irrigation use of Dry Creek Development, Inc., or its shareholders, if the water delivery fees are not paid in the manner and in the amounts specified in paragraph 4 above.

6. Dry Creek Development, Inc., also agrees and consents to the assignment to the Farmer's Home Administration by HDI, Associates IV, Limited Partnership, of the rights of termination, contained in paragraph 5 of this contract, and of the water delivery fees, described in paragraph 4 of this contract.

7. Dry Creek Development, Inc., retains no responsibility or liability pertaining to the fencing which borders the sides of the concrete canal.

8. HDI, Associates IV, Limited Partnership, agrees to continue to discharge water into Wet Creek from March 15 through

MAY 25 1993

November 15 of each year during periods when the power-generating facilities are not in operation. This provision is subject to the water delivery fee payment requirements contained in paragraphs 4, 5, and 6 above.

9. Dry Creek Development, Inc., agrees and consents that HDI, Associates IV, Limited Partnership, may assign this agreement, as a collateral assignment, to a financial institution of its choice, for the purposes of financing the development costs of this project.

10. HDI, Associates IV, Limited Partnership, agrees that all right, title, and interest in the rights-of-way (easements) and the diversion structure, herein granted, conveyed, and transferred to it by Dry Creek Development, Inc., together with the buried steel pipeline to be constructed by HDI, Associates IV, Limited Partnership, shall automatically revert and vest in Dry Creek Development, Inc., if HDI, Associates IV, Limited Partnership, provides Dry Creek Development, Inc., with express written notice that it has permanently abandoned the Dry Creek hydro-electric project. In no event shall such reversion occur prior to the full repayment of the Farmer's Home Administration Loan as described in paragraphs 4 through 6 above.

IN WITNESS WHEREOF, The parties hereto have caused this Agreement to be executed the day and year first above written.

HDI, ASSOCIATES IV, LIMITED PARTNERSHIP
By HDI-Idaho, Inc., General Partner

By Donnie R. Pope
Donnie R. Pope, Vice President

RECORDED

MAY 25 1993

DRY CREEK DEVELOPMENT, INC.
BOARD OF DIRECTORS

William Stauffer
William Stauffer, President

Robert Amy
Robert Amy, Vice President

Emlen H. Mays
Emlen Mays, Board Member

George Woodie
George Woodie, Board Member

Earl Wortley
Earl Wortley, Board Member

MAY 25 1983

REQUEST FOR EXTENSION OF TIME

Department of Water Resources

MICROFILMED

Chief, Water Allocation Bureau

WATER RIGHT SUMMARY

<u>ACTION</u>	<u>RIGHT NO.</u>	<u>NAME</u>	<u>AMOUNT CFS</u>
Original Permit	33-7154	Stauffer, Rick Rob	52.0
Full Assignment	33-7154	HDI Associates IV	52.0

MICROFILMED

APR 01 1988

State of Idaho
Department of Water Resources

ASSIGNMENT OF PERMIT

I, Rob Stauffer
dba D & D Stauffer, Inc., hereby assign to HDI Associates IV, Limited Partnership
of 10394 W. Chatfield Avenue, #108, Littleton, Colorado 80127
Address

CHECK ONE

☒ All my right, title, and interest in and to Permit No. 33-7154
to appropriate the public waters of the State of Idaho.

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

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

Made this 12 day of December, 1986.

Rob Stauffer D & D Stauffer
Permit Holder

Fernie Stauffer
Spouse of Permit Holder

State of Idaho)
County of Butte) ss.

On this 12 day of December, 1986, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

seal

Jacqueline A. Hooper
Notary Public residing at
Home, ID

My commission expires:

4-6-99

MICROFILMED

APR 01 1988

State of Idaho
Department of Water Resources

ASSIGNMENT OF PERMIT

Rick Stauffer

I, dba D & D Stauffer, Inc., hereby assign to HDI Associates IV, Limited Partnership
of 10394 W. Chatfield Avenue, #108, Littleton, Colorado 80127
Address

CHECK ONE

☒ All my right, title, and interest in and to Permit No. 33-7154
to appropriate the public waters of the State of Idaho.

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

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

Made this 12th day of December, 19 86.

Rick Stauffer dba D & D Stauffer
Permit Holder

Carmen Stauffer
Spouse of Permit Holder

State of Idaho)
County of Butte) ss.

On this 12 day of December, 19 86, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

seal

Reginald A. Gray
Notary Public residing at
St. Louis, MO

My commission expires:

4-6-99

MICROFILMED

APR 01 1988

AFFIDAVIT FOR WATER RIGHTS TO BE
FOR POWER PURPOSES

RECEIVED

FEB 03 1987

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

1. Individual Applicant or Individual Members of a Partnership:

I, _____, Department of Water Resources
(name) (city).

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

2. ~~Corporation~~ Limited Partnership:

I, David B. Lincoln, of Boise,
(name) (city).

County of Ada, State of Idaho, being duly sworn, depose
and say: That I am the designated registered agent of the HDI Associates IV, Limited Partnership

(name of corporation) : that as such I am in charge of the registered office

of the said ~~corporation~~ limited partnership as required by Section 53-204, Idaho Code, at Boise
(city)

Idaho, wherein are kept the ~~corporate~~ 53-205 records required by Section 53-205, Idaho Code; and that HDI Associates IV

Limited Partnership, limited partnership
(name of corporation) is a ~~corporation~~ limited partnership 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)
- ☐ 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 ~~signer of this affidavit~~ HDI Associates IV, Limited Partnership

David B. Lincoln
Applicant

State of Idaho
County of Ada) ss.

On this 3rd day of February, 19 87, personally appeared before me
the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Elissa A. Lyle
Notary Public residing at Boise, Idaho

seal

My commission expires:

MICROFILMED

Commission Expires: 8/12/92

APR 01 1988

State of Idaho

Department of State.

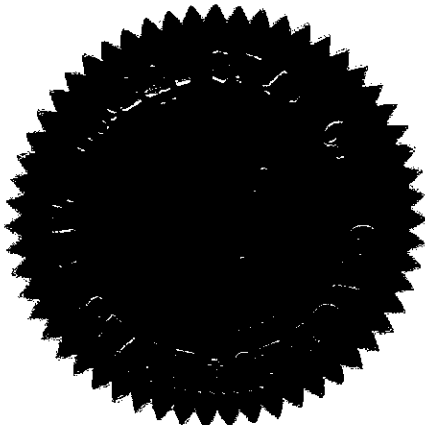
C E R T I F I C A T E

HDI ASSOCIATES IV, LIMITED PARTNERSHIP

I, Pete T. Cenarrusa, Secretary of State of the State of Idaho, hereby certify that I am the custodian of the limited partnership records of this State.

I further certify that the records of this office show that HDI ASSOCIATES IV, LIMITED PARTNERSHIP, an Idaho limited partnership, filed a certificate of limited partnership in this office on the 2nd day of October, 1986 and that the limited partnership has not been cancelled.

Dated: October 17, 1986



Pete T. Cenarrusa
SECRETARY OF STATE

By: *Shirley J. Clark*

MICROFILMED

APR 01 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

APPLICATION FOR PERMIT

AMENDED

To appropriate the public waters of the State of Idaho

APPROVED

1. Name of applicant Rick or Rob Stauffer Phone 767-3356

Post office address P.O. Box 501 Arco, Idaho 83213

2. Source of water supply Dry Creek which is a tributary of Little Lost River

3. Location of point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31 Township 10N

Range 25E B.M. Custer County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 52 cfs for power purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 52 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. The existing diversion structure on Dry Creek will direct water into a 36-inch pipeline which will transport the water to a power plant located in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 36, discharge to Wet Creek

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

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

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: SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 36 Township 10N

Range 26E B.M. * Change as per tele-con with Mr. Stauffer 4-23-85 HWJ

(2) Amount of power to be generated: 3.6 MW horsepower under 1100 * 676 feet of head.

(3) List number of each kind of livestock to be watered _____

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

(5) If water is to be used for other purposes describe: The water is to be used for power production purposes prior to it being delivered to Wet Creek for irrigation purposes downstream. The irrigation water rights are held by the Little Lost River Irrigation District and the Blaine County Canal Company.

[illegible]

for 18 cfs (No. 33-7089), filed by Dry Creek Development, has been transferred to D & D Stauffer, Inc. in accordance with an affidavit dated 12 August, 1983

9. a. Who owns the property at the point of diversion

Jacke Army has agreed to sell the land necessary for the power plant and

10. Remarks	The applicant has obtained permission from the Dry Creek Development
-------------	--

The applicant will work with the BLM to obtain necessary easements for water

process of obtaining the necessary Federal Energy Regulatory Commission

approval for the project.

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

Scale: 2 inches equal 1 mile.

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

Rich or Rob Stauffer D+D Stauffer INC.
(Applicant)

STAMPED AREA

Proposed Priority 5/3/85

Received by

(u) (u)

Date

5-3-85

Time

2:15 P.

Preliminary check by

Hus

Fee \$

140

Received by

(u) (u)

Date

5-3-85

#33274

Publication prepared by

Attn Date

5-8-85 11/6/85

Published in

Water & Pollution Control Institute, Idaho State University, Pocatello, Idaho

Publication dates

5-16 & 5-23-85 + 11/14 + 11/21/85

Publication approved

(u) (u)

Date

12-03-85

Protests filed by:

none

Copies of protests forwarded by

Hearing held by

Date

Recommended for approval

denial

by

BMC

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. 33-7154, 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 be-

fore

November 1

19 91

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 1.

Witness my hand this 14 day of October, 1986.

D. Alan Saxton

Chief, Operations Bureau

RECEIVED

ATTACHMENT TO CONDITIONS OF APPROVAL
For Permit No. 33-7154

- d. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works.
- e. The issuance of this permit in no way grants any right-of-way or easement across the land of another.
- 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 if discharged into a natural channel or subsurface system shall meet Idaho Water Quality Standards.
- h. The Director retains jurisdiction of this permit in order to limit the use of water for hydropower generation purposes to a specific term of years as required by Section 42-203B(7), Idaho Code.
- 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. Use of water under this permit is subject to control by the watermaster of State Water District No. 33, Little Lost River.

Witness my hand this 14th day of October, 1986.

J. Glen Saxton
Chief, Operations Bureau

RECEIVED
OCT 20 1986

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, Rick or Rob Stauffer of Howe, Idaho,
(name) (city)

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

2. Corporation:

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

County of _____, State of Idaho, being duly sworn, depose
and say: That I am the designated registered agent of the _____

_____ : that as such I am in charge of the registered
(name of corporation)

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

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

by Section 30-1-52, Idaho Code: and that _____
(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)

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

State of Idaho _____)
County of Bonneville) ss.

Rob Stauffer
Applicant

On this 1st day of July, 1983, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged
to me that he (she) (they) executed the same.

Colleen Gray
Notary Public residing at
Idaho Falls

seal

My commission expires:

6-15-85

RECORDED

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

RECEIVED
APR 1 1985

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

Department of Water Resources
Eastern District Office

1. Individual Applicant or Individual Members of a Partnership:

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

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

2. Corporation:

I, Rob Stauffer of Arco,
(name) (city)

County of Butte, State of Idaho, being duly sworn, depose
and say: That I am the designated registered agent of the _____

D+D Stauffer INC: that as such I am in charge of the registered
(name of corporation)

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

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

by Section 30-1-52, Idaho Code: and that D+D Stauffer 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)

- ☐ 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.

D+D Stauffer INC Rob Stauffer
Applicant

State of Idaho)
County of Butte) ss.

On this 16 day of April, 1985, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged
to me that he (she) (they) executed the same.

seal

Janet L. Gray
Notary Public residing at
Idaho, Id.

My commission expires:

3/6/91

OPTION AGREEMENT

APR

Department of Natural Resources
Eastern District Office

This agreement is made between D & D Stauffer, Inc., (Rick and Rob Stauffer) and Allen "Jake" Amy. The following conditions are agreed upon by D & D Stauffer, Inc., and Jake Amy regarding the proposed Dry Creek Irrigation outfall Hydroelectric Project:

- a. Jake Amy, who owns the northern half of Section 36, Range 26 East, Township 10 North, agrees to sell a parcel of land approximately 200 feet by 300 feet to D & D Stauffer for the construction of the power plant and all associated equipment. The land will be sold for \$1,000 an acre.
- b. Jake Amy will grant D & D Stauffer easements for the following structures which are necessary for the operation of the power plant facility:
 1. A 50-foot wide easement for an access road and power transmission line, approximately 1/4 mile long.
 2. A 50-foot wide easement for a discharge line to Wet Creek , approximately 400 feet long.
 3. A ditch easement leading to smaller distrubution ditches for the purpose of infiltration on private property.
- c. Jake Amy will have diversion rights to all the water that is discharged from the proposed power plant during the non-irrigation season (Mid-October through Mid-May). Jake Amy will have access to the diversion structures, to control the amount of water diverted during the non-irrigation season.

- d. Jake Amy feels that because of the small amount of water during the winter months that there won't be a problem with infiltration on his property.
- e. D & D Stauffer will pay for all expenses to divert water on Jake Amy's property.

Rob Stauffer April 7, 1985
D & D Stauffer, Inc. Date

Allan J. Amy April 7, 1985
Allan J. Amy Date

PH 767-3344

APR 10 1985

AN AGREEMENT BETWEEN DRY CREEK DEVELOPMENT, INC.
AND D & D STAUFFER, INC.

Dry Creek Development, Inc. (hereafter referred to as the "Company") desires to establish its support of the D & D Stauffer, Inc. proposed hydroelectric project which would replace the Company's existing irrigation flume with a buried irrigation pipeline on our behalf. The proposed construction would increase the efficiency and lower the cost of delivering irrigation water to our members and increase the safety of our overall operation; specifically:

1. The replacement of the 20-year-old concrete-lined irrigation flume would serve the Company approximately \$15,000-20,000 per year in annual maintenance costs, which will increase dramatically as the flume gets older. The cost of replacing the flume at some future date will have a severe economic impact on the Company's members.
2. The replacement of the flume would eliminate channel conveyance losses, estimated at 10-15 percent. This would ensure that during dry years the Company would be able to deliver a maximum amount of water to its members.
3. The proposed project would allow the Company to divert water approximately one month earlier in the year. This is because the Company would not have to perform spring maintenance on the concrete irrigation flume prior to diverting the Dry Creek flow.
4. The proposed project would eliminate the extreme safety hazard now associated with the open irrigation flume. The Company is extremely concerned that the operation of the flume unavoidably results in the loss of wildlife such as deer and elk and sometimes livestock. The Company recognizes that to make an existing irrigation flume totally safe would require an investment of over \$ 1 million.
5. The Company desires that the D & D Stauffer Company proceed with this proposed hydroelectric project as soon as possible.

To assist D & D Stauffer, Inc. in gaining approval for the hydroelectric project, the Company agrees to the following conditions:

1. D & D Stauffer will deliver a maximum of 70 cfs to Wet creek in Sec. 36 T 10 N R 26 E East of the Boise Meridian discharge point will be approximately two miles below the existing discharge point of the irrigation flume.
2. The Company grants D & D Stauffer, Inc. permission to install a 36-inch buried irrigation pipeline in the 100 foot right-of-way controlled by the Company and owned by the BLM, the State of Idaho, and Hartman Land and Livestock, Inc. The Company approves the preliminary proposal to install the pipeline approximately 15 feet on the opposite side of the existing flume from the access road, and that in the areas where the proposed pipeline is adjacent to the existing flume, sufficient spoil from the pipeline installation will be placed in the flume to completely cover the flume and restore the area to its natural state.
3. D & D Stauffer may perform minor modifications to the existing diversion structure to divert water into the proposed 36-inch pipeline. These modifications are expected to occur immediately downstream of the existing diversion structure (see Figure 1).
4. The Company grants D & D Stauffer full right and permission to operate and maintain all structures associated with the irrigation pipeline, including the existing diversion works and its minor modifications and the stock watering troughs including branch waterlines and valves.

SHAREHOLDERS - DRY CREEK DEVELOPMENT, INC.

<u>Name</u>	<u>Signature</u>	<u>Date</u>
<u>CLASS A</u>		
Amy, Delwyn	<i>Delwyn Amy</i>	3-6-85
Amy, Robert	<i>Robert Amy</i>	3-7-85
Andreason, James	<i>James Andreason</i>	3-10-85
Mays Land & Livestock	<i>William G. Mays President</i>	
Pancheri, Inc.	<i>John Pancheri</i>	
<u>CLASS B</u>		
Chambers, Robert R.		
Echeverria, Todd	<i>Todd Echeverria</i>	3-6-85
Haight, Lynn	<i>Lynn Haight</i>	
Hartmann Land & Livestock	<i>Frank A. Hartmann</i>	
Hejzmanek, Tom	<i>Tom Hejzmanek</i>	
Isham, Don	<i>Don Isham</i>	3-6-85
Mays, Jack	<i>Jack Mays</i>	
McDonald, Charles	<i>Charles H. McDonald</i> ^{B4} ₃₋₇₋₈₅	
McDonald, John	<i>John L. McDonald</i>	
Nickerson, Keith	<i>Keith Nickerson</i>	
Romrell, Owen	<i>Owen A. Romrell</i>	3-11-85
Stauffer, Richard	<i>(Rick) Richard Stauffer</i>	3-6-85
Stauffer, William	<i>William Stauffer</i>	3-6-85
Strope, Jesse	<i>Jesse III Strope</i>	
Thomas, Lamar	<i>Lamar Thomas</i>	
Williams, W.T.	<i>Wade T. Williams</i>	
Woodie Land & Livestock	<i>George Woodie (Pres)</i>	
Wortley, Earl	<i>Earl Wortley</i>	

Members of the board of directors of Dry Creek Development, Inc.

Robert Amy, (208) 767-3366 George Woodie (208) 767-3461

**NOTICE OF
APPLICATION
FOR WATER RIGHT**

The following application has been filed to appropriate the public waters of the State of Idaho and is being readvertised to allow evaluation of the public interest criteria and under Section 42-203C, Idaho Code.

33-7154

STAUFFER, RICK &/or
ROB
P.O. Box 501, Arco, ID
83244

Source: DRY CREEK
trib. to LITTLE LOST
RIVER

Date Filed: 07/01/1983
Diversion Pt: NENW
Sec 31 T 10N R 25E
Use: Power (52.0 cfs)
In: SWNW Sec 36 T
10N R 26E

The permit(s) will be subject to all prior water rights. Protests are limited to the public interest criteria under Section 42-303C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho, 83402 on or before December 2, 1985.

KEN DUNN

Director

PUBLISH: Thursday,
November 14, and 21,
1985.

Affidavit of Publication

STATE OF IDAHO,
COUNTY OF TWIN FALLS

ss.

No. 15690

I, Linda Capps McBain being first duly sworn upon oath, depose and say that I am Print 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

November 14, 1985, and ending with the issue dated November 21, 1985.

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 McBain
Subscribed and sworn to before me on this 22 day of

November, 1985.

Diana J. Huse
Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

1. Margaret Parks

Publisher of the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated November 14 1985 and ending with the issue dated November 21 1985

Margaret Parks

Subscribed and sworn to before this 25th day of Nov 1985

Ethel M. Peck

Notary Public, residing at Challis, Idaho. My commission expires on

Life

NOTICE OF APPLICATION FOR WATER RIGHT

The following application has been filed to appropriate the public waters of the State of Idaho and is being readvertised to allow evaluation of the public interest criteria under Section 42-203C, Idaho Code.

33-7154

STAUFFER, RICK &/or ROB
P.O. BOX 501, ARCO, ID 83244

Source: DRY CREEK trib. to
LITTLE LOST RIVER

Date Filed: 07/01/1983

Diversion Pt.: NENW Sec. 31 T
10N R 25E

Use: POWER (52.0 cfs)

In: SWNW Sec. 36 T 10N R 26E

The permit(s) will be subject to all prior water rights. Protests are limited to the public interest criteria under Section 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho, 83402 on or before December 2, 1985.

KEN DUNN

Director

Published: November 14 & 21, 1985.

RECEIVED
NOV 27 1985
WATER RESOURCES
DIVISION
IDAHO DEPT. OF

TRIBUNE PUBLISHING COMPANY, INC.

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

Date 112185 INVOICE No. L00061898

Account No. 44660

Description 61898NOTIC

Times 2 Lines 28

Tab Lines

**LEGAL ADVERTISING
INVOICE**

\$ 24.50

SOLD TO:

STATE OF IDAHO
DEPT. OF WATER RESOURCES
150 SHOUP AVE. SUITE 15
IDAHO FALLS
ID 83402

NOV 26 1985

Department of Water Resources
District Office

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.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

S. L. Stone

, 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 WATER RIGHT

attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication beginning on 111485, or once a

week for two consecutive weeks, the first publication thereof being on the 111485, and the last publication thereof being on the 112185, and said

NOTICE OF APPLICATION FOR WATER RIGHT

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.

S. L. Stone

SUBSCRIBED AND SWORN BEFORE ME THIS THE 21st
day of November 1985

Pauletta J. Hamilton

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

**NOTICE OF APPLICATION
FOR WATER RIGHT**

The following application(s) is (are) being advertised to allow all parties affected by the addition of the public interest criteria Sec. 42-203C, Idaho Code.

33-7154

STAUFFER, RICK &/or ROB
P.O. BOX 501, ARCO, ID 83244

Source: DRY CREEK trib. to
LITTLE LOST RIVER

Date Filed: 07/01/1983

Diversion Point: NENW Sec 31 T
10N E 25E

Use: POWER (52.0 cfs)

In: SWNW Sec 36 T 10N R 26E

The permit(s) will be subject to all prior water rights. Protests are limited to the public interest criteria under Section 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before December 2, 1985.

A. KENNETH DUNN
Director

11/26/85

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 insertions, beginning with the issue of

November 14, 1985, and ending

with the issue of November 21, 1985.

Laura Gay Barnes

Subscribed and sworn to before me this 21st

day of November, 1985.

James M. Hauke

Notary Public for Idaho, Residing at Boise, Idaho.

NOTICE OF APPLICATION FOR WATER RIGHT

The following application has been filed to appropriate the public waters of the State of Idaho and is being re-advertised to allow evaluation of the public interest criteria under Section 42-203C, Idaho Code.

33-7154

STAUFFER, RICK &/or ROB
P.O. Box 501
Arco, ID 83244

Source: Dry Creek trib. to Little Lost River

Date Filed: 7/01/1983

Diversiion Pt: NENW Sec. 31 T 10N

R 25E

Use: POWER (52.0 cfs)

In: SWNW Sec. 36 T 10N R 26E

The permit(s) will be subject to all prior water rights. Protests are limited to the public interest criteria under Section 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before December 2, 1985.

KEN DUNN

Director

Pub. Nov. 14, 21, 1985

9620

NOV 25 1985

Department of Water Resources
Eastern District Office

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

1. MARGARET PARKS.....

Publisher of the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2..... consecutive weeks, commencing with the issue dated MAY 16.....

1985 and ending with the issue dated MAY 23..... 1985

Margaret Parks

Subscribed and sworn to before this 23rd day of May 1985

Ethel M. Beck

Notary Public, residing at Challis, Idaho. My commission expires on

Life

NGER — THURSDAY, MAY 16, 1985

NOTICE OF AMENDED APPLICATION FOR WATER RIGHT

Notice is hereby given that Application for Permit No. 33-7154 in the name of Rick or Rob Stauffer, Howe, Idaho was filed for the diversion of 40.0 cfs of water from Dry Creek tributary to Little Lost River, with points of diversion within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 10N, R. 25E, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36, T. 10N, R. 24 $\frac{1}{2}$ E, NW $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot 2), Sec. 1, T. 9N, R. 24 $\frac{1}{2}$ E, B.M. Custer County; to be used from 1-1 to 12-31 for power purposes within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, T. 10N, R. 26E, B.M.

The applicants, Rick or Rob Stauffer, Arco now propose to amend Application No. 33-7154, requesting 52.0 cfs be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 10N, R. 25E, B.M. to be used within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 36, T. 10N, R. 26E, B.M.

Any protest to the proposed amending of the application must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, ID 83402, on or before June 3, 1985.

A. KENNETH DUNN
Director

Published: May 16 & 23, 1985.

RECEIVED

Form 202
3/78

MAY 7 1984

Ident. No. 33-7154

Department of Water Resources
Eastern District Office

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

AMENDED

AMENDED

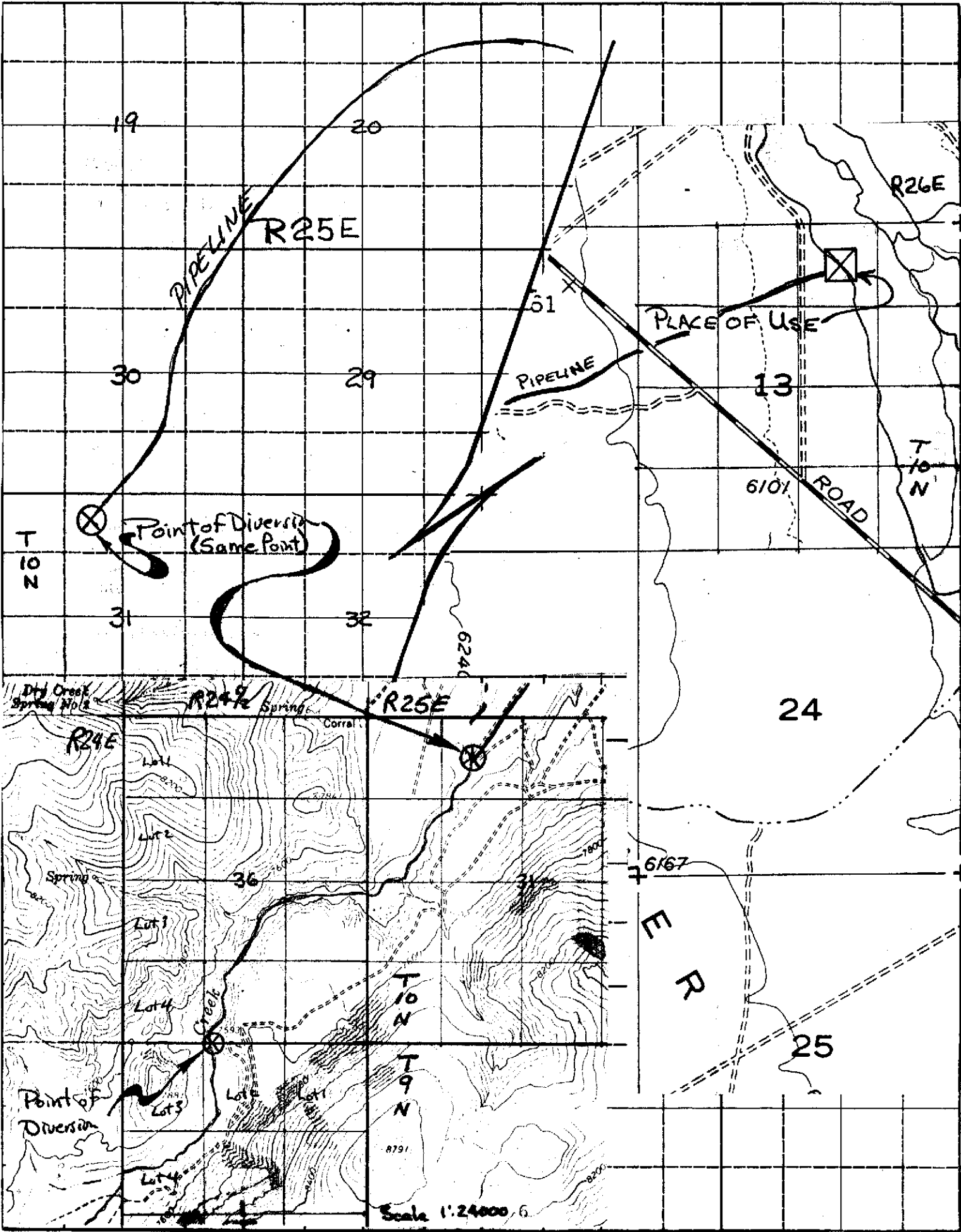
To appropriate the public waters of the State of Idaho

1. Name of applicant Rick or Rob Stauffer Phone 767-3356
Post office address Box 44 Howe, ID 83244
2. Source of water supply Dry Creek which is a tributary of Little Lost River
3. Location of point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31 Township 10N
Range 25E B.M. Custer County, additional points of diversion if any: SWSE, Sec. 36, T. 10N, R. 24 $\frac{1}{2}$ E, NWNE, (Lot 2) Sec. 1, T. 9N, R. 24 $\frac{1}{2}$ E
4. Water will be used for the following purposes:
Amount 40cfs for Power purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 40 cubic feet per second and/or b. acre-feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Headgate to pipe system to power plant.

b. Height of storage dam 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 to inclusive.
(Month/Day) (Month/Day)
c. Proposed well diameter is 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 $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 13 Township 10N
Range 26E B.M.
(2) Amount of power to be generated: 2000kw horsepower under 960 feet of head.
(3) List number of each kind of livestock to be watered

(4) Name of municipality to be served , or number of families to be supplied with domestic water .
(5) If water is to be used for other purposes describe:

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



Scale: 2 inches equal 1 mile,
and
1"=24000

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.

Rob Stauffer
(Applicant)

RECEIVED
JAN 10 1967

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.

61

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

_____ of Idaho No. _____, and said application is hereby

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

Received by *AK* *5-3-84* Date *5-7-84* Time *1:55 pm*
 Preliminary check by *for* Fee \$ *20.00*
 Received by *AK* Date *5-07-84* # *33535*
 Publication prepared by *AK* Date *5-16-84*
 Published in *Water Pollution*
 Publication dates *May 24 + 31, 1984*
 Publication approved *AK* Date *6-06-84*
 Protests filed by: *with record* ~~James O. Anderson, Cecil J. Scott, Jerry Pancheri,~~
~~Robert C. Amy, Bruce Hillman~~
 Copies of protests forwarded by _____
 Date _____
 Hearing held by _____
 Recommended for approval/denial by _____

RECEIVED

JUN 6 1984

Department of Water Resources
Eastern District Office

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS

Publisher of the Challis Messenger, a
weekly newspaper, published at Challis,
Idaho, do solemnly swear that the notice
hereto attached and made a part hereof,
was published in the regular and entire
issue of the Challis Messenger for 2...
consecutive weeks, commencing with
the issue dated MAY 24...
1984 and ending with the issue
dated MAY 31... 1984..

Margaret Parks
Subscribed and sworn to before
this 5... day of June
1984

Evel M. Beck
Notary Public, residing at Challis,
Idaho. My commission expires on

Life

NOTICE OF AMENDED
APPLICATION FOR
WATER PERMIT

Notice is hereby given that
application for permit No. 33-
7154 in the name of Rick or
Rob Stauffer, Howe, Idaho was
filed for the diversion of 40.0
cfs of water from Dry Creek
tributary to Little Lost River,
with points of diversion within
NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 10N, R.
25E; SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36, T.
10N, R. 24 $\frac{1}{2}$ E; NW $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot
2), Sec. 1, T. 9N, R. 24 $\frac{1}{2}$ E, B.
M., Custer County; to be used
from Jan. 1 to Dec. 31 for power
purposes within the SE $\frac{1}{4}$ SE $\frac{1}{4}$,
Sec. 33, T. 10N, R. 26E.

The applicant now proposes
to amend application No. 33-
7154 changing the place of use
to the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, T.
10N, R. 26E, B.M.

Any protest to the proposed
amending of the application
must be filed with the Idaho
Department of Water Re-
sources, 150 Shoup, Suite 15,
Idaho Falls, Idaho, 83402, on
or before June 11, 1984.

A. KENNETH DUNN
Director

Published: May 24 & 31, 1984.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Rick or Rob Stauffer Phone 767-3356
Post office address Box 44, Howe, Idaho 83244
2. Source of water supply Dry Creek which is a tributary of Little Lost River
3. Location of point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31 Township 10N
Range 25E B.M. Custer County, additional points of diversion if any: SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 36, T. 10N, R. 24 $\frac{1}{2}$ E, NW $\frac{1}{4}$ NE $\frac{1}{4}$ (lot 2) Sec. 1, T. 9N, R. 24 $\frac{1}{2}$ E.
4. Water will be used for the following purposes:
Amount 40 cfs for Power purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 40 cubic feet per second and/or b. _____ acre-feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Headgate to pipe system to power plant

b. Height of storage dam _____ 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 _____ to _____ inclusive.
(Month/Day) (Month/Day)
c. Proposed well diameter is _____ 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: SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 33 Township 10N
Range 26E B.M.
(2) Amount of power to be generated: 2000 kw — horsepower under 960 feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.
(5) If water is to be used for other purposes describe: _____

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

[illegible]

Total number of acres to be irrigated

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

9. a. Who owns the property at the point of diversion

b. Who owns the land to be irrigated or place of use	BLM

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the

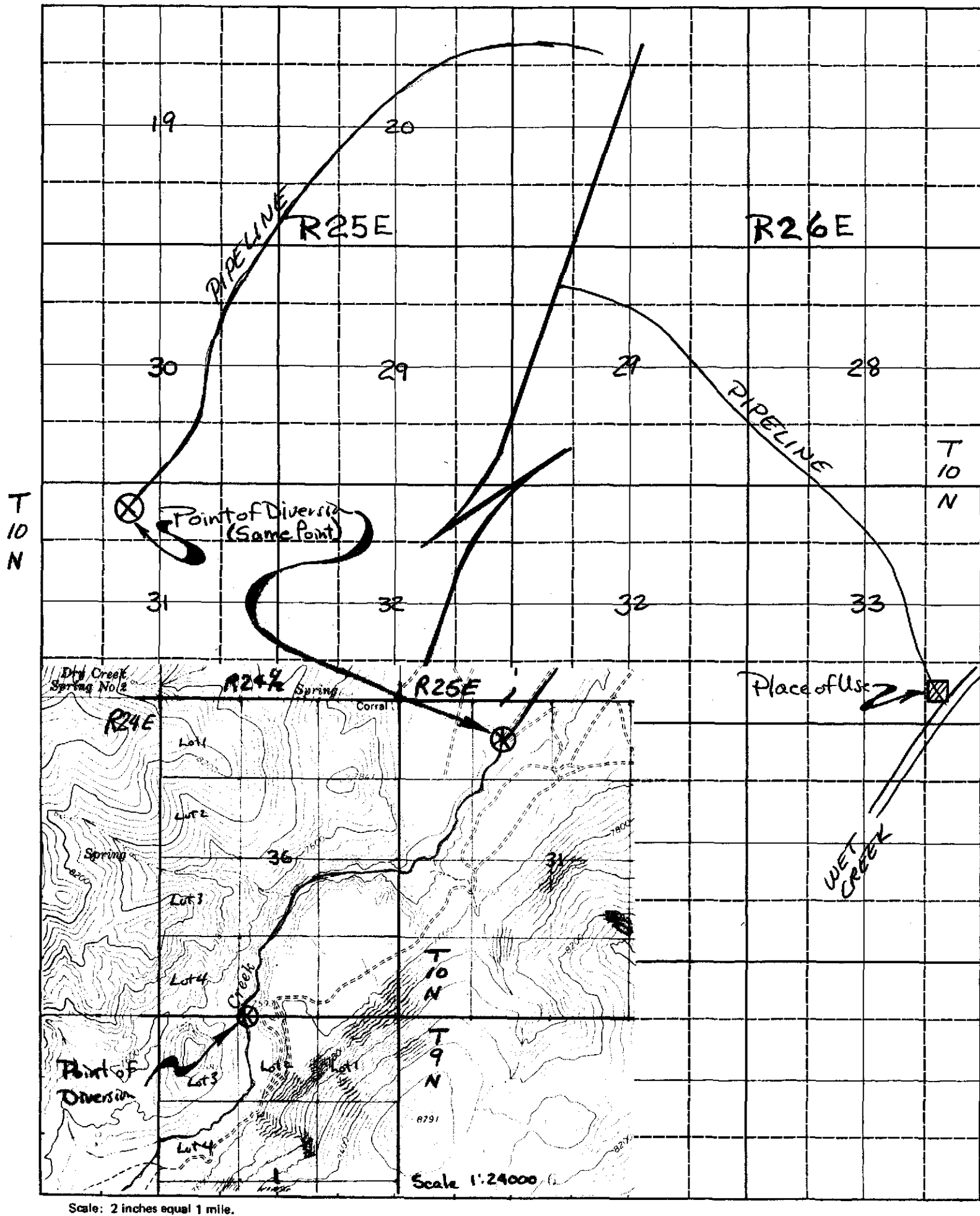
applicant to make this filing.

10. Remarks	Applicant will get a special use permit from BLM and will
-------------	---

work with Dry Creek Development on water delivery for permit

33-7089.

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



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.

Rob Stauffer
(Applicant)

Received by KCW Date 7-1-83 Time 1515 hrs

Preliminary check by HJS Fee \$ 625.00

Received by BP Date 7/1/83 # 29242

Publication prepared by BP Date 7/13/83

Published in Water Publ. Co.

Publication dates 7/1 - 7/28/83

Publication approved BP Date 8/4/83

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by _____

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

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 be-

fore _____, 19 _____.

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: _____

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, MARGARET PARKS

Publisher of the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for consecutive weeks, commencing with the issue dated JULY 21

19. 83 and ending with the issue dated JULY 28, 19. 83

Margaret Parks

Subscribed and sworn to before this 29th day of July

19. 83

Evelyn M. Park
Notary Public, residing at Challis, Idaho. My commission expires on

Life

RECEIVED

AUG 1 1983

Department of Water Resources
Eastern District Office

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

43-7154
STAUFFER, RICK &/or ROB
BOX 44, HOWE, ID 83244
Source: DRY CREEK trib. to
LITTLE LOST RIVER
Date Filed: 07/01/1983
Diversion Pt. NENW Sec 31 T
10N R 25E SWSE Sec 36 T 10N R
24E LOT 02 (NWNE) Sec 01 T
09N R 24E

Use: POWER (40.00CFS)
In: SESE Sec 33 T 10N R 26E

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before

AUGUST 8, 1983.

34-7429

SORENSEN, RODGER L.
&/or MARY M.
245 N. HOOPER, SODA
SPRINGS, ID 83276
Source: GROUNDWATER

Date Filed: 04/04/1983
Diversion Pt. NENW Sec 36 T
08N R 20E

Use: STOCKWATER
(0.03CFS)

DOMESTIC (0.04CFS)
In: NENW Sec 36 T 08N R 20E

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 on or before
AUGUST 8, 1983.

KEN DUNN, Dir.
Published 7/21 & 7/28/83.



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

March 27, 2002

DRY CREEK LLC
5203 S 11TH EAST
IDAHO FALLS ID 83404

RE: Change of Ownership for Water Rights 33-7089, 33-7154, 33-7181

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. Also enclosed is a receipt for the \$75.00 filing fee.

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,


for Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

MICROFILMED

APR 03 2002



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

February 12, 2002

DRY CREEK LLC
GAYLE A SORENSON
5203 SOUTH 11TH EAST
IDAHO FALLS ID 83404

RE: Change in Ownership for Water Rights 33-7089, 33-7181, 33-7154

Dear Ms. Sorenson:

The Department of Water Resources acknowledges receipt of your Notice of Change in Water Right Ownership. Our review of your notice indicates that additional information is required before we can process the change. The information required is indicated below:

✓ Proof of Ownership: A quitclaim deed listing each of the water right numbers would suffice. The Assignment of Water Rights you provided does not meet the Department requirements for support documentation.

Because the Department cannot process the ownership change without proper documentation, we will hold any action on your notice pending receipt of the necessary information. If we do not receive the necessary information within **30 days** we will return your notice and all attachments and your notice will not be processed.

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

Please feel free to contact the Department if you have any questions.

Sincerely,

Kari Lynn Townsend
Secretary

KLT:k

MICROFILMED

APR 03 2002



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

July 7, 1997

WESTINGHOUSE ELECTRIC CORP
C/O CHUCK STERN
FINANCIAL SERVICES UNIT
11 STANWIX ST RM 1188
PITTSBURGH PA 15222

RE: WATER RIGHT NOS. 33-07089/~~33~~-07154/33-07181

Dear Water Right Holders:

The Department of Water Resources (the Department) has issued the enclosed licenses confirming that water rights have been established in accordance with the permits referenced above. The licenses are Preliminary Orders issued by the Department pursuant to section 67-5243, Idaho Code. They can and will become final orders 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.

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.

MONROE-LAMBL

JUL 18 1987

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.

For your records I have also enclosed a copy of your Application for Amendment of Permit, which was approved.

Sincerely,



Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

RECEIVED
JUL 18 1957

CERTIFICATE OF MAILING

I hereby certify that on the 7th day of July, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved License)** to the person(s) listed below:

Water Right Nos. 33-07089/33-07154/33-07181

WESTINGHOUSE ELECTRIC CORP
C/O CHUCK STERN
FINANCIAL SERVICES UNIT
11 STANWIX ST RM 1188
PITTSBURGH PA 15222


Kari Lynn Townsend
Secretary

RECORDED

JUL 18 1997



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 12, 1997

Dominion Power Services, Inc.
699 E. S. Temple, #220
Salt Lake City, UT 84102

Attn: Fred Moss

Dear Mr. Moss:

Enclosed is Receipt No. C039213 for the additional examination fees and the amendment for Right 33-07089.

The late penalty fees of \$25 for each right are required for all rights where the examination fees are not paid at the time of filing the proof of beneficial use form. Thus, an additional \$50 is required for the two permits for which you paid additional examination fees. In my conversation with you on May 27, I may have calculated the fees required as totalling \$150 rather than \$200 and if so, I apologize for the error.

Please submit the additional \$50 at your earliest convenience. If you have any questions, just give me a call. I will be out of the office all next week but will return on the 23rd.

Sincerely,

A handwritten signature in cursive script that reads "Sharla Curtis".

SHARLA CURTIS
Water Resource Agent

MICROFILMED

JUL 18 1997

MEMORANDUM

TO: Files 33-07089/07154/07181

FROM: Sharla

DATE: May 27, 1997

RE: Additional Fees and Application for Amendment

On this date, Fred Moss called regarding the forwarded correspondence we had attempted to mail to Westinghouse Electric Corp. He was concerned that they would fail to wrap this up before the 30 days ran out which were mentioned in the letter dated 5/6. I assured him we would allow 30 days from the time we sent the letter on to him (May 21). He will forward the amendment for signature by Chuck Stern, head of Financial Services at Westinghouse and they would return it with a total of \$150.00 to cover the additional fees and amendment.

Mr. Moss told me that the current address to use is:

Westinghouse Electric Corp.
c/o Chuck Stern
Financial Services Business Unit
11 Stanwix St., Room 1188
Pittsburgh, PA 15222

The database has been updated with this address.

MICROFILMED
JUL 18 1997

MEMORANDUM

DATE: May 21, 1997

TO: Files 33-07089, 33-07181, and 33-07154

FROM: Shelley W. Keen *SWK*

RE: Address

This morning I spoke to Rob Stauffer, the plant manager for the Dry Creek hydro facility. He informed me that Dominion Power Services is the project manager for Westinghouse Electric and that correspondence pertaining to the water rights should be mailed to the following address:

Dominion Power Services, Inc.
Attn: Fred Moss
699 E. S. Temple
Suite #220
Salt Lake City, UT 84102

MEMORANDUM

TO: Files 33-07154, 33-07181 AND 33-07089

FROM: Kari Lynn

DATE: May 20, 1997

RE: Address Correction

After having 2 attempts to send mail to Westinghouse Electric Corp. c/o Donald Paton, Lease Finance Group, 301 Grant Street, Pittsburgh, PA 151219 and in having the mail returned to us I called Pittsburgh, PA telephone information and was given the number 412-937-6100.

I called that number - they didn't know Donald Paton and gave me a number (412-244-4888) for the "main office" for Westinghouse Electric. I spoke to Betty at that number. She searched her data base and was unable to locate Donald Paton. She also checked under the spelling of "Patton" and found nothing. When I explained the nature of the call she suggested we contact the Westinghouse Legal Dept. at 11 Stanwix Street, Pittsburgh, PA 15222.

100-41150

5/21/97



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

May 6, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

WESTINGHOUSE ELECTRIC CORP
C/O DONALD PATON
LEASE FINANCE GROUP
301 GRANT STREET
PITTSBURGH PA 15219

RE: Permit No.(s) 33-07154/33-07181 and ~~33-07089~~

Dear Water Right Holders:

Your permits are currently being reviewed for licensing. The Department's field examiner recommended licensing Water Right No. 33-07154 with a diversion rate of 52.0 cfs and Water Right No. 33-07181 with a diversion rate of 24.0 cfs.

If you want the licenses for these rights to reflect the rates recommended by the examiner, you must submit an additional examination fee of \$100.00 (\$50.00 for each right) required for higher diversion rates, plus a late payment penalty of \$50.00 (\$25.00 for each right), within 30 days. The examination fee of \$550.00 previously paid for each of these rights is sufficient only to cover up to 19.0 cfs under each right. If we receive the examination fees after 30 days from the date of this letter, the priority date of your right will be advanced in accordance with Section 42-217, Idaho Code.

Also enclosed is an Order Advancing Date of Priority for Permit No. 33-07154 to May 5, 1985, and an Application for Amendment for Permit No. 33-07089. The amendment contains information that will be included on the license when it is issued. The amendment reflects a change in the location of the place(s) of use description. Please review it carefully and if you concur, sign the amendment and return it with the \$50.00 filing fee within fourteen (14) days.

The last page of the Application for Amendment form contains a list of Conditions of Approval and Remarks proposed for the license when it is issued. These conditions of approval and remarks may be modified upon further administrative review.

RECORDED
JUL 18 1997

Page 2

If you have any questions, please contact me as soon as possible at
(208) 327-7946.

Sincerely,

A handwritten signature in cursive script, reading "Shelley Walter Keen". The signature is written in dark ink and is positioned above the typed name.

Shelley Walter Keen
Water Rights Supervisor

SWK:klt

Enclosures

MICROFILMED

JUL 18 1997



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 29, 1997

WESTINGHOUSE ELECTRIC CORP.
11 STANWIX ST
PITTSBURGH PA 15222

RE: Permit Nos. 33-07154, 33-07181 and 33-07089

Dear Water Right Holders:

Your permits are currently being reviewed for licensing. The Department's field examiner recommended licensing Water Right No. 33-07154 with a diversion rate of 52.0 cfs and Water Right No. 33-7181 with a diversion rate of 24.0 cfs.

If you want the licenses for these rights to reflect the rates recommended by the examiner, you must submit an additional examination fee of \$100.00 (\$50.00 for each right) required for higher diversion rates, plus a late payment penalty of \$50.00 (\$25.00 for each right), within 30 days. The examination fee of \$550.00 previously paid for each of these rights is sufficient only to cover up to 19.0 cfs under each right. If we receive the examination fees after 30 days from the date of this letter, the priority date of your right will be advanced in accordance with Section 42-217, Idaho Code.

Also enclosed is an Order Advancing Date of Priority for Permit No. 33-07154 to May 5, 1985, and an Application for Amendment for Permit No. 33-07089. The amendment contains information that will be included on the license when it is issued. The amendment reflects a change in the location of the place(s) of use description. Please review carefully and if you concur, sign the amendment and return it with the \$50.00 filing fee within fourteen (14) days.

The last page of the Application for Amendment form contains a list of Conditions of Approval and Remarks proposed for the license when it is issued. These conditions of approval and remarks may be modified upon further administrative review.

MICROFILMED

JUL 18 1997

Page 2

If you have any questions, please contact me as soon as possible at
(208) 327-7946.

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen". The signature is written in dark ink and is positioned above the typed name.

Shelley W. Keen
Water Rights Supervisor

SWK:ph

Enclosures

MICROFILMED

JUL 18 1987

MEMORANDUM

TO: Files 33-07089/07154/07181

FROM: Sharla

DATE: January 22, 1997

RE: Licensing

The rated flow for the turbine under these three rights is 76.0 cfs. This is the capacity used for the licensing. Between the three rights (two of which are for partial seasons), the rates of flow licensed total 76.0 cfs year-round. Right 33-07181 has been changed regarding the rates of flow from what was recommended by the examiner based on the above.

A copy of the original power purchase agreement can be found in 33-07154. I spoke to Karen at IPUC and she stated the agreement was somewhat amended when transferred to Westinghouse. As best as she could tell, the term probably began in 1989. By an order dated 3/16/87 for rights 33-07154 and 33-07181, the term limits were set by the department for 35 years (same as power purchase agreement) from the date of first beneficial use. Beneficial use was filed in November of 1989 for the first permit, 33-07089, and for continuity, this is the date used for calculating the term limits on the licenses.

Insufficient proof of beneficial use fees were paid for 33-07154 and 33-07181. A letter requesting the additional fees will be sent. An error in the calculating of the new priority date for late submittal of proof of beneficial use under 33-07154 was found, and this has been corrected by order.

MICROFILMED

JUL 18 1987

LICENSE REVIEW CHECKLIST

PERMIT NO. 33-07154

DATE 1/15/97

REVIEWER: SHARLA

NAME Change OK

Address Change NO

SOURCE Change OK

Is change clarification of originally intended source? NO

POINT OF DIV Change OK

If not, prepare Notice of Intent to Void NO

PLACE OF USE Change OK

Amendment required NO

Does map agree with written description? yes no

OVERLAPS P/D P/U

RATE OF DIV

Permitted Rate 52.0 cfs

Fee limit 19.0 cfs

Measured 76.69 cfs

Theoretical cfs

\$55000 - add 50% req'd to allow total permitted rate

Recommended Total Div Rate 52.0 cfs

ANNUAL VOLUME/
NATURE OF USES

Use Power

Volume Calculation

 af
 af
 af
 af
SUBTOTAL af

Flow rate 52.0 cfs X 365 days X 1.98 = 37580.4 af

Total volume recommended af
(SUBTOTAL or Flow Rate, whichever is less)

REMARKS

R39 edit
W42
max vol = 54925.2 af

CONDITIONS RD Watermaster Control WD# 33

GW Measurement/Measuring Device

Overlap

Use-specific conditions 027, 025, R04, R22, 09E

Advancement of Priority Date Required yes no

SRBA Claim Filed N/A
Adjustment Memo turn

1st Amend Letter N/A
2nd Amend Letter

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
APR 11 1996
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 33-07154

1. Owner: WESTINGHOUSE ELECTRIC CORPORATION Phone No. (412) 393-3522

Current Address: 11 STANWIX STREET, PITTSBURGH, PA 15222

2. Accompanied by: LOB STAUFFER EXAM DATE: 5/18/95

Address: P.O. Box 501, ARCO, IDAHO 83213 Phone No. (208) 767-3356
PLANT (208) 767-3025

Relationship to Permit Holder: MANAGER

3. Source: DRY CREEK tributary to LITTLE LOST RIVER

B. OVERLAP REVIEW

1. Other water rights with the same place of use: 33-07181, 33-07089

2. Other water rights with the same point of diversion: 33-07181, 33-07089

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			NE	NW	31	10N	25E	CLUSTER	U.S. G.S. TOPO MAP.

2. Place(s) of Use:

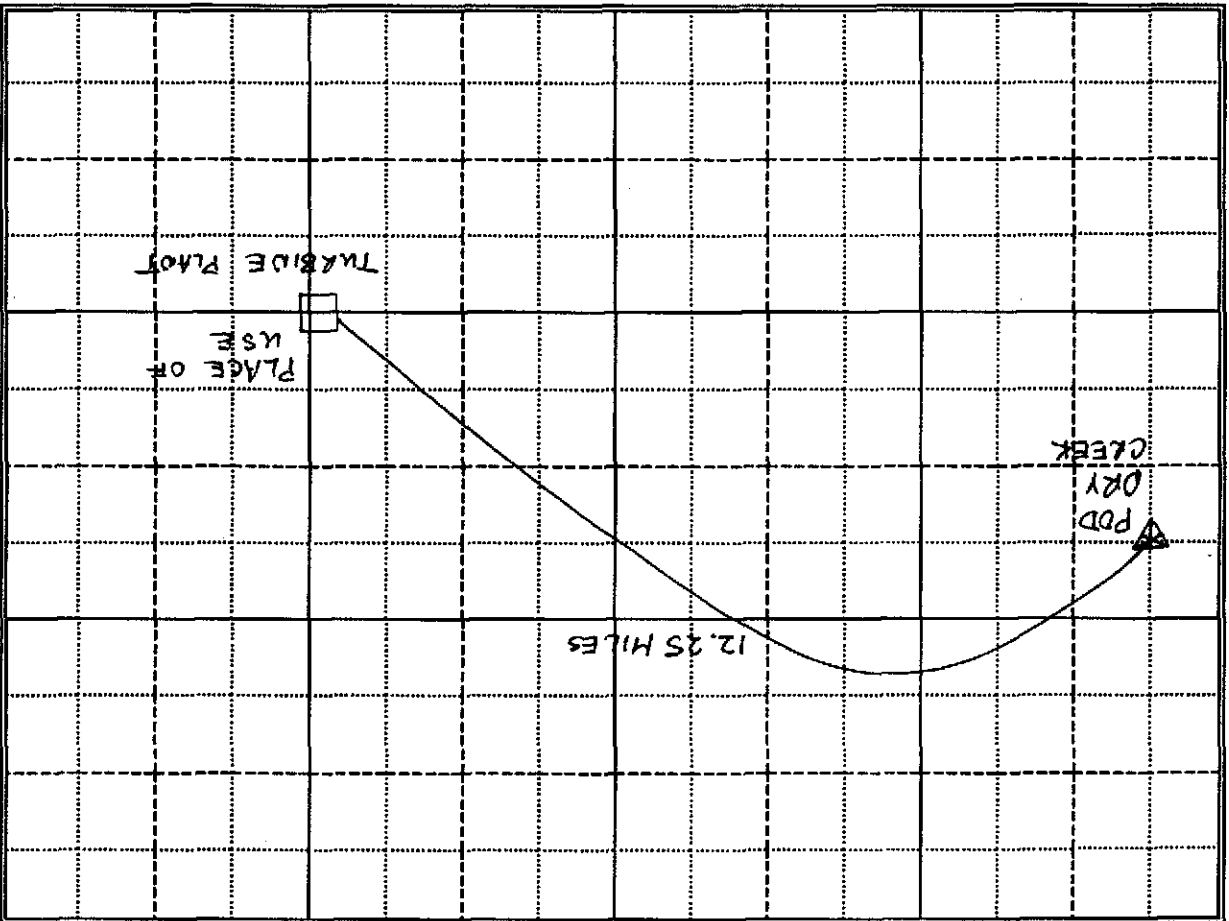
Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N	26E	36							P										

RECEIVED

MAY 18 1997

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



Scale: 1" = _____
 Copy of USGS Quadrangle Attached Showing location(s) of _____
 (point(s) of diversion and place(s) of use (required).
 Aerial Photo Attached _____
 (required for irrigation of 10+ acres)
 Photo of Diversion and System Attached _____

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

2. Measurements: *QUICK RELEASE - SEE REMARKS & ATTACHED PHOTOGRAPH*

111 12 1972

E. NARRATIVE/REMARKS/COMMENTS

WATER USED FOR THIS PERMIT IS PIPED 12 1/4 MILES FROM DRY CREEK RESERVOIR TO THE TURBINE PLANT VIA AN UNDERGROUND PIPELINE. (4 MILES OF 40" STEEL PIPE + 8 1/4 MILES OF 36" STEEL PIPE). AFTER PASSING THROUGH TURBINES WATER IS DISCHARGED ~~BACK~~ TO WET CREEK VIA A DISCHARGE CHANNEL. DISCHARGED WATER PASSES THROUGH A PARSHALL FLUME PRIOR TO WET CREEK.

HYDRO TURBINE:

GILKES DATE 1987 RATED OUTPUT 5,892 B.H.P.

TURBINE # 56330 RATED NET HEAD 783.6 FT.

* RATED FLOW 76.0 CFS SPEED 1200 RPM 22 1/2" TWIN JET
TYPE-PLYTE

POLYSONIC METER # TF-P SER. 7M0263

FLOW TEST ON 6/8/95

LOWER TURBINE (LEFT HAND) = 1.794 E 46PH AT 84% NOZZEL

UPPER TURBINE (RIGHT HAND) = 1.648 E 46PH AT 84% NOZZEL

17,940 = 39.97 CFS

1140 FEET HEAD

448.8

600 PSI

16,480 = 36.72 CFS

7 1/2" MAX JET OPENING

448.8

76.69 CFS

TURBINE ENGINEERING SPECIFICATIONS LIMITS TO 76 CFS MAX.

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

MICROFILMED
JUL 18 1997

Additional Computation Sheets Attached

F. FLOW CALCULATIONS

Measured Method:

$$Q = \text{LOWER TURBIDE} \quad 39.97$$
$$\text{UPPER TURBIDE} \quad 36.72$$
$$\hline 76.69 \text{ cfs}$$

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{ir} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$$
$$V_{or} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$$
$$V = \text{Smaller of } V_{ir} \text{ and } V_{or} =$$

2. Volume Calculations for Other Uses:

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use

POWER

From

Period of Use

To

Rate of Diversion

Q (cfs)

Annual Volume

V (afa)

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

SIMPINS

Date

1/8/96

Reviewer

[Signature]

Date

3-5-96

MICROFILMED

100 100 100

*Lower Turbine
Left Hand*

②

06-00 00:4700 *R
0002.60 % A12

0642.7 MMSEC
100.04 % TO

PRINTER USE
YES

*Lower
Turbine
Left Hand
Test 2*

MODE SELECT
INPUT

33-7184
33-7181

OUTER DIAMETER
18.800 IN

PIPE MATERIAL
CS. 53

WALL THICKNESS
0.7020 IN

INNER LINING
NO LING.

KIND OF FLUID
ANOTHER

SOUND VELOCITY
1470 M/S

SENSOR MOUNTING
U

TYPE OF SENSOR
SMALL

DATA CHANGE
NO

SPACING
15.663 IN U

ZERO MODE
AUT ZERO

MM-DD HH:MM
06-08 11:18

06-08 11:1800 *R
0002.60 % A12

MODE SELECT
TO CHECK

0642.6 MMSEC
100.03 % TO

06-08 11:1800 *R
+ 1.207E 4GPM

06-08 11:2700 *R
+ 1.794E 4GPM

06-08 11:2700 *R
+ 1.794E 4GPM

10
OUTER DIAMETER

19.050 IN

33-7154

PIPE MATERIAL

33-3181

SS-55

WALL THICKNESS

0.4720 IN

INNER LINING

NO LINING

KIND OF FLUID

ANOTHER

SOUND VELOCITY

1440 M/S-

SENSOR MOUNTING

U

TYPE OF SENSOR

SMALL

DATA CHANGE

NO

SPACING

14.561 IN U

ZERO MODE

AUT ZERO

00-00 00:1000

0002.60 % R12

MODE SELECT

TO CHECK

0644.4 NMSEC

093.58 % TO

MODE SELECT

DATA SET

DATA SET MODE

Test 7. Apple Machine

(18)

PRINTER USE
YES

33-7154

33-7181

00-00 00:1600
1002.60 % A12

MODE SELECT
TO CHECK

0644.4 MMSEC
100.26 % TO

0644.4 MMSEC
100.26 % TO

MODE SELECT
INPUT

OUTER DIAMETER
1" 0500 IN

PIPE MATERIAL
CS, SS

WALL THICKNESS
0.4720 IN

INNER LINING
NO LING

KIND OF FLUID
ANOTHER

SOUND VELOCITY
1470 M/S-

SENSOR MOUNTING
U

TYPE OF SENSOR
SMALL

DATA CHANGE
NO

SPACING
14.714 IN U

ZERO MODE
AUT ZERO

46% Apple

00-00 00:1900 *R
+ 1.225E 4GPM

Date 8/2/80 Apple

00-00 00:2600 *R
+ 1.648E 4GPM

Lower Turbine
Left Hand

00-00 00:4700 *R
+002.60 % A12

0642.7 MMSEC
100.04 % TO

PRINTER USE
YES

MODE SELECT
INPUT

OUTER DIAMETER
18.5000 IN

PIPE MATERIAL
CS,SS

WALL THICKNESS
0.4720 IN

INNER LINING
NO LING.

KIND OF FLUID
ANOTHER

SOUND VELOCITY
1470 M/S

SENSOR MOUNTING
U

TYPE OF SENSOR
SMALL

DATA CHANGE
NO

SPACING
15.668 IN U

ZERO MODE
AUT ZERO

MM-DD HH:MM
06-08 11:18

06-08 11:1800 *R
+002.60 % A12

MODE SELECT
TO CHECK

0642.6 MMSEC
100.03 % TO

06-08 11:1800 *R
+ 1.207E 46PM

06-08 11:2700 *R
+ 1.794E 46PM

1.794E-46PM

84% Hoyle

33-7154

33-7181

Test #1 Upper Turbine

PRINTER USE
YES

00-00 00:1600
+002.60 % A12

MODE SELECT
TO CHECK

0644.4 MMSEC
100.26 % TO

0644.4 MMSEC
100.26 % TO

MODE SELECT
INPUT

OUTER DIAMETER
18.5000 IN

PIPE MATERIAL
CS,SS

WALL THICKNESS
0.4720 IN

INNER LINING
NO LING.

KIND OF FLUID
ANOTHER

SOUND VELOCITY
1470 M/S

SENSOR MOUNTING
U

TYPE OF SENSOR
SMALL

DATA CHANGE
NO

SPACING
14.914 IN U

ZERO MODE
AUT ZERO

00-00 00:1900 *R
+ 1.225E 46PM

Value 84% Hoyle

00-00 00:2600 *R
+ 1.648E 46PM

1.648E-46PM

OUTER DIAMETER
18.5000 IN

PIPE MATERIAL
CS,SS

WALL THICKNESS
0.4720 IN

INNER LINING
NO LING.

KIND OF FLUID
ANOTHER

SOUND VELOCITY
1440 M/S

SENSOR MOUNTING
U

TYPE OF SENSOR
SMALL

DATA CHANGE
NO

SPACING
14.561 IN U

ZERO MODE
AUT ZERO

00-00 00:1000
+002.60 % A12

MODE SELECT
TO CHECK

0644.4 MMSEC
098.58 % TO

MODE SELECT
DATA SET

DATA SET MODE
PRINTER

33-07154

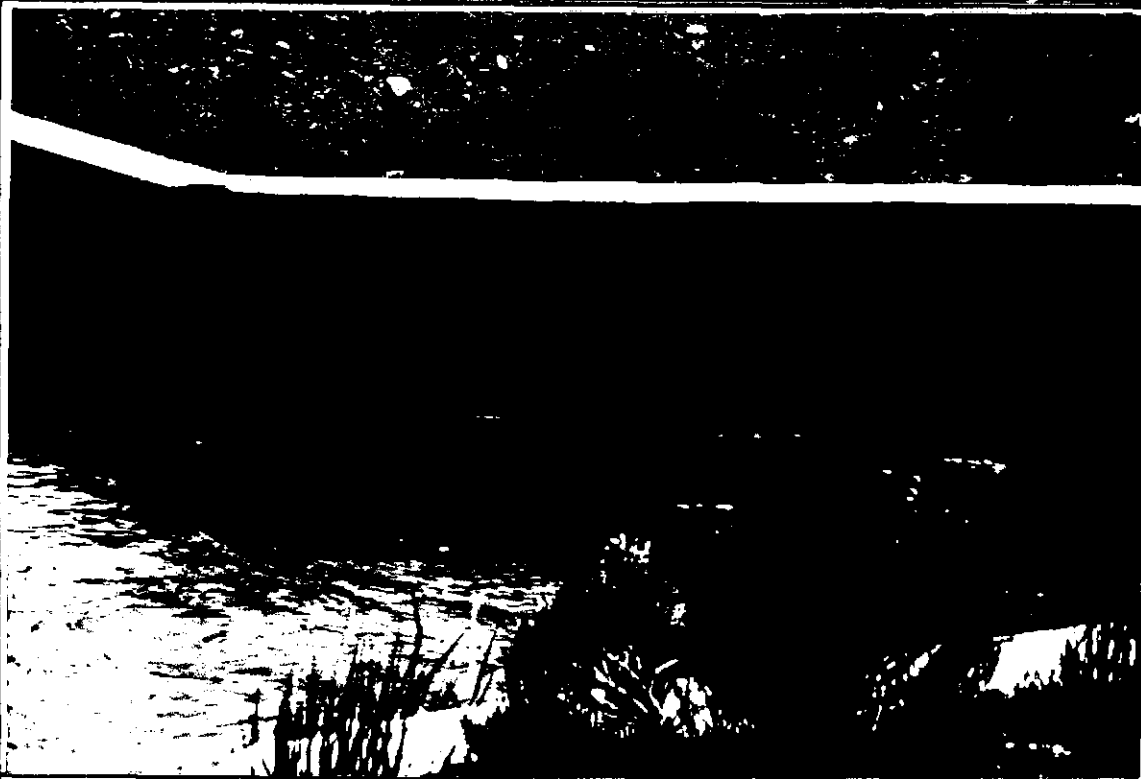
3513

FLUME

POINT OF
RETURN
DISCHARGE
TO WET CK.



WATER
LEVEL AT
DISCHARGE
FLUME



MONO FILM

JUL 18 1957

33-07154

2513

VIEW OF
SONIC METER
SENSOR
ON LOWER
TURBINE
INPUT

SONIC
METER
SENSOR
ON UPPER
TURBINE
INPUT

INTERIOR
OF TURBINE
BUILDING

MICROFILMED 33-07154

JUL 18 1937

WESTINGHOUSE ELECTRIC CORP.
POWER

1013



VIEW OF
HYDRO
SYSTEM
INTAKE
AT DRY
CREEK
RESERVOIR



POWER
PLANT
BUILDING
PLACE
OF USE

←
DISCHARGE
CHANNEL

MICROFILMED

JUL 18 1957

33-07154

SD-0605-2 Township: 10N Range: 25E Section: 31 Tract: NENW Lot:

S	L	R	STATE	O	S	Max #	Records	3		
E	O	D	Water	Name	W	T	Priority	Total		
L	Tract	T	V	Right No.	Last, First	N	G	Date	Source	Diversion
NENW	33-07089	WESTINGHOUSE	E	C	P	02/06/1981	DRY CREEK	18.00		
NENW	33-07154	STAUFFER, RICK	O	P	05/05/1985	DRY CREEK	52.00			
NENW	33-07181	D & D STAUFFER	O	P	05/03/1986	DRY CREEK	33.00			

(Enter=Continue)

(GOLD 7=This Query)

(Menu)

ENCLOSURE
JUL 18 1987

33-07154

(1)

6/8/95 Howe/Palmer

0800

Current

1000

Ref. Measurement
1.412 on 6/7 56.22 cfs

55.58 cfs.

Weir Reading 1.41 ft.
A. H₂O 825 on 0-1500 Milliken
Plate Milliken Turbine #56330 date 1987
Rated Output 5892 B. H. P.
Rated Net Head 783.6 ft.
Rated flow 76 CFS
Speed 1200 FPM.
England

Test #1 Right Hand Turbine (Upper)
Thickness .472

Dia 18.05

Spacing 14.561

1 Reading

3.2 Mega Watts.

1.225 46PM Value 46% 825 ft Head.

27,295 cfs.

1.6490 46PM Value 84% 720 ft Head. Max

36,74 cfs.

Test #2 Left Hand Turbine (Lower)

Thick .702

Dia 18.5

Spacing 15.668

1.287 46PM

1.792 46PM

790 ft Head at 46% Throttle 28.676
720 ft Head at 84% Throttle 55.9

→ 39.70
76.445
cfs.

MICROFILM

JUL 18 1997

33-07154

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 33-07154 Reviewed by [Signature] Date 1-3-95

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?

no Address same as permit?

no Proof timely received?

If not, complete calculation below.

Correct Uses? yes

SOURCE OF WATER

☒ Surface water source

☐ Ground water source

☐ Drilling permit required?

☐ Copy in the file? Drilling Permit No. _____

☐ Amount paid for permit

☐ Well log in the file?

_____ Correct?

LICENSE EXAMINATION FEE

MEASURING DEVICE

yes Required?

600.00 Amount Submitted

yes Correct?

yes Required?

yes Installed?

_____ Waiver requested?

PRIORITY CALCULATION

Date proof received 11-3-94

Date proof due 11-1-94 - _____

No. of days late 2 = _____

Priority Date 5-3-84 + _____

New Priority Date 5-5-84

7 5/5/85

DEFICIENCIES OR ACTION ITEMS

*Reinstate & advance priority to May 5, 1984.
Proof acceptable*

DATA ENTRY

New Address 11 Starwix St.
Pittsburgh, PA 15222

Proof Made 11/3/94



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 4, 1995

WESTINGHOUSE ELECTRIC CORP
11 STANWIX ST.
PITTSBURGH PA 15222

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 33-07154

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit.

Enclosed is an order reinstating your permit since proof of beneficial use was received after the proof due date. Please note that the priority date has been advanced to May 5, 1984.

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.

If you have questions concerning this matter, please feel free to contact the EASTERN Regional Office in Idaho Falls, at (208) 525-7161.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

c: IDWR - Region

RECEIVED

JAN 19 1995

Westinghouse
Electric Corporation

RECEIVED

DEC 27 1994

11 Stanwix Street
Pittsburgh Pennsylvania 15222-1384

Department of Water Resources

December 14, 1994

Department of Water Resources
State of Idaho
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720-9000
Attn: Ms. Julie L. Yarbrough

Re: Permit No. 33-07154
Permit No. 33-07181

Dear Ms. Yarbrough:

Enclosed please find an application for the Proof of Beneficial Use for Permits No. 33-07154 and No. 33-07181. I have enclosed a check in the amount of each required License Examination Fee less \$50.00 previously submitted with each Request for Extension.

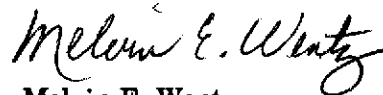
As advised in your letter of December 8, 1994, I would request that the Department delay its field examination until stream flow returns to normal. Westinghouse's operator, Dominion Power Services, will coordinate with the Department to determine an appropriate date.

I would also request that your office make note of a change in address for Westinghouse. Please send all future correspondence to my attention at:

Westinghouse Electric Corporation
Financial Services Business Unit
11 Stanwix Street, Room 1181
Pittsburgh, PA 15222

Thank you for your assistance in this matter.

Sincerely,



Melvin E. Wentz
Senior Investment Manager

MEW/dsh

Enclosure

cc: Gary May
Dominion Power Services

MICROFILMED

JAN 19 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 8, 1994

Westinghouse Electric Company
One Oxford Center
Pittsburgh, PA 15219

RE: Permit No. 33-07154

Dear Permit Holder:

The Department is in receipt of the Request for Extension of Time you submitted in connection with the above referenced permit.

I am writing to advise you that since you have developed the water right and are diverting water for a beneficial use, a Proof of Beneficial Use form should be filed instead of an extension request. If you withdraw the extension request in writing within **thirty (30) days**, the Department will refund the \$50.00 filing fee or apply it to the license examination fee for the proof. If you chose not to withdraw the extension request, the Department will act on it as submitted and it will likely be denied.

Additionally, you can request that the Department delay the field examination until the flows return to normal.

I have enclosed a Proof of Beneficial Use form and instructions for your convenience.

If you have any questions or if I can be of assistance, please contact me at (208) 327-7953.

Sincerely,

A handwritten signature in cursive script that reads 'Julie L. Yarbrough'.

JULIE L. YARBROUGH
Senior Secretary

Enclosure

RECEIVED
JAN 19 1995

RECEIVED

NOV 3 1994

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code in which to complete development of a water right.

Permit No. 33-07154Name(s) of Permit Holder: Westinghouse Electric CorpMailing Address: One Oxford Centre Pittsburgh Pa. 15219Date Proof is Due: November 1, 1994 Telephone No. 412-393-3000

Describe what work has been completed toward the development of this water right:

(This must be filled out! If no work has been completed, show "none".)

The hydroelectric plant has been constructed and the open concrete canal from the
existing diversion dam has been replaced by a buried 36" diameter steel pipe.

Costing \$ \$5.5mm

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

The ongoing drought has prevented the full 85 cfs diversion rate authorized by
permit nos. 33-07154 and 33-07181 from being achieved.

Permit holder(s) request an extension to November 1, 19 95

FEE: \$50.00

(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be

JAN 19 1995

Signed this _____ day of _____, 19 _____

ANALYSIS SHEET
FOR
EXTENSION OF TIME

Permit No. 33-07154 Reviewed by [Signature] Date 11-15-94

BASIC INFORMATION

11-3-94 Date stamp received
no Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
no Address Change

BASIS FOR EXTENSION REQUEST

_____ Has adequate work been completed to demonstrate due diligence?
_____ Has the permit been involved in litigation?
_____ Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is delay by a government agency?
_____ Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN Refund 5000 fee & Request Proof be filed instead of extension. Delay filed even.

PRIORITY CALCULATION

Date extension received	_____	=	_____
Proof due date	_____	=	_____
Number of days late	_____	=	_____
Priority date	_____	=	_____
New Priority Date	_____	=	_____

DATA ENTRY

New Address _____
Change Proof Due Date _____
Change Priority Date _____

August 31, 1994

WESTINGHOUSE ELECTRIC CORP
C/O DONALD PATON/VP INVST MGR
FINAN SVCS/LEASE FINANCE GRP
301 GRANT ST
PITTSBURGH PA 15219

PROOF DUE NOTICE

RE: PERMIT NO. 33-07154

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before November 1, 1994. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

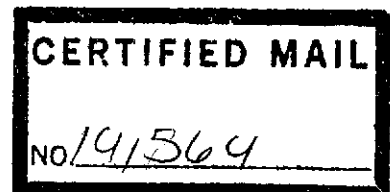
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

RECEIVED
JAN 19 1995



HOLLAND & HART
ATTORNEYS AT LAW

RECEIVED

JUL 09 1993

Department of Water Resources

DENVER
DENVER TECH CENTER
COLORADO SPRINGS
ASPEN
BILLINGS
BOISE
CHEYENNE
JACKSON
WASHINGTON, D.C.

SUITE 1400
WEST ONE PLAZA
BOISE, IDAHO 83702-7714
MAILING ADDRESS
P.O. BOX 2527
BOISE, IDAHO 83701-2527

TELEPHONE (208) 342-5000
FACSIMILE (208) 343-8869

Dana L. Hofstetter

July 8, 1993

Idaho Department of Water Resources
ATTN: Karen Gustafson
1301 North Orchard
Statehouse Mail
Boise, ID 83720-9000

Re: Permit No. 33-07089, 33-07154 and 33-07181

Dear Karen:

Thank you for forwarding to me Jim Johnson's May 21, 1993 letter confirming receipt of correspondence transferring ownership of the above referenced water rights to Westinghouse Electric Corporation. I noticed that the letter was sent to Westinghouse Electric Corporation but was not sent to anyone's attention. Since Westinghouse Electric Corporation is a very large entity, it is unlikely that correspondence will reach the appropriate place unless it is sent to a particular individual's attention. Accordingly, on behalf of Westinghouse Electric Corporation we respectfully request that the Idaho Department of Water Resources amend its records to ensure that future correspondence concerning the above referenced permits is sent to:

Mr. Donald Paton
Vice President, Investment Manager
Financial Services
Westinghouse Electric Corporation
Lease Finance Group
301 Grant Street
Pittsburgh, PA 15219

Thank you for your attention to this matter.

Sincerely,

HOLLAND & HART

Mindon

Dana Hofstetter
Dana L. Hofstetter

DLH:cd

JAN 19 1995

cc: Donald Paton
Robert K. Dannhauser, Esq.
30262/19623.1002

Data Entry done
7/9/95
Klg

MEMORANDUM

DATE: May 17, 1993
TO: Files 33-07154 & 33-07181
FROM: Cindy Zimmerman
SUBJECT: Assignment of Permit

=====

For all documentation of assignments of the above referenced permits, please refer to 33-07089.

RECEIVED

MAY 25 1993

WR0749NP
No. 33-07154

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT
(REGIONAL)

DATE: 05/17/93
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	WESTINGHOUSE ELECTRIC CORP 6 GATEWAY CENTER PITTSBURGH PA 15222	05/03/1985	POWER	01-01 12-31	52.00 CFS	
TOTAL DIVERSION:					52.00 CFS	

Water Source: DRY CREEK

Tributary to: LITTLE LOST RIVER

Stage: PERMIT

Point(s) of Diversion: T10N R25E S31 NE NW

Place of use Legal Description for: POWER

				NE				NW				SW				SE							
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
---	---	---	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:
10N	26E	36	:					:			P		:					:					:

Pou County: CUSTER

Other Rights: 33-7089/7181.

Other Water Rights Listing Overlapping Place(s) of use:
33-07094

Conditions of Approval:

- 01E - A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works.
- 004 - The issuance of this right in no way grants any right-of-way or easement across the land of another.
- 08A - This right is subject to the provisions of Sections 42-205 through 42-210, Idaho Code, restricting the sale, transfer, assignment, or mortgage of this right. Failure to comply with these provisions is cause for immediate cancellation of this right.
- 09E - Water used under this right if discharged into a natural channel or subsurface system shall meet Idaho Water Quality Standards.
- 17M - The Director retains jurisdiction of this right in order to limit the use of water for hydropower generation purposes to a specific term of years as required by Section 42-203B(7), Idaho Code.
- 17K - 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.
- 025 - This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.

WR0749NP
No. 33-07154

IDaho DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT
(REGIONAL)

DATE: 05/17/93
PAGE: 2

Conditions of Approval:

- 027 - Use of water under this right shall be non-consumptive.
- 005 - Use of water under this right is subject to control by the
- watermaster of State Water District No. 33.

Remarks: FEET OF HEAD = 1100. MEGAWATTS = 3.6.

Dates:	App. Received:	Priority Date:	05/03/1985
	Proof Due Date: 11/01/1994	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		

Misc: Water District Number: 33 Field Exam Fee:

Audit: 05/17/93 ZIMMERMA

February 19, 1992

Dana L. Hofstetter
Holland & Hart
P.O. Box 2527
Boise, Idaho 83701-2527

Re: Permit Nos. 33-07089, 33-07154, and 33-07181

Dear Ms. Hofstetter:

Thank you for returning the address information for Westinghouse Credit Corporation. The database has been updated to reflect the correction in their company name and address for the above referenced permits.

Thank you for your assistance with this matter.

Sincerely,

Brenda L. Miller
Technical Records Specialist

RECEIVED

MAY 25 1993

HOLLAND & HART
ATTORNEYS AT LAW

DENVER
DENVER TECH CENTER
COLORADO SPRINGS
ASPEN
BILLINGS
BOISE
CHEYENNE
JACKSON
WASHINGTON, D.C.

SUITE 1400
WEST ONE PLAZA
BOISE, IDAHO 83702-7714
MAILING ADDRESS
P.O. BOX 2527
BOISE, IDAHO 83701-2527

TELEPHONE (208) 342-5000
FACSIMILE (208) 343-8869

February 14, 1992

RECEIVED
FEB 18 1992

Department of Water Resources

Brenda L. Miller
Technical Records Specialist
State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720-9000

Re: Permit Nos.: 33-07089, 33-07154 and 33-07181

Dear Ms. Miller:

As we discussed on the telephone earlier this week, your letter of February 7, 1991 indicates that Idaho Department of Water Resources ("IDWR") records regarding the above-referenced permits have been revised to designate Westinghouse Farm Credit Corporation as the current owner. However, Westinghouse Credit Corporation is the correct name of the owner. I would appreciate your correcting the records, if necessary, to provide the correct name of the owner.

Further, you requested we provide you the address of Westinghouse Credit Corporation. Westinghouse Credit Corporation's address is:

Attention: Donald Paton
Westinghouse Credit Corporation
One Oxford Centre
Pittsburgh, Pennsylvania 15219

Please also correct IDWR records for the above referenced permits to include this address.

RECORDED

MAY 25 1993

Brenda L. Miller
February 14, 1992
Page 2

I would appreciate a note confirming these changes.
Thank you for your assistance with these matters.

Sincerely,

HOLLAND & HART



Dana L. Hofstetter

DLH/md

cc: Donald Paton
Robert Dannhauser, Esq.

MAY 25 1992

February 7, 1992

RE: Permit Nos.: 33-07089, 33-07154, & 33-07181

Westinghouse Farm Credit Corporation
c/o Holland & Hart
Attn: Dana Hofstetter
PO Box 2527
Boise, ID 83701-2527

Dear Water Right Holder:

We acknowledge receipt of the correspondence transferring ownership of the above referenced water rights to you. We have modified our computer records to reflect this change in ownership.

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

Sincerely,

BRENDA L. MILLER
Technical Records Specialist

BLM:clh

MAY 25 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

November 8, 1991

HDI Associates IV
10394 West Chatfield Avenue, #108
Littleton, Co 80127

Re: Permit No. 33-07154

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to November 1, 1994.

Please note that the department has granted this extension based on due diligence. It is important that you work diligently toward the completion of this project during the construction period allowed. The department may not be able to grant additional requests.

If you have any questions or if I can be of any further assistance, please feel free to contact this office.

Sincerely,

Karen Gustafson
Karen L. Gustafson
Secretary/Records Manager

Enclosure

C: IDWR-Regional Office

MICROFILMED

DEC 09 1991

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 33-7154Reviewed by LLGDate 11/5/91

BASIC INFORMATION

10/31 Date stamp received
11/1 Extension received timely (not too early not too late)
yes Fee received and receipted
yes Name and signature same as permit
no Address change

BASIS FOR EXTENSION REQUEST

_____ Has adequate work been completed to demonstrate due diligence?
 _____ Has the cost incurred been adequate to demonstrate an intent to complete the project?
 _____ Has the permit been involved in litigation?
 a. Swan Falls _____ Dismissed from Swan Falls _____
 Other _____ Identify _____
 b. Is supporting documentation needed to complete the file? _____
 Requested _____
 c. Calculate the period of delay

Date litigation completed _____

Date litigation began _____

Total period of delay = _____

Present proof due date + _____

NEW PROOF DUE DATE = _____

_____ Is delay by a government agency?
 _____ Is supporting documentation needed to complete the file? _____
 _____ Requested? _____

ACTION TAKEN

approved Based on due diligence
Extend to 11/1/94

_____ Reinstated	Date extension received _____	= _____
	Proof due date _____	= _____
	No. of days late _____	= _____
	Priority date _____	= + _____
	ADJUSTED PRIORITY DATE _____	= _____

DATE ENTRY

11/5/91 Change proof due date _____ Address change _____
 _____ Priority date change _____

138908

August 31, 1991

HDI ASSOC. IV
10394 W. CHATFIELD AVE. #108
LITTLETON, CO 801270000

PROOF DUE NOTICE

RE: PERMIT NO. 33-07154

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before November 1, 1991. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

Rita Fleck
Secretary/Records Manager

Enclosures

MICROFILMED

DEC 09 1991



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

March 28, 1988

Jane B. Kroesche
Attorney at Law
600 Montgomery Street
San Francisco, CA 94111

Re: Water Permit Nos. 33-7089, 33-7154, and 33-7181

Dear Ms. Kroesche:

The Department of Water Resources acknowledges receipt of your letter and accompanying documents regarding your security interest in the above water permits. We will place the letter and documents in our files.

Our computer records do not guarantee that all correspondence will be mailed to a secured party, if the secured party is not the owner of the permits. The security interest which Westinghouse Credit Corporation (Westinghouse) took was not one of direct possession or ownership. Westinghouse will not be listed in our database as the official entity to whom all notice is given. We cannot guarantee that all correspondence will be sent to Westinghouse, although most correspondence will probably be carbon copied to Westinghouse, but we cannot guarantee that Westinghouse will receive notice of every transaction regarding the permits.

Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

RECEIVED

APR 01 1988

LAW OFFICES
ORRICK, HERRINGTON & SUTCLIFFE
600 MONTGOMERY STREET
SAN FRANCISCO, CALIFORNIA 94111
TELEPHONE (415) 392-1122
TELECOPIER (415) 773-5759 TELEX 70-3520

RECEIVED
MAR 14 1988
Department of Water Resources

NEW YORK, NEW YORK 10022
599 LEXINGTON AVENUE
TELEPHONE (212) 326-8800

SAN JOSE, CALIFORNIA 95113
55 ALMADEN BOULEVARD
TELEPHONE (408) 298-8800

SACRAMENTO, CALIFORNIA 95814
555 CAPITOL MALL
TELEPHONE (916) 447-9200

LOS ANGELES, CALIFORNIA 90071
333 SOUTH HOPE STREET
TELEPHONE (213) 680-7000

WRITER'S DIRECT DIAL NUMBER
(415) 773-5862

March 9, 1988

State of Idaho
Department of Water Resources
State Office
450 West State Street
Boise, Idaho 83720

Re: Water Permit Nos. 33-7089, 33-7154,
33-7181

Ladies/Gentlemen:

On behalf of Westinghouse Credit Corporation ("Westinghouse"), I am writing to inform you that Westinghouse has taken a security interest in the above-referenced Water Permits and any licenses that in the future may be issued in their place (the "Permits") currently held by HDI Associates IV Limited Partnership ("HDI Associates") pursuant to a sale/leaseback transaction between HDI Associates and Westinghouse. Attached hereto is a copy of the Security Agreement granting Westinghouse a security interest in the Permits.

Please send a copy of all notices to and correspondence with HDI Associates, or its successors or assigns, to:

Westinghouse Credit Corporation
Leasing Division
One Oxford Centre
Pittsburgh, PA 15219

Attention: James F. Risoleo
Vice President, Specialized Finance

Please contact the undersigned at the number above if you have any questions or need further information.

Very truly yours,

Jane B. Kroesche

Jane B. Kroesche

MICROFILMED

APR 01 1988

JBK:acm
cc: Donnie R. Pope
Richard Grosdidier

DATE March 15, 1988

FROM Cheryl

TO File 33-7154

SUBJECT

For copy of Participation Agreement, Exhibit to the Participation Agreement,
Ground Lease & Facility and Site Lease; See file 33-7089.

MICROFILMED

APR 01 1988

SIGNATURE



State of Idaho
DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 1301 North Orchard Street Boise, Idaho 83706-2237 • (208) 334-4440

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

March 9, 1988

Scott L. Campbell
Attorney at Law
P.O. Box 1559
Boise, ID 83701

Re: Mortgage/Security Interest in Water Permit Nos. 33-7089,
33-7154, and 33-7181

Dear Scott:

I have reviewed the documents which you transmitted to this office on March 8, 1988. I understand that HDI Associates IV, Limited Partnership, will secure financing by offering Permit Nos. 33-7089, 33-7154, and 33-7181 as collateral for a loan provided by Westinghouse Credit Corporation.

I find that Westinghouse Credit Corporation is authorized to do business in the state of Idaho as evidenced by an Idaho certificate of corporate status. I also find that the mortgage is made in good faith and not for purposes of speculation or delay, particularly because the power plant is currently operating.

Finally, I understand that HDI Associates IV, Limited Partnership, will retain ownership of the permits.

Sincerely,

A handwritten signature in cursive script, reading "Gary Spackman", is written over the typed name.

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

MICROFILMED

APR 01 1988

ELAM, BURKE AND BOYD

ATTORNEYS AND COUNSELORS AT LAW

BOISE OFFICE

702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454

CANYON COUNTY OFFICE

1120 SIXTH STREET SOUTH
POST OFFICE DRAWER E
NAMPA, IDAHO 83653
TELEPHONE 208-466-9222

RECEIVED

MAR - 8 1988

Department of Water Resources

BOISE OFFICE

LAUREL E. ELAM (1888-1974)
CARL A. BURKE (1898-1961)
CARL P. BURKE
PETER J. BOYD
J. RAY DURTSCHI
M. ALLYN DINGEL, JR.
JACK S. GJORDING
JOHN MAGEL
DAVID B. LINCOLN
RICHARD C. MELLON, JR.
ROBERT M. TYLER, JR.
JAMES D. LARUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
KAYE L. O'RIOURDAN
RYAN P. ARMBRUSTER
DAVID E. COMSTOCK
MELVILLE W. FISHER II
WILLIAM G. DRYDEN

TODD J. WILCOX
PETER C. K. MARSHALL
KENNETH M. SEBBY
TRUDY HANSON FOUSER
D. ALAN KOFOED
SCOTT L. CAMPBELL
BOBBI KILLIAN DOMINICK
W. DALLAS BURKHALTER
ALAN CONILOGUE
ELAINE D. HANSON
JEFFERY J. VENTRELLA
BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH
JAMES A. FORD
STEVEN D. ERDAHL
SCOTT W. DAVIDSON
JEFFREY A. THOMSON

CANYON COUNTY OFFICE

WILLIAM F. YOST

March 8, 1988

Gary Spackman, Division Chief
Water Rights Allocation Division
State of Idaho
Department of Water Resources
1301 N. Orchard
Boise, Idaho 83706

VIA HAND DELIVERY

Re: Water Permit Nos. 33-7089, 33-7154, 33-7181

Dear Gary:

Pursuant to our discussions of March 7, 1988, I have enclosed copies of the following documents:

1. Participation Agreement among Westinghouse Credit Corporation, lessor; HDI Associates IV, Limited Partnership, lessee; HDI-Idaho, Inc., general partner; and Hydroelectric Development, Inc., guarantor;
2. Leasehold Mortgage, Assignment of Lease and Rents, Security Agreement and Fixture Filing between HDI Associates IV, Limited Partnership and Westinghouse Credit Corporation;
3. Ground Lease between HDI Associates IV, Limited Partnership and Westinghouse Credit Corporation;
4. Facility and Site Lease between Westinghouse Credit Corporation, lessor, and HDI Associates IV, Limited Partnership, lessee; and
5. Certificate of Corporate Status of Westinghouse Credit Corporation.

As you will note, all of the documents listed above, with the exception of the Certificate of Corporate Status, are in draft form. These documents represent the substantially identical documents which the parties anticipate executing.

APR 01 1988

Gary Spackman, Division Chief
March 8, 1988
Page 2

As I explained during our conversation on March 7, 1988, the basic transaction involves a sale of the hydroelectric powerhouse facility to Westinghouse Credit Corporation, a lease of the real property, which is retained in the ownership of HDI Associates IV, Limited Partnership, and a leaseback of the hydroelectric facility from Westinghouse Credit Corporation to HDI Associates IV, Limited Partnership.

The parties to this transaction are presenting this documentation to the Idaho Department of Water Resources to satisfy the requirements of Idaho Code section 42-207, inasmuch as the Leasehold Mortgage, Assignment of Lease and Rents, Security Agreement and Fixture Filing will constitute a mortgage or creation of a security interest in the water permits for the project described above. Consequently, we have submitted the Certificate of Corporate Status, demonstrating that Westinghouse Credit Corporation is qualified to do business in the State of Idaho.

As I indicated to you on March 7, 1988, the parties desire to close this transaction on or before March 9, 1988. Consequently, your expedited review and action on this matter is respectfully requested.

Thank you for your anticipated cooperation.

Very truly yours,

ELAM, BURKE & BOYD

Dictated by the Attorney
and mailed without signature
in his absence to avoid delay
Scott L. Campbell

SLC:jc
Enclosures

MAILED
APR 01 1988



Department of State.

**CERTIFICATE OF CORPORATE STATUS
OF**

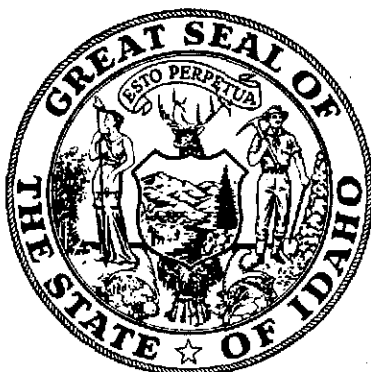
WESTINGHOUSE CREDIT CORPORATION

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that I am the custodian of the corporation records of this State.

I FURTHER CERTIFY That the records of this office show that the above-named corporation was incorporated under the laws of Delaware and was issued a certificate of qualification in Idaho on May 7, 1956.

I FURTHER CERTIFY That the corporation's authority to do business has not been forfeited.

Dated March 7, 1988



Pete T. Cenarrusa
SECRETARY OF STATE

by *Sandra M. Taubert*

RECORDED
APR 01 1988

BayBank Boston, N.A.
175 Federal Street
Boston, MA 02
(617) 482-1040

RECEIVED

MAY 05 1987

BayBank

Department of Water Resources

May 1, 1987

Director
Department of Water Resources
State of Idaho
450 West State Street
Boise, Idaho 83702

Re: Snake River Adjudication Process and Water
Permits Nos. 33-7089, 33-7154, and 33-7181

Dear Director:

I hereby request, pursuant to Idaho Code section 42-1408A(3), that you provide BayBank Boston, N.A., written notice of order, commencing the Snake River adjudication process in your state. Please send the notice of order to my attention at the address indicated above.

BayBank Boston has provided construction financing for the Dry Creek hydroelectric project, which utilizes the water appropriated under the above-referenced water permits. Consequently, the bank is interested in receiving all pertinent notices which are issued by the Department of Water Resources involving the Snake River adjudication process to the extent that they have any impact upon those permits.

Thank you for your assistance in this regard.

Very truly yours,

Michael M. Parker

Michael M. Parker
Vice President

MMP:ped

MICROFILMED

APR 01 1988

MEMORANDUM

FROM: Gary Spackman *Gary*

TO: File

DATE: March 18, 1987

RE: Permits Nos. 33-7154 & 33-7181

On Thursday, March 12, I spoke to Scott Campbell, attorney for HDI, the permit holder. A concern was voiced regarding the six to seven mile length of the delivery pipeline, the failure of which could cause the non delivery of water to downstream water users.

Scott Campbell spoke with his client, and reassured me that a bypass valve would be located just upstream from the generators in the penstock. This bypass will allow the flow of water around the generation plant if the generators are not being used. It does not, however, guarantee delivery of water to downstream users if the pipeline were to fail in the manner that the Birch Creek delivery pipeline failed. Responsibility for the integrity of the delivery system must fall upon the entity agreeing to the delivery of irrigation water through the pipeline. I do not believe it is our responsibility to follow up the design any further at this point in time.

MICROFILMED

APR 01 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

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

March 17, 1987

HDI Associates Iv
10394 West Chatfield Avenue, #108
Littleton, CO 80127

Re: Application for Permit Nos. 33-7154 and 33-7181

Dear Sir or Madam:

Enclosed is a copy of the Order Establishing Term of Water Right.

Please be advised that if you do not agree with the decision of the Department, you may within fifteen (15) days of receipt of the Order request a hearing before the Director. Failure to timely petition the Director within fifteen days of the receipt of the Order may prevent you from further contesting the rejection of your application.

Sincerely,

A handwritten signature in cursive script, reading "Gary Spackman", is written over a horizontal line.

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

Enclosures

MICROFILMED
APR 01 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

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

February 18, 1987

RE: Permit Nos. 33-7089/7154/7181

HDI Associates IV
10394 W. Chatfield Ave., #108
Littleton, CO 80127

Dear Permit Holder:

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

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

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

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc
Enclosures

cc: Scott Campbell

MICROFILMED

APR 01 1988

Permit No. 33-7089

33-7181

33-7154

ASSIGNMENT REVIEW CHECK LIST

1. Signature of Permit Holder? Yes
2. Notary? Yes
3. a. Full Assignment? Yes
b. Partial Assignment?
4. "No assignment" condition on permit? NO
5. Commencement of Works received? - N/A
 - a. Commencement of works requested?
 - b. Show Cause Order drafted & sent?
 - c. Cancellation necessary?
6. Affidavit of residency required? Yes - Rec'd
7. Extension granted due to litigation?
(If yes, commencement of works is not required.)

1. Type permit summary sheet. ✓
2. Coding sheet. ✓
3. Acknowledgement letter type.
4. Copy to region. ✓

Sharla _____

Sharla _____

1 P

C.C. Scott Campbell

Sharla _____

Date 2-17-87

Employee Jeri

ELAM, BURKE AND BOYD

ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
TELECOPIER 208-343-5454

LAUREL E. ELAM (1888-1974)
CARL A. BURKE (1898-1961)
CARL P. BURKE
PETER J. BOYD
J. RAY DURTSCHI
M. ALLYN DINGEL, JR.
JACK S. GJORDING
JOHN MAGEL
DAVID B. LINCOLN
RICHARD C. MELLON, JR.
ROBERT M. TYLER, JR.
JAMES D. LARUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
KAYE L. O'RIORDAN
RYAN P. ARMBRUSTER
DAVID E. COMSTOCK

MELVILLE W. FISHER II
WILLIAM G. DRYDEN
TODD J. WILCOX
PETER C. K. MARSHALL
KENNETH M. SEBBY
TRUDY HANSON FOUSSER
D. ALAN KOFOED
SCOTT L. CAMPBELL
BOBBI KILLIAN DOMINICK
W. DALLAS BURKHALTER
ALAN CONILOGUE
ELAINE D. HANSON
JEFFERY J. VENTRELLA
BRENDA G. MEIER
JOHN J. JANIS
WENDY E.D. SMITH*
*PENN. & D.C. BARS ONLY

February 3, 1987

VIA HAND DELIVERY

Mr. Jim Johnson
Senior Water Rights Analyst
Department of Water Resources
450 West State
Boise, ID 83720

RECEIVED
FEB 03 1987
hand delivered
Department of Water Resources

Re: Dry Creek Hydroelectric Project
Permits Nos. 33-7089, 33-7181, and 33-7154

Dear Jim:

I have enclosed a set of executed originals and a set of copies of the following documents regarding the above-referenced water permits:

- ✓ 1. Affidavit for Water Rights to be Used for Power Purposes;
- ✓ 2. Certificate of Limited Partnership, Secretary of State, State of Idaho;
- ✓ 3. Assignment of Permit forms executed by Rick Stauffer, dba D & D Stauffer, and Coleen Stauffer, his wife; and
- ✓ 4. Assignment of Permit forms executed by Rob Stauffer, dba D & D Stauffer, and Pennie Stauffer, his wife.

o/c
I believe that these documents satisfy the requirements of Idaho Code sections 42-207 and 42-206. If this is not the case, please notify me as soon as possible, and I will provide any additional documentation which is required by the Department.

send c.c. (If the documentation which I have presented does satisfy the Department's requirements with respect to assignment of the water permits referred to above, please stamp the copies of the documents which I have enclosed and return them to me in the enclosed self-addressed, stamped envelope. I would also appreciate a short cover letter indicating that the Department has reviewed and approved the assignment of these water permits.

MICROFILMED

APR 01 1988

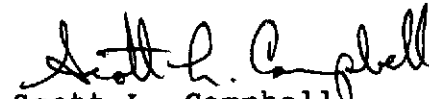
Mr. Jim Johnson
February 3, 1987
Page Two

The loan agreements and other necessary documentation for bank financing of the construction of the project will hopefully be completed within the next ten days. Consequently, it will be necessary to finalize the assignment of permits aspect of this transaction prior to that time. Therefore, any special attention that you can devote to this assignment process would be greatly appreciated.

Thank you for your anticipated cooperation. If you have any questions, please do not hesitate to contact me.

Very truly yours,

ELAM, BURKE AND BOYD


Scott L. Campbell

SLC:ls
Enclosures
cc: Mr. Donnie R. Pope

MICROFILMED
APR 01 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

- - - - -

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
OCTOBER 17, 1986

STAUFFER, RICK & ROB
BOX 44
HOWE, ID 83244

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 33-7154

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 AND LOCKABLE CONTROLLING WORKS THAT WILL ENABLE THE WATERMASTER TO CONTROL YOUR RATE OF DIVERSION.

PLEASE BE ADVISED THAT PRIOR APPLICATIONS FOR PERMIT HAVE BEEN FILED TO APPROPRIATE WATER FROM YOUR SOURCE WHICH MAY IMPACT THE AVAILABILITY OF WATER TO BE USED UNDER THIS PERMIT. THEREFORE, YOU SHOULD BE SURE TO ANALYZE THE IMPACT OF THESE RIGHTS BEFORE MAKING A MAJOR INVESTMENT IN YOUR WATER USE PROJECT.

SINCERELY,

GARY SPACKMAN
SUPERVISOR, WATER ALLOCATION SECTION

GS: SC
ENCLOSURES

MICROFILMET

33-7154 APP

NO POSTAL MAIL

RECEIVED
MAR 12 1986

Department of Water Resources

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION
84 FERC 162, 458

D & D Stauffer, Inc. Project No. 9134-000

ORDER GRANTING EXEMPTION FROM LICENSING FOR
A CONDUIT HYDROELECTRIC PROJECT
(Issued February 28, 1986)

The Applicant I/ filed an application for exemption from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 Subpart J (1980) implementing Section 30 of the Federal Power Act (Act) for a project as described in the attached public notice.

Notice of the application was published and comments were requested from interested Federal and State agencies including the U.S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and motions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

Standard Article 2, included in this exemption, requires compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources. The terms and conditions referred to in Article 2 are contained in any letters of comment by these agencies which have been forwarded to the Applicant in conjunction with this exemption. 2/

1/ D & D Stauffer, Inc., Project No. 9134, filed on April 26, 1985.

2/ An exemption from licensing granted by this Commission does not serve as any basis for restricting hunting and fishing access to the waterway involved except to the extent required for public safety purposes.

Should the Applicant contest any terms or conditions that were proposed by Federal or State agencies in their letters of comment as being outside the scope of Article 2, the Commission shall determine whether the disputed terms or conditions are outside the scope of Article 2.

Based on the terms and conditions required by Federal and State fish and wildlife agencies, the environmental information in the application for exemption, other public comments, and staff's independent analysis, issuance of this order is not a major Federal action significantly affecting the quality of the human environment. 3/

The Director orders:

(A) Dry Creek Project No. 9134 as described and designated in D & D Stauffer, Inc.'s application filed on April 26, 1985, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in 54.94 of the Commission's regulations attached hereto as Form E-1, 18 C.F.R. 54.94 (1985).

(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 from the date of this order. Failure to file a petition appealing this order to the Commission shall constitute acceptance of this order.

1) on letter
for Kenneth M. Pusateri
Acting Director, Office of
Hydropower Licensing

3/ Environmental Assessment, D & D Stauffer, Inc., FERC Project No. 9134-000, Division of Environmental Analysis, Office of Hydropower Licensing, Federal Energy Regulatory Commission, February 19, 1986. This document is available in the Division of Public Information and in the Commission's public file associated with the proceeding.

FEDERAL ENERGY REGULATORY COMMISSION

UNITED STATES OF AMERICA

Notice of Application Filed with the Commission
(December 12, 1985)

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: Conduit Exemption
- b. Project No.: P-9134-000
- c. Date Filed: April 26, 1985
- d. Applicant: D & P Stauffer
- e. Name of Project: Dry Creek
- f. Location: On an irrigation conduit between Dry and Wet Creeks in Butte County, Idaho
- g. Filing Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 53208) and 708 as amended)
- h. Contact Person: Bruce H. Gravette
Frederick - Reilly Engineering
350 North 2nd East
Rexburg, ID 83400
- i. Comment Date: May 21, 1985
- j. Description of Project: The proposed project would install an irrigation conduit containing one generating unit having a capacity of 3.6 MW and an average annual generation of 17.7 TWh.
- k. Purpose of Exemption - An exemption, if issued, gives an exemption priority of conduit development, from licensing, and permits the exemption from permit or license application that would have to take or develop the project.
- l. Purpose of Project: Project power would be used.
- m. This notice also consists of the following attachments: 1. A, B, C, and D.

Agency Comments - The U.S. Fish and Wildlife Service and the State Fish and Game Agency(ies) are requested, for the purpose set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. The copy of an agency's comments must also be sent to the applicant's representatives.

Revised 1/85

EXHIBIT 9-1

§ 4.94 Standard terms and conditions of exemption

Any exemption granted under §4.93 for a small conduit

hydroelectric facility is subject to the following standard terms and conditions:

(a) Article 1. The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt facility. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) Article 2. The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that the United States Fish and Wildlife Service and any state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act, as specified in Exhibit E of the application for exemption from licensing or in the comments submitted in response to the notice of the exemption application.

(c) Article 3. The Commission may revoke this exemption if actual construction of any proposed generating facilities has not begun within two years or has not been completed within four years from the effective date of this exemption. If an exemption is revoked under this article, the Commission will not accept from the prior exemption holder a subsequent application for exemption from licensing or a notice of exemption from licensing for the same project within two years of the revocation.

(d) Article 4. In order to best develop, conserve, and utilize in the public interest the water resources of the region, the Commission may require that the exempt facilities be modified in structure or operation or may revoke this exemption.

(e) Article 5. The Commission may revoke this exemption if, in the application process, material discrepancies, inaccuracies, or falsehoods were made by or on behalf of the applicant.

(f) Article 6. Before transferring any property interests in the exempt project, the exemption holder must inform the transferee of the terms and conditions of the exemption. Within 30 days of transferring the property interests, the exemption holder must inform the Commission of the identity and address of the transferee.

FROM Kay Walker

TO Files 33-7154 & 33-7181

SUBJECT "Assignment" of 5/1/1986

DATE 7/28/1986

I contacted Scott Campbell on this day to find out where to send the required affidavit form needed to process these applications for Hydroelectric Development Inc. Mr. Campbell stated that the "Assignment and Agreement" of 5/1/1986 was not intended to be an assignment of these applications. He also stated that once the applications are approved they will be assigned to "HDI" on our standard assignment form.

He would like us to notify him as soon as these applications have been approved.

MICROFILMED

SIGNATURE

POWER CALCULATIONS FOR APPLICATION NO. 33-7154

3.6mw = 36002

P = Kilowatts .74 X hp

Q = cfs 52

H = feet 1100'

e = efficiency

to be
financed
by HDI

- ✓ 1.) Affidavit of Residency
- ✓ 2.) Ownership of Facilities
- ✓ 3.) *Financial Ability
- ✓ 4.) Feasibility of Project
 - a. Plans, drawings
 - b. Economic analysis

✓ 5.) *Compliance w/FERC

*only for projects of more than 25 cfs
or more than 500 horsepower.

$$e = \frac{P(11.8)}{QH} = \frac{3600(11.8)}{52 \times 1100} = \frac{42480}{57200} = 0.74$$

Based on the above calculations the proposed project
must have an 74 % efficiency.

OVERLAP REVIEW

per VAX:

P/D 33-7181 } same project - total cfs not to
33-7089 } exceed 85.0

P/U 33-7094 - irrig.
33-7181 - same project as this one

BYPASSED AREA

only pld's found on projected
route are 33-7179 & 33-7180 which are
applications for irrigation.
search done by section, township & range.

MICROFILMED

kw
1/28/86.

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

Amended

INITIAL REVIEW BY: HWT

APPLICATION NUMBER: 33-7154

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.

Field check by: _____

Date: _____

Comments: _____

- ☐ Fee.
☐ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☐ Yes ☒ No* In form to receipt.

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

Need \$20 amendment fee + \$120 more for addition 12 ds - Requested

efficiency would be over 100% need to change OK

by phone 4-23-85 OK

SEND COPIES TO:

- ☐ Idaho State Health Department.
☒ Idaho Fish and Game Department.
☐ Idaho Department of Lands.
☒ U.S. Bureau of Land Management.
☐ U.S. Forest Service.
☒ Other WD #33

Copies sent by: _____

Date: _____

CW

5-14-85

CW

5-14-85

CW

5-14-85

PROCESSING:

- ☐ Yes ☒ No Platted by: _____ Map No. _____
☐ Yes ☒ No Other rights on same place of use. Permit 33-7089

- ☒ Yes ☐ No* In form for advertising.

Final date for protests: 6-3-85

- ☒ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- statewide ☒ Affidavit of publication received. Date: _____
☐ 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? 33

- 6-3-85 Date of priority recommended.

Special conditions of approval or cover letter.

Condition Codes - 01E, 04, 05 (WD.33), 08A, 17F, 17K, 26A

By: Ernest Carlson

Date: July 14, 1986

STATE OFFICE REVIEW:

108, 114,

01E 04 05 (33, Little Lost River)
08A 09E 17M 17K 25, 27

- ☐ See attached sheet for more information.

By: KW

Date: 7/28/86 JUL 12 1986

POINT OF DIVERSION AND STREAM INDEX INFORMATION

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
-------	-----	-----	-----	--------------	---------------	-------

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
-------	-----	-----	-----	--------------	---------------	-------

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
-------	-----	-----	-----	--------------	---------------	-------

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
-------	-----	-----	-----	--------------	---------------	-------

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
-------	-----	-----	-----	--------------	---------------	-------

IDAHO STREAM CODE INDEX

PROTESTANTS AND REPRESENTATIVES

APPLICATION NO. 33-7154
FERC NO. 7623

REPRESENTATIVES FOR APPLICANT

Rick or Bob Stauffer

James Andreason, Howe, Idaho
Cecil Scott Howe, Idaho
Jerry Panheri Howe, Idaho
Robert Army Howe, Idaho
Bruce Hillman Howe, Idaho

(All protestants have withdrawn protests)

DATE	FILE HISTORY	ACTION PENDING & CALL UP
7-1-83	Application filed with the Dept	
5-7-84	Amended application	
6-11-84	Protest	
6-26-84	Letter requesting prelim design, estimate of construction costs, & statement of financial ability	Response due on 9-24-84
2-28-85	Response to letter of June 1984 received	
2-28-85	Application for exemption w/ FERC	
5-3-85	2nd Amended application received	
6-18-85	Exemption application denied	
10-28-85	Application for exemption reinstated	
7/9/86	Received copies of FERC exemption & Statement of Qualifications from Hydroelectric Development Inc.	

UNRECORDED

ELAM, BURKE AND BOYD

ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
TELECOPIER 208-343-5454

LAUREL E. ELAM (1886-1974)
CARL A. BURKE (1898-1961)
CARL P. BURKE
PETER J. BOYD
J. RAY DURTSCHI
M. ALLYN DINGEL, JR.
JACK S. GJORDING
JOHN MAGEL
DAVID B. LINCOLN
RICHARD C. MELLON, JR.
ROBERT M. TYLER, JR.
JAMES D. LARUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
KAYE L. O'RIORDAN
RYAN P. ARMBRUSTER
DAVID E. COMSTOCK
MELVILLE W. FISHER II
WILLIAM G. DRYDEN

TODD J. WILCOX
PETER C. MARSHALL
KENNETH M. SEBBY
TRUDY HANSON FOUSER
D. ALAN KOFOED
BRIAN D. HARPER
SCOTT L. CAMPBELL
BOBBI KILLIAN DOMINICK
W. DALLAS BURKHALTER
ALAN P. CONILOGUE
JOHN K. DAVIS
ELAINE D. HANSON
JEFFERY J. VENTRELLA

July 8, 1986

RECEIVED

JUL 9 1986

Mr. Ernest Carlson
Idaho Department of Water Resources/
Eastern Region Office
150 Shoup Avenue
Idaho Falls, ID 83401

Department of Water Resources
Eastern District Office

Re: Dry Creek Hydroelectric Project

Dear Mr. Carlson:

Pursuant to our telephone conversation of July 7, 1986, I have enclosed a copy of the FERC exemption for Project No. 9134-001, involving the Dry Creek hydroelectric project. Additionally, I have enclosed information reflecting the financial capability of Hydroelectric Development, Inc., to develop the project. I have also enclosed a copy of the assignment agreement between Hydroelectric Development, Inc., and Messrs. Robert and Richard Stauffer, reflecting the transfer of their rights in the project to this firm's client.

I trust that this documentation addresses the issues which are currently outstanding with respect to the pending application for permit with respect to this project. If you require additional documentation, please contact me, and I will endeavor to provide it to you immediately.

In view of the short construction season caused by the high altitude of the proposed project, my client will appreciate any expedited handling which can be given to these applications for permit.

Thank you for your anticipated cooperation.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell
Scott L. Campbell

SLC/ct
Enclosures
cc: Donnie R. Pope

ASSIGNMENT AND ACCEPTANCE OF
ALL RIGHTS, INTERESTS, TERMS AND CONDITIONS
PERTAINING TO AN EXEMPTED HYDROELECTRIC PROJECT

KNOW ALL MEN BY THESE PRESENTS, that Richard and Colleen Stauffer, Robert and Pennie Stauffer and D&D Stauffer, Inc., (hereinafter "Stauffers") with principal residences at Howe, Idaho and Arco, Idaho, respectively for adequate consideration, the sufficiency of which is hereby acknowledged, assigns, transfers and sets over to Hydroelectric Development, Inc., (hereinafter "HDI") a corporation, a corporation duly organized and existing under the laws of the State of Colorado, with a principal place of business at 10394 W. Chatfield Ave., Suite 108, Littleton, Colorado 80127:

All rights, titles and interests under that certain contract made by Stauffers and HDI and modified by Agreement dated February 28, 1988 for the sale of certain premises, rights and interests pertaining to a small hydroelectric project located near the Town of Howe, Idaho, to have and to hold same and the said HDI hereby with this assignment assumes all right, title and interest in all property, contracts, water rights, licenses, exemptions, documents and any other rights the Stauffers may have in the project, under the abovementioned contract and modification agreement,

including specifically the following;

HDI has been informed of and accepts and agrees to be bound by the conditions imposed upon the aforementioned hydroelectric project by the U.S. Fish and Wildlife Service and the Department of Fish and Game of the State of Idaho pursuant to the order of the Federal Energy regulatory Commission granting exemption from license for the aforementioned hydroelectric project, designated Project No. 7823, the Dry Creek Project and issued February 28, 1986 to D&D Stauffer, Inc.

The parties further agree that in the event a closing does not occur with HDI and the Stauffers or another entity develops the project in which the Stauffers have a financial interest within five (5) years from the date of this Agreement, any monies released from the escrow between HDI and the Stauffers shall be repaid to HDI first out of any monies received by the Stauffers from any other entity that is to make payment to the Stauffers under any other contract.

The parties further agree that if the Stauffers request an audit pursuant to paragraph 7.1 of the Agreement of Transfer and Assignment dated December 23, 1985, and such audit discloses that HDI has incorrectly calculated the appropriate amount due Stauffers by an amount equal to five percent (5%) or more then HDI shall be liable for the expense

of the audit.

In addition, the parties specifically agree that this assignment includes all rights, title and interest of the Stauffers in the Dry Creek Project including but not limited to: the power purchase contract with Utah Power and Light Company; the water rights permits as applied for by the Stauffers; the FERC exemption; BLM permit; State right-of-ways; purchase agreements and leases and agreement for such from any private parties; easements for project work construction and operation; all diversion structure rights and rights to divert water into the project penstock and all rights to release water from the project and any other right, title and interest in any other project asset necessary or useful to the ownership, development and operation of the project. The Stauffers hereby expressly agree to execute any further assignments concerning any of the above items which may be necessary or useful for the development of the project by HDI or its successors or assigns.

IN WITNESS WHEREOF, Stauffers, and HDI by and through the undersigned, being duly authorized, have hereunto set their hands and seals this 1st day of May, 1988.

Rich Peters

Witness

Donnie R. Pope

Hydroelectric Development, Inc.

Donnie R. Pope, Vice President

Richard Stauffer

Witness

Richard Stauffer

Richard Stauffer

Colleen Stauffer

Witness

Colleen Stauffer

Colleen Stauffer

Robert Stauffer

Witness

Robert Stauffer

Robert Stauffer

Pennie Stauffer

Witness

Pennie Stauffer

Pennie Stauffer

I, Pennie Stauffer give
Rob Stauffer full right
and permission to sign
any legal agreements
concerning the R & D Hydro
Project with H. D. I.

Pennie Stauffer
5/1/86

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

D & D Stauffer, Inc.

)

Project No. 9134-000

ORDER GRANTING EXEMPTION FROM LICENSING FOR
A CONDUIT HYDROELECTRIC PROJECT

(Issued February 28, 1986)

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 Subpart J (1980) implementing Section 30 of the Federal Power Act (Act) for a project as described in the attached public notice.

Notice of the application was published and comments were requested from interested Federal and State agencies including the U.S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and motions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

Standard Article 2, included in this exemption, requires compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources. The terms and conditions referred to in Article 2 are contained in any letters of comment by these agencies which have been forwarded to the Applicant in conjunction with this exemption.^{2/}

1/ D & D Stauffer, Inc., Project No. 9134, filed on April 26, 1985.

2/ An exemption from licensing granted by this Commission does not serve as any basis for restricting hunting and fishing access to the waterway involved except to the extent required for public safety purposes.

FILMED

101

-2-

Should the Applicant contest any terms or conditions that were proposed by Federal or State agencies in their letters of comment as being outside the scope of Article 2, the Commission shall determine whether the disputed terms or conditions are outside the scope of Article 2.

Based on the terms and conditions required by Federal and State fish and wildlife agencies, the environmental information in the application for exemption, other public comments, and staff's independent analysis, issuance of this order is not a major Federal action significantly affecting the quality of the human environment.^{3/}

The Director orders:

(A) Dry Creek Project No. 9134 as described and designated in D & D Stauffer, Inc.'s application filed on April 26, 1985, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in §4.94 of the Commission's regulations attached hereto as Form E-1, 18 C.F.R. §4.94 (1985).

(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 from the date of this order. Failure to file a petition appealing this order to the Commission shall constitute acceptance of this order.

Don Garber
for Kenneth M. Pusateri
Acting Director, Office of
Hydropower Licensing

^{3/} Environmental Assessment, D & D Stauffer, Inc., FERC Project No. 9134-000, Division of Environmental Analysis, Office of Hydropower Licensing, Federal Energy Regulatory Commission, February 19, 1986. This document is available in the Division of Public Information and in the Commission's public file associated with the proceeding.

RECEIVED
FEB 21 1986
FEDERAL ENERGY REGULATORY COMMISSION

P-9134-000

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Notice of Application Filed with the Commission
(December 12, 1985)

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: Conduit Exemption
- b. Project No.: P-9134-000
- c. Date Filed: April 26, 1985
- d. Applicant: D & D Stauffer
- e. Name of Project: Dry Creek
- f. Location: On an irrigation conduit between Dry and Hot Creeks in Butte County, Idaho
- g. Filed Pursuant to: Section 408 of the Federal Energy Act of 1960 (16 U.S.C. 82701 and 2708 as amended)
- h. Contact Person: Bruce R. Gravette
Ferguson - Pathing Engineering
350 North 2nd East
Mosburg, ID 83448
- i. Comment Date: May 21, 1985
- j. Description of Project: The proposed project would utilize an irrigation conduit that is under construction and would consist of a powerhouse containing one generating unit having a capacity of 3.6 MW and an average annual generation of 17.7 GWH.
- k. Purpose of Exemption - An exemption, if issued, gives an applicant priority of control, development, and operation of the project under the terms of the exemption from licensing, and provides the exemption from permit or license applicants that would seek to take or develop the project.
- l. Purpose of Project: Project power would be sold.
- m. This notice also consists of the following exhibits: as appropriate A3, A3, B, C, and D3.

Agency Comments - The U.S. Fish and Wildlife Service and the State Fish and Game agencies are requested, for the purposes set forth in Section 10 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other format requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kangaroo Island

RECEIVED

§ 4.94 Standard terms and conditions of exemption

Any exemption granted under §4.93 for a small conduit hydroelectric facility is subject to the following standard terms and conditions:

(a) Article 1. The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt facility. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) Article 2. The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that the United States Fish and Wildlife Service and any state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act, as specified in Exhibit E of the application for exemption from licensing or in the comments submitted in response to the notice of the exemption application.

(c) Article 3. The Commission may revoke this exemption if actual construction of any proposed generating facilities has not begun within two years or has not been completed within four years from the effective date of this exemption. If an exemption is revoked under this article, the Commission will not accept from the prior exemption holder a subsequent application for exemption from licensing or a notice of exemption from licensing for the same project within two years of the revocation.

(d) Article 4. In order to best develop, conserve, and utilize in the public interest the water resources of the region, the Commission may require that the exempt facilities be modified in structure or operation or may revoke this exemption.

(e) Article 5. The Commission may revoke this exemption if, in the application process, material discrepancies, inaccuracies, or falsehoods were made by or on behalf of the applicant.

(f) Article 6. Before transferring any property interests in the exempt project, the exemption holder must inform the transferee of the terms and conditions of the exemption. Within 30 days of transferring the property interests, the exemption holder must inform the Commission of the identity and address of the transferee.

195

CONVERSATION MEMO

Name of Party: Scott Campbell

Employee: Ernest Carlsen *ENC*

Date: June 30, 1986

Concerning Applications 33-7154 & 33-7181

Mr. Campbell called to determine the status on the above captioned applications. I informed him that we had completed the required publications and there were no protests on either application. To proceed with further administrative action, however, I indicated we would need a copy of the FERC exemption and verification of financial capability for construction of the project. Mr. Campbell stated his client, Hydro-Electric Development Corporation, has an agreement with the Stauffers' to both finance and construct the project. He will be forwarding a financial statement for Hydro-Electric Development Corporation and also a copy of the FERC exemption.

RECEIVED
JUL 1 1986

CONVERSATION MEMO

Name of Party: Rick Stauffer

Date: June 13, 1986

Employee: Ernest Carlsen *EMC*

RE: Applications for Permits No. 33-7154 and 33-7181

Mr. Stauffer came to the office today inquiring as to the status of the above captioned hydropower applications. I explained to him we had completed the advertising of 33-7181 and that no protests had been received. Information contained in the files indicated we would be able to forward both applications to Boise once the applicants have provided us with a copy of their FERC exemption and a statement of financial capability. Mr. Stauffer stated an organization out of Colorado was financing the projects and that he would get the necessary financial information from them.

RECEIVED

ELAM, BURKE AND BOYD

ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
TELECOPIER 208-343-5454

LAUREL E. ELAM (1888-1974)
CARL A. BURKE (1898-1961)
CARL P. BURKE
PETER J. BOYD
J. RAY DURTSCHI
M. ALLYN DINGEL, JR.
JACK S. GJORDING
JOHN MAGEL
DAVID B. LINCOLN
RICHARD C. MELLON, JR.
ROBERT M. TYLER, JR.
JAMES D. LARUE
RANDALL A. PETERMAN
WILLIAM J. RUSSELL
KAYE L. O'RIORDAN
RYAN P. ARMBRUSTER
DAVID E. COMSTOCK
MELVILLE W. FISHER II
WILLIAM G. DRYDEN
TODD J. WILCOX
PETER C. MARSHALL
KENNETH M. SEBBY
TRUDY HANSON FOUSER
D. ALAN KOFOED
BRIAN D. HARPER
SCOTT L. CAMPBELL
BOBBI KILLIAN DOMINICK
W. DALLAS BURKHALTER
ALAN P. CONILOGUE
JOHN K. DAVIS
ELAINE D. HANSON
JEFFERY J. VENTRELLA

April 8, 1986

RECEIVED
APR 10 1986

Mr. Jim Johnson
Licensing Division
Department of Water Resources
450 West State Street
Boise, Idaho 83702

Department of Water Resources

RE: Dry Creek Hydroelectric Project Water Permit
Application No. 33-7154

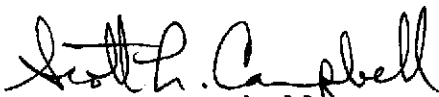
Dear Jim:

Pursuant to our telephone conversation of April 7, 1986, I have enclosed a copy of the order of the Federal Energy Regulatory Commission, which grants the exemption from licensing for a conduit hydroelectric project for the Dry Creek hydroelectric development. You indicated during our conversation that upon receipt of the order, you would be able to review the application file with respect to this matter and consider issuance of the water permit.

Please advise me of the status with respect to this file at your earliest convenience. Thank you for your cooperation.

Very truly yours,

ELAM, BURKE AND BOYD


Scott L. Campbell

SLC/lis
Enclosure
cc: Donny R. Pope

RECEIVED

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

D & D Stauffer, Inc.

)

Project No. 9134-000

ORDER GRANTING EXEMPTION FROM LICENSING FOR
A CONDUIT HYDROELECTRIC PROJECT

(Issued February 28, 1986)

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 Subpart J (1980) implementing Section 30 of the Federal Power Act (Act) for a project as described in the attached public notice.

Notice of the application was published and comments were requested from interested Federal and State agencies including the U.S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and motions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

Standard Article 2, included in this exemption, requires compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources. The terms and conditions referred to in Article 2 are contained in any letters of comment by these agencies which have been forwarded to the Applicant in conjunction with this exemption.2/

1/ D & D Stauffer, Inc., Project No. 9134, filed on April 26, 1985.

2/ An exemption from licensing granted by this Commission does not serve as any basis for restricting hunting and fishing access to the waterway involved except to the extent required for public safety purposes.

MICROFILMED

191

-2-

Should the Applicant contest any terms or conditions that were proposed by Federal or State agencies in their letters of comment as being outside the scope of Article 2, the Commission shall determine whether the disputed terms or conditions are outside the scope of Article 2.

Based on the terms and conditions required by Federal and State fish and wildlife agencies, the environmental information in the application for exemption, other public comments, and staff's independent analysis, issuance of this order is not a major Federal action significantly affecting the quality of the human environment.^{3/}

The Director orders:

(A) Dry Creek Project No. 9134 as described and designated in D & D Stauffer, Inc.'s application filed on April 26, 1985, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in §4.94 of the Commission's regulations attached hereto as Form E-1, 18 C.F.R. §4.94 (1985).

(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 from the date of this order. Failure to file a petition appealing this order to the Commission shall constitute acceptance of this order.

Don Garber
for Kenneth M. Pusateri
Acting Director, Office of
Hydropower Licensing

^{3/} Environmental Assessment, D & D Stauffer, Inc., FERC Project No. 9134-000, Division of Environmental Analysis, Office of Hydropower Licensing, Federal Energy Regulatory Commission, February 19, 1986. This document is available in the Division of Public Information and in the Commission's public file associated with the proceeding.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Notice of Application filed with the Commission
(December 12, 1965)

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: Conduit Exception
- b. Project No.: P-9134-000
- c. Date filed: April 26, 1965
- d. Applicant: D & D Steuffer
- e. Name of project: Dry Creek
- f. Location: On an irrigation conduit between Dry and Wet Creeks in Mule County, Idaho
- g. Filed pursuant to: Section 408 of the Energy Security Act of 1980 (36 U.S.C. §§205 and 2708 as amended)
- h. Contact Person: Bruce R. Gravette
Ferguson - Patton Engineering
350 North 2nd East
Bozeman, ID 83440
- i. Comment Date: JAN 21, 1966
- j. Description of project: The proposed project would consist of a powerhouse containing one generating unit having a capacity of 3.6 MW and an average annual generation of 12.7 GWh.
- k. Purpose of Exception: An exception, if issued, gives an applicant priority in construction, development, and operation of the project under the terms of the exception from licensing, and provides the licensee from permit or license applicants that would seek to take or develop the project.
- l. Purpose of project: Project power would be sold.
- m. This notice also consists of the following attachments: Attachment A, B, C, and D.

b3b. Agency Comments - The U.S. Fish and Wildlife Service and the State Fish and Game agencies are requested, for the purposes set forth in Section 10 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other forest requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative.

Kongthek, Plumb

ATTACHMENT
E-1 Form§ 4.94 Standard terms and conditions of exemption

Any exemption granted under §4.93 for a small conduit hydroelectric facility is subject to the following standard terms and conditions:

(a) Article 1. The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt facility. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) Article 2. The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that the United States Fish and Wildlife Service and any state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act, as specified in Exhibit E of the application for exemption from licensing or in the comments submitted in response to the notice of the exemption application.

(c) Article 3. The Commission may revoke this exemption if actual construction of any proposed generating facilities has not begun within two years or has not been completed within four years from the effective date of this exemption. If an exemption is revoked under this article, the Commission will not accept from the prior exemption holder a subsequent application for exemption from licensing or a notice of exemption from licensing for the same project within two years of the revocation.

(d) Article 4. In order to best develop, conserve, and utilize in the public interest the water resources of the region, the Commission may require that the exempt facilities be modified in structure or operation or may revoke this exemption.

(e) Article 5. The Commission may revoke this exemption if, in the application process, material discrepancies, inaccuracies, or falsehoods were made by or on behalf of the applicant.

(f) Article 6. Before transferring any property interests in the exempt project, the exemption holder must inform the transferee of the terms and conditions of the exemption. Within 30 days of transferring the property interests, the exemption holder must inform the Commission of the identity and address of the transferee.

195

December 26, 1985

RE: Amended Application for Permit No. 33-7154

Rick or Rob Stauffer
P.O. Box 501
Arco, Idaho 83213

Gentlemen:

This is to advise you that Jerry Pancheri has withdrawn his protest against approval of the above referenced application. The Department will take no further action in setting a hearing in this matter and has resumed the processing of your application.

If you have any questions concerning this matter, please feel free to contact this office.

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

December 26, 1985

RE: Amended Application for Permit No. 33-7154 STAUFFER

Mr. Jerry Pancheri
Howe,
Idaho 83244

Dear Mr. Pancheri:

This is to acknowledge receipt of your withdrawal of protest against approval of the above referenced application. The Department will take no further action in setting a hearing in this matter.

If you have any questions concerning this matter, please feel free to contact this office.

Very truly yours,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

RECEIVED
DEC 27 1985

IN THE MATTER OF AMENDED)
APPLICATION FOR PERMIT)
NO. 33-7154 IN THE NAME)
OF RICK OR ROB STAUFFER)

WITHDRAWAL
OF
PROTEST

I the undersigned hereby withdraw the protest of Amended
Application for Permit No. 33-7154 in the name of Rick or
Rob Stauffer.

Signed this 10th day of December, 1985.

RECEIVED
DEC 11 1985
Department of Water Resources
Eastern District Office



Jerry Pancheri

RECEIVED
DEC 11 1985
Department of Water Resources
Eastern District Office

December 5, 1985

Jerry Pancheri
Howe, Idaho 83244

Re: Application for Permit No. 33-7154 Amended, Stauffer.

Dear Mr. Pancheri:

In June 1984, you filed a protest with the Department of Water Resources opposing an application by Rick and Rob Stauffer for the appropriation of water from Dry Creek to generate power. This application was recently amended changing the site of the power plant. To proceed with processing of this application the Department of Water Resources needs to know your position regarding the amended application.

Enclosed for your review is a copy of the amended application along with a form for withdrawing your protest.

If the Department has not heard from you or received a signed withdrawal form by December 30, 1985 we will proceed with scheduling an administrative hearing to consider your protest. As always feel free to contact this office if you have any questions concerning the amended application or the procedure for withdrawing your protest.

Respectfully submitted,

Ernest Carlsen
Assistant Regional Supervisor

cc: Rick Stauffer and Rob Stauffer

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

NOVEMBER 6 1985

Times News
P.O. Box 548
Twin Falls, Idaho 83301

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billings to this office before DECEMBER 2, 1985.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

RECEIVED

Off. Rec'd
11-29-85

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

NOVEMBER 6 1985

Lewiston Morning Tribune
505 "C" Street
Lewiston, ID 83501

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before DECEMBER 2, 1985.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

NOV 11 1985

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

NOVEMBER 6 1985

The Idaho Statesman
Box 40
Boise, Idaho 83707

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before DECEMBER 2, 1985.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

NOVEMBER 6, 1985

Custer County Publishing Co.
P. O. Box 405
Challis, Idaho 83226

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before DECEMBER 2, 1985.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

**NOTICE OF APPLICATION
FOR WATER RIGHT**

The following application has been filed to appropriate the public waters of the State of Idaho and is being readvertised to allow evaluation of the public interest criteria under Section 42-203C, Idaho Code.

33-7154

STAUFFER, RICK &/or ROB
P.O. BOX 501, ARCO, ID 83244

Source: DRY CREEK trib. to
LITTLE LOST RIVER

Date Filed: 07/01/1983

Diversion Pt.: NENW Sec. 31 T
10N R 25E

Use: POWER (52.0 cfs)

In: SWNW Sec. 36 T 10N R 26E

The permit(s) will be subject to all prior water rights. Protests are limited to the public interest criteria under Section 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho, 83402 on or before December 2, 1985.

KEN DUNN

Director

Published: November 14 & 21, 1985.

Custer County
Paul

NOTICE OF APPLICATION
FOR WATER RIGHT

The following application has been filed to appropriate the public waters of the State of Idaho and is being readvertised to allow evaluation of the public interest criteria under Section 42-203C, Idaho Code.

33-7154

STAUFFER, RICK &/or ROB

P.O. BOX 501, ARCO, ID 83244

Source: DRY CREEK trib. to LITTLE LOST RIVER

Date Filed: 07/01/1983

Diversion Pt: NENW Sec 31 T 10N R 25E

Use: POWER (52.0 cfs)

In: SWNW Sec 36 T 10N R 26E

The permit(s) will be subject to all prior water rights. Protests are limited to the public interest criteria under Section 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 150 Shoup Ave., Suite 15, Idaho Falls, Idaho, 83402 on or before December 2, 1985.

KEN DUNN

Director

Published Custer Publishing Co., Idaho Statesman, Lewiston Tribune, and Times News on 11/14 and 11/21/85.

File

Ernest Carlson
Dept. Water Resources

Nov.4, 1985
Howe, Idaho

Dear Ernie,

Here is a copy of our hearing results from FERC. We will be getting a final order shortly. I will send a copy to you as soon as we get it, we are delighted to finally get this, seems like it takes plenty of time.

Thank You,
Rick Stauffer
Rick Stauffer
D&D Stauffer Inc.

CES

RECEIVED

RECEIVED
NOV 5 1985
Department of Water Resources
Eastern District Office

RECEIVED

NOV 5 1985

Department of Water Resources
Eastern District Office

CONDUIT EXEMPTION

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Raymond J. O'Connor, Chairman;
A. G. Sousa and Charles G. Stalon.

D & D Stauffer, Inc.

)

Project No. 9134-001

ORDER GRANTING APPEAL

(Issued October 28, 1985)

On April 26, 1985, D & D Stauffer, Inc. (Stauffer) filed an application for exemption from licensing for a small conduit hydroelectric facility. The proposed Dry Creek Project No. 9134 would be located near the City of Howe in Butte County, Idaho. By letter dated July 2, 1985, the Director, Office of Hydropower Licensing, rejected the exemption application on the ground that the proposed project would divert water during the non-irrigation season for the sole purpose of electric generation and thus did not comply with the statutory standards for small conduit exemptions. 1/ Stauffer has appealed the Director's action, asserting that the proposed project's diversion of water during the non-irrigation season would not be for the sole purpose of electric generation. 2/

Discussion

The proposed project would be connected to an existing agricultural irrigation system. During the summer, water is diverted from Dry Creek to Wet Creek, then flows downstream to the Little Lost River, and finally is diverted from the river to irrigate crops such as hay, wheat, and barley, and to water livestock. Stauffer intends to extend the period of diversion from the summer irrigation season to all year around, in order to use water diverted through the Dry Creek conduit at its proposed hydropower plant.

1/ Letter from Director, Office of Hydropower Licensing, dated July 2, 1985, rejecting Stauffer's application for a conduit exemption for Project No. 9134.

2/ Stauffer also asserts that the application was improperly rejected as patently deficient after the 60-day period provided for in Rule 4.32(d)(2). Because we are granting Stauffer's appeal on other grounds, we need not address this issue.

RECEIVED

Project No. 9134-001

As part of the project, Stauffer intends to build a new 36-inch pipeline to replace the existing open flume through which water is diverted from Dry Creek to Wet Creek. During the summer, Stauffer's new pipeline will discharge the diverted water approximately 2.5 miles downstream of the existing discharge point in Wet Creek. 3/ In the winter months Stauffer will discharge the diverted water onto grazing land adjacent to the power plant, instead of into Wet Creek.

The Director's rejection of Stauffer's application was based on his conclusion that the project would divert flows from the stream during the non-irrigation season solely for hydroelectric purposes and that the proposed project therefore did not qualify for exemption under Section 30 of the Federal Power Act (FPA), 16 U.S.C. § 823a. Section 30(a)(2) of the FPA provides that the Commission may grant an exemption from licensing to a hydroelectric facility on non-Federal lands which the Commission by rule or order determines:

utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

Stauffer argues that it is entitled to an exemption under Section 30 because the proposed project will in fact divert water all year around for irrigation purposes. Stauffer argues alternatively that, even if the winter diversion is deemed to be solely for hydroelectric purposes, the proposed project should be granted an exemption because any non-agricultural use during the winter would not change the fact that the primary use of the conduit is agricultural. 4/

-
- 3/ Stauffer's application states that the new pipeline will be superior to the old flume because the flume allows a 25% water loss through exfiltration into porous ground surrounding the flume and because the flume results in significant wildlife and livestock loss from animals falling into the flume.
- 4/ Under Stauffer's proposal, 71% of the water flowing through the conduit will flow during the traditional irrigation season and 29% during the winter season.

RECEIVED
MAY 1964

Project No. 9134-001

Stauffer has shown that the operation of the proposed project will extend the irrigation use of Dry Creek water to what was traditionally off-season. The water will be used to irrigate 320 acres of grazing land. According to supplemental information provided on appeal, irrigation of the 320 acres will enable the landowner to graze three times the number of cattle currently grazing there. 5/ Stauffer states that the only reason that this off-season agricultural use has not taken place historically is that use of the open flume was dangerous to wildlife and livestock, and eliminating the diversion during the winter months reduced their mortality rate. By replacing the open flume with a buried pipeline, the agricultural use of the conduit can be extended without additional animal mortality.

Our regulations define an eligible small conduit hydroelectric facility as a project that, inter alia, "[u]tilizes for electric power generation the hydroelectric potential of a conduit ... [and] [d]ischarges the water it uses for power generation either: (A) [i]nto a conduit; (B) [d]irectly to a point of agricultural, municipal or industrial consumption; or (C) [i]nto a natural water body" 6/ Our regulations define "conduit" to mean "any tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity. The term 'not primarily for the generation of electricity' includes but is not limited to a conduit: (i) [w]hich was built for the distribution of water for agricultural, municipal, or industrial consumption and is operated for such a purpose; and (ii) [t]o which a hydroelectric facility has been or is proposed to be added." 7/

5/ Due to the fact that Stauffer's application did not clearly describe the proposed winter agricultural consumptive use, the Director found that the sole purpose of the proposed project during the historical non-irrigation season is electrical generation. Although the supplemental information describing the winter agricultural consumption should have been contained in Stauffer's application, we do not find Stauffer's application so lacking in discussion of this use as to warrant upholding its rejection. (See Stauffer's application, Exhibit E, para. 2.3.3).

6/ 18 C.F.R. § 4.30(b)(26) (1985).

7/ 18 C.F.R. § 4.30(b)(2) (1985).

ENCLOSURE

Project No. 9134-001

The question thus arises as to whether the winter discharge onto grazing land adjacent to the power plant constitutes a discharge "directly to a point of agricultural ... consumption" under Section 4.30(b)(26), and whether the proposed conversion of the existing conduit to a buried pipeline affects the status of the conduit as a "manmade water conveyance that is operated for the distribution of water for agricultural ... consumption and not primarily for the generation of electricity," as required by Section 4.30(b)(2).

The winter discharge proposed will serve to irrigate 320 acres of grazing land and thereby enable the landowner to graze three times the number of cattle currently grazing there. This clearly qualifies the winter discharge as one to "a point of agricultural ... consumption" under Section 4.30(b)(26). The question remains, however, whether the proposed buried conduit qualifies under Section 4.30(b)(2) as a conduit operated for agricultural purposes and "not primarily for the generation of electricity." Section 4.30(b)(2) defines the term "not primarily for the generation of electricity" as including facilities already built and operating for agricultural purposes, but also clearly states that the definition is not limited to such facilities. The rule focuses on the original purpose of the facility, in order to "reduce some of the uncertainty inherent in the term 'primarily' for a substantial number of sites, without reducing the Commission's flexibility to assess on a case-by-case basis other facilities which may apply for the exemption". 8/ Thus, while Stauffer's facility does not fit the strict definition contained in our rules for conduit exemptions, we are not precluded from finding that under the facts of this case the facility proposed is not primarily for the generation of electricity and therefore is eligible for exemption.

Stauffer's new facility is clearly not exclusively for agricultural purposes but rather will serve the combined purpose of electrical generation and agricultural consumption. We do not, however, find that it is primarily for the generation of electricity. The buried pipe replaces the open flume which was built solely for agricultural purposes. During the summer, the entire flow through the pipe will be used for the same agricultural purposes as was the flow of the open flume. Likewise, during the winter the entire flow will be used for agricultural purposes. Although the winter agricultural use does not appear to be so substantial that it would be

8/ Order No. 76 (April 28, 1980), 45 F.R. 28085, FERC Statutes & Regulations, Regulations Preambles 1977-1981, ¶ 30,146.

Project No. 9134-001

served notwithstanding the development of generation, it is nonetheless sufficient in conjunction with the fact the great majority of the conduit flow (71%) will continue to serve pre-existing agricultural uses. Under these such circumstances, we find that the conduit is operated for the distribution of water for agricultural purposes and not primarily for the generation of electricity.

Because we find that the applicant has shown that the proposed project will have an agricultural purpose throughout the year and thus meets the definition of a small conduit hydroelectric facility contained in Rule 4.30(b(26)), we will grant Stauffer's appeal and reinstate its application. 9/

The Commission orders:

The appeal filed by D & D Stauffer, Inc. in Project No. 9134 on July 26, 1985, is granted and the application for Project No. 9134 is reinstated.

By the Commission.

(S E A L)

Kenneth F. Plumb

Kenneth F. Plumb,
Secretary.

9/ We need not reach the issue of whether Section 30 of the FPA authorizes the Commission to grant an exemption to a project located on a conduit which has agricultural consumption as its primary purpose but which would divert water for a portion of the year exclusively for hydroelectric purposes.

CONVERSATION MEMORANDUM

DATE July 5, 1985
FILE 33-7154 Amended

NAME OF PARTY Jerry Pancheri
EMPLOYEE Ernest Carlsen *EMC*

RE: I called Mr. Pancheri to insure he was aware of all the
changes made on the Stauffer application and find out if he
intended to continue his protest.

After discussing the application, Mr. Pancheri said
he would withdraw his protest if he could confirm that winter
water flows in the Little Lost River would not be increased.

I suggested he discuss the matter with the Stauffer's and
then decide whether to continue protesting. He said he would
probably know in a couple of days.

RECEIVED

Dear Sirs:

I would like to
withdraw my protests against
Rich & Rob. Stauffer's hydro
project.

Thank You
Robert Amy

MICROFILMED

RECEIVED

JUN 28 1985

Department of Water Resources
Eastern District Office

Department of Water Resources
150 Shoup - Suite 15
Idaho Falls, Idaho 83402

RECEIVED

JUN 20 1985

Department of Water Resources
Eastern District Office

Dear Sir:

I would like to withdraw
my protest against Rick & Rob
Stauffer. Concerning their application
for the proposed hydropower project.

Yours truly

Bruce Hillman

RECEIVED

June 12, 1985
Horse, Idaho 83244

State of Idaho
Department of Water Resources
Idaho Falls, Idaho 83402

Dear Mr. Carlsen,

We request that the protests filed by Cecil F. Scott and James O. Andreason against application 33-7154, Rick and Rob Stauffer proposed hydropower project be with-drawn.

Due to the new amended application that shows the point of discharge for the water has been changed to be discharged into Ket Creek, we now support this project.

Respectfully yours,
Cecil F. Scott
James O. Andreason

RECEIVED

JUN 18 1985
Department of Water Resources
Eastern District Office

IDAHO DEPARTMENT OF FISH AND GAME
REGION 6
1515 Lincoln Road
Idaho Falls • Idaho • 83401

June 13, 1985

RECEIVED

JUN 14 1985

Department of Water Resources
Eastern District Office

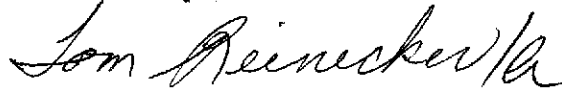
Mr. Ernest Carlsen
Assistant Regional Supervisor
Department of Water Resources
150 Shoup - Suite 15
Idaho Falls, ID 83402

Re: 33-7154 (Amended) Stauffer

Dear Ernie:

Department of Fish and Game has no comments on the above application.
Thank you for the opportunity to comment.

Sincerely,



Tom Reinecker
Regional Supervisor
Region 6

TR:SE:ai
cc: USFWS
Bureau of Program Coordination
Bureau of Fisheries

RECEIVED

June 10, 1985

RE: Application 33-7154, RICK & ROB STAUFFER

Mr. James Andreason
Howe,
Idaho 83244

Dear Mr. Andreason:

Rick and Rob Stauffer have filed with this office an amended application on their proposed hydropower project. The new application still shows a point of diversion from Dry Creek in the NE1/4NW1/4, Sec. 31, T. 10N, R. 25E; but the point of discharge for the water has been changed to the SW1/4NW1/4, Sec. 36, T. 10N, R. 26E, where it will be discharged into Wet Creek. A copy of the application and map is enclosed for your review.

The amended application was advertised in the Challis Messenger for two consecutive weeks (a paper of general circulation for the county in which the point of diversion is located). No new protests were received prior to June 3, 1985, when the protest period ended.

Information provided by the applicant indicates that by changing the point of discharge, as described above, most of the protests against their projects should have been resolved. The Department is continuing to recognize your protest against their application, and unless it is withdrawn you will be notified of the date, place, and time for holding the administrative hearing.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

June 10, 1985

RE: Application 33-7154, RICK & ROB STAUFFER

Mr. Cecil F. Scott
Howe,
Idaho 83244

Dear Mr. Scott:

Rick and Rob Stauffer have filed with this office an amended application on their proposed hydropower project. The new application still shows a point of diversion from Dry Creek in the NE1/4NW1/4, Sec. 31, T. 10N, R. 25E; but the point of discharge for the water has been changed to the SW1/4NW1/4, Sec. 36, T. 10N, R. 26E, where it will be discharged into Wet Creek. A copy of the application and map is enclosed for your review.

The amended application was advertised in the Challis Messenger for two consecutive weeks (a paper of general circulation for the county in which the point of diversion is located). No new protests were received prior to June 3, 1985, when the protest period ended.

Information provided by the applicant indicates that by changing the point of discharge, as described above, most of the protests against their projects should have been resolved. The Department is continuing to recognize your protest against their application, and unless it is withdrawn you will be notified of the date, place, and time for holding the administrative hearing.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

June 10, 1985

RE: Application 33-7154, RICK & ROB STAUFFER

Mr. Jerry Pancheri
Howe,
Idaho 83244

Dear Mr. Pancheri:

Rick and Rob Stauffer have filed with this office an amended application on their proposed hydropower project. The new application still shows a point of diversion from Dry Creek in the NE1/4NW1/4, Sec. 31, T. 10N, R. 25E; but the point of discharge for the water has been changed to the SW1/4NW1/4, Sec. 36, T. 10N, R. 26E, where it will be discharged into Wet Creek. A copy of the application and map is enclosed for your review.

The amended application was advertised in the Challis Messenger for two consecutive weeks (a paper of general circulation for the county in which the point of diversion is located). No new protests were received prior to June 3, 1985, when the protest period ended.

Information provided by the applicant indicates that by changing the point of discharge, as described above, most of the protests against their projects should have been resolved. The Department is continuing to recognize your protest against their application, and unless it is withdrawn you will be notified of the date, place, and time for holding the administrative hearing.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

June 10, 1985

RE: Application 33-7154, RICK & ROB STAUFFER

Mr. Robert C. Amy
Howe,
Idaho 83244

Dear Mr. Amy:

Rick and Rob Stauffer have filed with this office an amended application on their proposed hydropower project. The new application still shows a point of diversion from Dry Creek in the NE1/4NW1/4, Sec. 31, T. 10N, R. 25E; but the point of discharge for the water has been changed to the SW1/4NW1/4, Sec. 36, T. 10N, R. 26E, where it will be discharged into Wet Creek. A copy of the application and map is enclosed for your review.

The amended application was advertised in the Challis Messenger for two consecutive weeks (a paper of general circulation for the county in which the point of diversion is located). No new protests were received prior to June 3, 1985, when the protest period ended.

Information provided by the applicant indicates that by changing the point of discharge, as described above, most of the protests against their projects should have been resolved. The Department is continuing to recognize your protest against their application, and unless it is withdrawn you will be notified of the date, place, and time for holding the administrative hearing.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

June 10, 1985

RE: Application 33-7154, RICK & ROB STAUFFER

Mr. Bruce Hillman
Howe,
Idaho 83244

Dear Mr. Hillman:

Rick and Rob Stauffer have filed with this office an amended application on their proposed hydropower project. The new application still shows a point of diversion from Dry Creek in the NE1/4NW1/4, Sec. 31, T. 10N, R. 25E; but the point of discharge for the water has been changed to the SW1/4NW1/4, Sec. 36, T. 10N, R. 26E, where it will be discharged into Wet Creek. A copy of the application and map is enclosed for your review.

The amended application was advertised in the Challis Messenger for two consecutive weeks (a paper of general circulation for the county in which the point of diversion is located). No new protests were received prior to June 3, 1985, when the protest period ended.

Information provided by the applicant indicates that by changing the point of discharge, as described above, most of the protests against their projects should have been resolved. The Department is continuing to recognize your protest against their application, and unless it is withdrawn you will be notified of the date, place, and time for holding the administrative hearing.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Idaho Falls District
940 Lincoln Road
Idaho Falls, Idaho 83401

IN REPLY
REFER TO: 7250

May 31, 1985

RECEIVED

JUN 3 1985

Department of Water Resources
Eastern District Office

Ernest Carlsen
State of Idaho
Department of Water Resources
Suite 15
150 Shoup
Idaho Falls, Idaho 83402

Re: Application for Permit No. 33-7154 (Amended) Stauffer

Dear Mr. Carlsen:

In regards to permit (33-7154) we have no objections to this permit as long as the stock and game watering trough presently located along the new pipeline installation will be served by branch connections in replacing the flume. We understand this is a part of the proposed developments.

Sincerely,

Gary J. Bliss

For O'dell A. Frandsen
District Manager

cc: Area Manager BBRA

May 14, 1985

RE: Application for Permit No. 33-7154 (Amended) STAUFFER

Mr. David Andreason, Watermaster
Water District No. 33
Box 3
Howe, ID 83244

Dear Mr. Andreason:

We are enclosing a copy of an application that may be of interest to your water district. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is June 3, 1985, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

May 14, 1985

RE: Application for Permit No. 33-7154 (Amended) STAUFFER

Bureau of Land Management
940 Lincoln Road
Idaho Falls, ID 83401

Gentlemen:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is June 3, 1985, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

May 14, 1985

RE: Application for Permit No. 33-7154 (Amended) STAUFFER

Mr. Tom Reinecker
Regional Supervisor
Department of Fish & Game
1515 Lincoln Road
Idaho Falls, ID 83401

Dear Tom:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is June 3, 1985, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

MAY 8, 1985

Custer County Publishing Co.
P. O. Box 405
Challis, Idaho 83226

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JUNE 3, 1985.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

MICROFILMED

NOTICE OF AMENDED APPLICATION FOR WATER PERMIT

Notice is hereby given that Application for Permit No. 33-7154 in the name of Rick or Rob Stauffer, Howe, Idaho was filed for the diversion of 40.0 cfs of water from Dry Creek tributary to Little Lost River, with points of diversion within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 10N, R. 25E, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36, T. 10N, R. 24 $\frac{1}{2}$ E, NW $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot 2), Sec. 1, T. 9N, R. 24 $\frac{1}{2}$ E, B.M. Custer County; to be used from 1-1 to 12-31 for power purposes within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, T. 10N, R. 26E, B.M.

The applicants, Rick or Rob Stauffer, Arco now propose to amend Application No. 33-7154, requesting 52.0 cfs be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 10N, R. 25E, B.M. to be used within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 36, T. 10N, R. 26E, B.M.

Any protest to the proposed amending of the application must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, ID 83402, on or before June 3, 1985.

A. KENNETH DUNN

Director

Published in the Custer County Publishing Co., 5/16 & 5/23/85.

ER — THURSDAY, MAY 16, 1985

**NOTICE OF AMENDED
APPLICATION FOR
WATER RIGHT**

Notice is hereby given that Application for Permit No. 33-7154 in the name of Rick or Rob Stauffer, Howe, Idaho was filed for the diversion of 40.0 cfs of water from Dry Creek tributary to Little Lost River, with points of diversion within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 10N, R. 25E, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36, T. 10N, R. 24 $\frac{1}{2}$ E, NW $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot 2), Sec. 1, T. 9N, R. 24 $\frac{1}{2}$ E, B.M. Custer County; to be used from 1-1 to 12-31 for power purposes within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, T. 10N, R. 26E, B.M.

The applicants, Rick or Rob Stauffer, Arco now propose to amend Application No. 33-7154, requesting 52.0 cfs be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 10N, R. 25E, B.M. to be used within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 36, T. 10N, R. 26E, B.M.

Any protest to the proposed amending of the application must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, ID 83402, on or before June 3, 1985.

A. KENNETH DUNN
Director

Published: May 16 & 23, 1985.

STAFF SHEET FOR POWER GENERATION

2nd AmendedI Initial Review By: HLSS Application No. 33-7154Date Requested _____ In File ☒A. _____ ☒ Form 205/206.B. _____ ☒ Efficiency is between 85% and 60%.

$$E = \frac{P (11.8)}{QH} = \frac{(3600)(11.8)}{(52)(1100)} = \frac{42480}{57200} \times 100 = 74\%$$

II Post Publication Review By: _____

A. Not Protested

1. 0 to 373 kw (500 Hp)

Date Requested _____ Date Received (one or more) _____

_____ Engineering feasibility report.

_____ Preliminary design report.

_____ Contracts to construct project.

_____ Contracts to purchase power.

_____ Verification that an application
has been submitted to F.E.R.C.

_____ Other: _____

2. 373 kw (500 Hp) and higher

Date Requested _____ Date Received (all three are required) _____

_____ Preliminary Engineering Report.

_____ Itemized cost estimate.

_____ Verification of financial ability.

B. Protested

1. 0 to 111 kw (150 Hp)

_____ Supplement information has been submitted.

_____ Hearing should be scheduled.

2. 111 kw (150 Hp) and higher

_____ Supplemental information has been submitted.

_____ Received verification of a F.E.R.C. ruling.

_____ Hearing should be scheduled.

RECEIVED

INTER-DEPARTMENT MEMO — 1

FROM E. CARLSEN

DATE 4-22-85

TO D. TUTHILL

SUBJECT Attached is D. & D. STRUFFER'S APPLICATION FOR EXEMPTION FROM LICENSING, THAT WE DISCUSSED BY PHONE. THEIR WATER RIGHT APPLICATION IS 33-7154. THE APPLICATION IS BEING HELD AT EASTERN PENDING RESOLUTION OF PROTESTS. FURTHERMORE, WE JUST RECEIVED THE AMENDED APPLICATION REFERRED TO BY MR. BRAUETTE.

RECORDED

Ernest.

SIGNATURE



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

May 3, 1985

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

RECEIVED

MAY

Department of Water Resources
Eastern District Office

Forsgren-Perkins Engineering
Attn: Bruce R. Gravette, P.E.
350 North 2nd East
Rexburg, ID 83440

RE: Dry Creek Application for Exemption from Licensing, Water
Right No. 33-7154, FERC Project No. 7623

Dear Mr. Gravette:

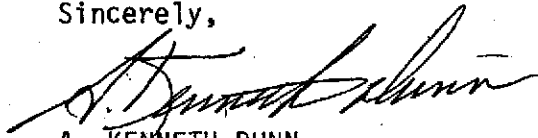
We are in receipt of your letter dated April 15, 1985, which conveyed a copy of the Application to the Federal Energy Regulatory Commission (FERC) for Exemption from Licensing of the Dry Creek Irrigation Outfall Project, Project No. 7623.

We have reviewed the water rights associated with this project and have found that the water right which was filed in connection with this project is Application for Permit No. 33-7154. This application is currently being held in our Eastern Regional Office pending resolution of protests.

Please be advised that if the application is approved, the resulting permit will be subordinated to future consumptive beneficial uses, and a term of years condition of approval will be associated with the water right.

Please advise this office of significant activities regarding FERC actions on this project.

Sincerely,


A. KENNETH DUNN
Director

AKD/DRT/1s

cc: Eastern Region

RECEIVED



FORSGREN-PERKINS ENGINEERING, p.a.

April 15, 1985

RECEIVED

APR

843051

Department of Water Resources
Eastern District Office

Mr. Ernest Carlson
Regional Supervisor
Idaho Dept. of Water Resources
Eastern Region
150 Shoup
Idaho Falls, ID 83401

RECEIVED

APR 29 1985

RE: Dry Creek Hydroelectric Project

Dear Ernest:

Department of Water Resources

D & D Stauffer would like to provide you with a copy of the Federal Energy Regulatory Commission (FERC) application for exemption from licensing for the Dry Creek Irrigation Outfall Hydroelectric Power Plant. Your review of the draft application and the comments you provided regarding the necessary energy permit for the project are appreciated. Your office should have received by now an updated copy of the energy permit from D & D Stauffer, Inc. As you stated in your letter, a readvertisement of the permit will be required to provide the necessary public review of the requested water right.

The letters of support from the Blaine County Canal Company, the Little Lost River Irrigation District, and the Dry Creek Development Corporation indicate that the requested permit will not conflict with any existing water right and, in fact, will benefit the existing water rights by making more water available for their use (see Appendix A-1 of this application). We are working with the BLM to gain the necessary easements which will be required to perfect our requested water right.

In accordance with FERC application procedures for exemptions of small hydroelectric power projects of five MW or less (Code of Federal Regulations Cite 4.107), a response from your agency is requested regarding this final application within the 30-day time period specified. Your response will be forwarded to FERC and included in the application.

Mr. Ernest Carlson
April 15, 1985
Page 2

Your continued support and processing of the requested energy permit is appreciated. If you have any questions, please feel free to call me at (208) 356-9201.

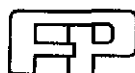
Sincerely,

FORSGREN-PERKINS ENGINEERING


Bruce R. Gravette, P.E.

kfh

Enclosure



RECEIVED

APR 17 1985

April 16, 1985

Department of Water Resources
Eastern District Office

Eric -

If these papers are not
signed and filled in wright
please let me know. I will
come over as soon as
I can.

Thanks for your help

Rick Saffer
767 - 3356

RECEIVED

April 5, 1985

RE: Application for Permit No. 33-7154 STAUFFER

Mr. Bruce R. Gravette, P.E.
Forsgren-Perkins Engineering, p.a.
350 North Second East
Rexburg, ID 83440

Dear Mr. Gravette:

The Department of Water Resources has examined the documentation provided relative to D & D Stauffer's FERC application for exemption from licensing under preliminary permit No. 7623 and their application for permit 33-7154 to appropriate water for use in the hydropower facility.

This preliminary review indicates the project, as described in the exemption application, should enhance delivery of irrigation water from Dry Creek into the Little Lost River. With proper regulation no adverse impacts to existing irrigation rights are anticipated.

The pipeline, of course, will also allow for the elimination of the Dry Creek flume which has been a hazard to wildlife, domestic stock, and man since its construction.

The copies of documents you provided reveal strong public support for construction of the project. With the amendment of Application 33-7154, so the location of the power house and tailrace are correctly identified, we do not anticipate any conflicts concerning local public interest.

Mr. Bruce R. Gravette
April 5, 1985
Page 2

We understand the amended application will be submitted in the near future. Following readvertisement of the application the department will conduct an extensive review for final determination concerning local public interest and possible impacts to existing water rights.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

AGREEMENT

This agreement is made between D & D Stauffer (Rick and Rob) and Bruce Hillman, for the purpose of building a dike along the Little Lost River to keep flood waters in the channel. All permits if needed would be obtained by Bruce Hillman.

Bruce Hillman will supply the dirt or rock to be used . D & D Stauffer will supply equipment for transporting material and building the dike. This project was estimated by local contractors to not exceed four thousand dollars.

D & D Stauffer agree's to pay an additional \$4000.00 over the next ten years if needed.

This project will take place only after D & D Stauffer Inc. is on line and before winter freezing on the river.

Bruce Hillman will contact the Idaho water resources, and withdraw his protest.

Bruce Hillman

Bruce Hillman

D & D Stauffer
(Rick & Rob)

Rick Stauffer Rob Stauffer

CLS-3/11/85

CH

RECEIVED
MAY 11 1985



IDAHO DEPARTMENT OF FISH AND GAME
REGION 6
1515 Lincoln Road
Idaho Falls • Idaho • 83401

March 19, 1985

Mr. Bruce Gravette, P.E.
Forsgren-Perkins Engineering, P.A.
350 North 2nd East
Rexburg, Idaho 83440

RE: Stauffer, Inc. FERC Application for Exemption Licenses No.
7623 Dry Creek, Little Lost River.

Dear Bruce:

Idaho Department of Fish and Game has reviewed the referenced application. The Department strongly supports the current Dry Creek project due to its potential benefits to fish and wildlife resources in the Little Lost River Valley. The burial of the flume will eliminate wildlife mortalities and the reduction in flows in Middle Wet Creek will benefit fisheries.

The following comments are clarifications and/or considerations to be included in the exemption application.

Diversion and inlet design will have to prevent air entrainment to the penstock so that no changes occur in dissolved nitrogen at the outlet which would affect fisheries in the Little Lost River.

As stated in the application, the present wildlife and livestock watering sites will be maintained by the applicant.

Fish screens are necessary at the water diversion structure. The screens shall be designed, constructed, operated and maintained in conformance with criteria furnished or approved by IDFG. Exhibit B indicates screens but the text does not indicate planning for fish screens within the project.

The penstock shall be buried, as proposed, to prevent interference with wildlife movements.

Velocity dissipation construction as approved by the Department shall be installed to reduce exit water velocities from the powerhouse to a level which will not result in head cutting at the project and Wet Creek confluence.

Mr. Bruce Gravette, P.E.
March 19, 1985
Page 2

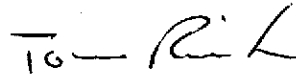
Adequate flow control and energy dissipation for bypass flows to prevent erosion in case of turbine shutdown will be required as approved by the Department.

If project design should be changed from that shown in the application, the above terms and conditions may be revised to take into account changes in project designs.

These comments do not constitute submission of terms and conditions under Section 408 of the Energy Security Act of 1980. Terms and conditions will be submitted after notice of application from the Federal Energy Regulatory Commission (FERC).

As required by Section 4.107 (a), (2) of the FERC Order No. 106, please forward a copy of the exemption application to Idaho Department of Fish and Game, P. O. Box 25, Boise, Idaho 83707 at the time it is submitted to the Federal Energy Regulatory Commission.

Sincerely,



Tom Reinecker
Regional Supervisor
Region 6

TR:SE:dnb

cc: U.S. Fish and Wildlife Service
Bureau of Fisheries
Gary Hompland
BLM, Idaho Falls
Rick Stauffer
Rob Stauffer



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Idaho Falls District

940 Lincoln Road

Idaho Falls, Idaho 83401

IN REPLY
REFER TO: 7250.4

March 15, 1985

Mr. Bruce Gravette
Forsgren-Perkins Engineering, P.A.
350 North 2nd East
Rexburg, Idaho 83440

Dear Mr. Gravette:

We have reviewed the Federal Energy Regulatory Commission application by D&D Stauffer, Inc., for a small hydropower plant on Dry Creek.

This project will have a net benefit to wildlife in the project area by dewatering the Dry Creek flume which has been a significant wildlife trap for many years. The project should allow safe migration of elk, deer, antelope and other game species through the area. The project will also allow approximately 2 miles of Wet Creek habitat (riparian vegetation and channel structure) to recover from past erosion due to excess flows from the Dry Creek flume. This should provide improvements to both wildlife and fishery habitat. We would expect an increase in trout populations in this reach as the habitat recovers.

We understand that your firm is presently analyzing streamflows, project design and project feasibility. We will need this data along with detailed maps to allow assessment of project impacts, mitigation requirements and to process your right-of-way application. At this point we do not see any major obstacles.

A cultural resource inventory has been completed for a portion of the proposed pipeline route. Eight prehistoric sites were recorded. These sites are not directly in the pipeline's path, and will not be adversely affected by pipeline construction and operation. About 3 miles of pipeline route between the flume and power plant must be inventoried before a right-of-way is approved. However, site density is expected to be low and any adverse effects are expected to be minimal.

Our staff will be available to work with you on completing the project right-of-way. This will involve the completion of a land report and a complete environmental assessment.

Sincerely,


O'dell A. Frandsen
District Manager



AN EXPLANATORY NOTE

D & D Stauffer would like to gain your support in the approval process which is necessary to construct a Hydroelectric facility. The proposed D & D Stauffer Hydroelectric facility is classified as a "small conduit Hydroelectric facility" under the licensing procedures, and as such must show that it produces power from a piped water supply which serves some other primary purpose downstream such as irrigation, domestic water use, etc. In other words, a small conduit Hydroelectric facility converts the potential energy of a water transmission system into electrical energy, but it does not interfere with the delivery of the water to the primary users downstream.

In order for the proposed project to be approved, the Federal Energy Regulatory Commission (FERC) must have evidence that the proposed pipeline will be transporting the irrigation water that is now being transported in the concrete flume. Also, State agencies such as the BLM, the Fish and Game Department, and the Water Resources Department will not lend their support to the project unless proof can be shown that the proposed pipeline will, in fact, replace the flume.

We ask that you consider the future conditions that the irrigators in the valley will be faced with if the pipeline is not installed, and lend your support to this project.

RECEIVED

AN AGREEMENT BETWEEN DRY CREEK DEVELOPMENT, INC.
AND D & D STAUFFER, INC.

Dry Creek Development, Inc. (hereafter referred to as the "Company") desires to establish its support of the D & D Stauffer, Inc. proposed hydroelectric project which would replace the Company's existing irrigation flume with a buried irrigation pipeline on our behalf. The proposed construction would increase the efficiency and lower the cost of delivering irrigation water to our members and increase the safety of our overall operation; specifically:

1. The replacement of the 20-year-old concrete-lined irrigation flume would serve the Company approximately \$15,000-20,000 per year in annual maintenance costs, which will increase dramatically as the flume gets older. The cost of replacing the flume at some future date will have a severe economic impact on the Company's members.
2. The replacement of the flume would eliminate channel conveyance losses, estimated at 10-15 percent. This would ensure that during dry years the Company would be able to deliver a maximum amount of water to its members.
3. The proposed project would allow the Company to divert water approximately one month earlier in the year. This is because the Company would not have to perform spring maintenance on the concrete irrigation flume prior to diverting the Dry Creek flow.
4. The proposed project would eliminate the extreme safety hazard now associated with the open irrigation flume. The Company is extremely concerned that the operation of the flume unavoidably results in the loss of wildlife such as deer and elk and sometimes livestock. The Company recognizes that to make an existing irrigation flume totally safe would require an investment of over \$ 1 million.
5. The Company desires that the D & D Stauffer Company proceed with this proposed hydroelectric project as soon as possible.

To assist D & D Stauffer, Inc. in gaining approval for the hydroelectric project, the Company agrees to the following conditions:

1. D & D Stauffer will deliver a maximum of 70 cfs to Wet creek in Sec. 36 T 10 N R 26 E East of the Boise Meridian discharge point will be approximately two miles below the existing discharge point of the irrigation flume.
2. The Company grants D & D Stauffer, Inc. permission to install a 36-inch buried irrigation pipeline in the 100 foot right-of-way controlled by the Company and owned by the BLM, the State of Idaho, and Hartman Land and Livestock, Inc. The Company approves the preliminary proposal to install the pipeline approximately 15 feet on the opposite side of the existing flume from the access road, and that in the areas where the proposed pipeline is adjacent to the existing flume, sufficient spoil from the pipeline installation will be placed in the flume to completely cover the flume and restore the area to its natural state.
3. D & D Stauffer may perform minor modifications to the existing diversion structure to divert water into the proposed 36-inch pipeline. These modifications are expected to occur immediately downstream of the existing diversion structure (see Figure 1).
4. The Company grants D & D Stauffer full right and permission to operate and maintain all structures associated with the irrigation pipeline, including the existing diversion works and its minor modifications and the stock watering troughs including branch waterlines and valves.

SHAREHOLDERS - DRY CREEK DEVELOPMENT, INC.

<u>Name</u>	<u>Signature</u>	<u>Date</u>
<u>CLASS A</u>		
Amy, Delwyn	<i>Delwyn Amy</i>	3-6-85
Amy, Robert	<i>Robert Amy</i>	3-7-85
Andreason, James	<i>James Andreason</i>	3-10-85
Mays Land & Livestock	<i>George H. Mays President</i>	
Pancheri, Inc.	<i>John Pancheri</i>	
<u>CLASS B</u>		
Chambers, Robert R.		
Echeverria, Todd	<i>Todd Echeverria</i>	3-6-85
Haight, Lynn	<i>Lynn Haight</i>	
Hartmann Land & Livestock	<i>Frank A. Hartmann</i>	
Hejtmanek, Tom	<i>Tom Hejtmanek</i>	
Isham, Don	<i>Don Isham</i>	3-6-85
Mays, Jack	<i>Jack Mays</i>	
McDonald, Charles	<i>Charles H. McDonald</i>	3-11-85
McDonald, John	<i>John L. McDonald</i>	
Nickerson, Keith	<i>Keith Nickerson</i>	
Romrell, Owen	<i>Owen A. Romrell</i>	3-11-85
Stauffer, Richard	<i>Richard Stauffer</i>	3-6-85
Stauffer, William	<i>William Stauffer</i>	3-6-85
Strope, Jesse	<i>Jesse III Strope</i>	
Thomas, Lamar	<i>Lamar Thomas</i>	
Williams, W.T.	<i>Wade T. Williams</i>	
Woodie Land & Livestock	<i>George Woodie (Pres)</i>	
Wortley, Earl	<i>Earl Wortley</i>	

Members of the board of directors of Dry Creek Development, Inc.

Robert Amy, (208) 767-3366

George Woodie (208) 767-3461

SUPPORT LETTER

March 6th. 1985

We as members of the Little Lost River Irrigation District fully support the efforts being made by D and D Stauffer Inc. We believe that replacing the Dry Creek flume with a pipeline will be very beneficial to the people of the valley.

Also we feel that this flume has been hazardous to wild life, livestock etc.

We understand that the discharge water will enter Wet Creek on Section 36 which is private property.

We would hope that construction can be started as soon as possible.

Margaret J. Hays

James J. Anderson

Leslie Jensen

Robert Amy

Frank A. Hartmann

Carlson E. Mays

Doc Amy

Louise M. Deham

Chmn. Blaine Co. Canal

John B. Robinson

Dwain Amy

L.R. Hawley

Lester K. Kipp

W. Morris

W.P. Mays

George Woodie

Frank A. Hartmann, Chairman of the Little Lost River Irrigation Dist.

Number 33 (208) 767-3433

March 6th. 1985

I Frank Hartmann, being a range holder and private property owner in the vicinity of the proposed project, strongly urge the construction of the pipeline. I have lost several cattle and sheep in the concrete flume, also there are many game animals lost when they attempt to jump the fence that boarders the flume.

I am also a member of the Little Lost River Irrigation Dist. and feel that this project will benefit our Irrigation system very much. I very strongly urge that this project can be started and constructed as soon as possible.

Thank You,

Frank^a Hartmann

phone (208)- 767-3433

Frank C. Hartmann



FORSGREN-PERKINS ENGINEERING, p.a.

February 28, 1985

RECEIVED

MAR 4 1985

**Department of Water Resources
Eastern District Office**

Mr. Ernest Carlsen
Regional Supervisor
Idaho Department of Water Resources
Eastern Region
150 Shoup
Idaho Falls, ID 83401

Dear Mr. Carlsen:

D & D Stauffer, Inc., is seeking approval from the Federal Energy Regulatory Commission (FERC) for the construction of a hydropower plant which would utilize the summer irrigation water which is presently diverted from Dry Creek into Wet Creek. The project location, description, and an environmental assessment are contained in the preliminary draft copy of the FERC application, which is provided for your review.

The FERC application will be for an "exemption from licensing for a small conduit hydroelectric facility." The major features of this project which qualify it to be categorized as a small conduit hydroelectric facility are that it:

1. Utilizes, for electric power generation, the hydroelectric potential of a conduit.
2. Is located on private ground.
3. Is not an integral part of a dam and does not include any dam construction.
4. Does not interfere with the beneficial use of the water for its primary purpose, which is irrigation.

You will notice that within the draft application there are references to your agency's response to certain items. These references are intended to assist you in preparing the response that will be included in the final application. The referenced item for the Department of Water Resources response are contained in Exhibit E, Section 2.4

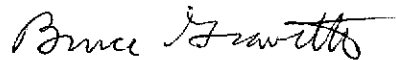
Mr. Ernest Carlsen
February 28, 1985
Page 2

Please be aware that these references, as well as the remainder of the text, will be modified to suit your agency's response. We request your response by March 15, 1985, so that the application may be finalized and submitted to FERC. Your agency, in accordance with Title 18, Chapter 1, Paragraph 4.93(c) of the Federal Energy Regulatory Commission regulations, will then receive notice from FERC that the final application has been accepted for filing and is available for your review comments.

The discussion and investigations that have taken place up to this point on the Dry Creek Hydroelectric project indicate that the project will have an overall positive impact on the natural and human environments in the area. Your continued and prompt assistance in developing this project is vital to insuring that these benefits are realized.

Sincerely,

FORSGREN-PERKINS ENGINEERING



Bruce R. Gravette, P.E.

ccp

Enclosure

RECEIVED
FEB 28 1985
FEDERAL ENERGY REGULATORY COMMISSION

FP

Copies of this letter were sent to:

Mr. Tom Reinecker
Regional Supervisor
Idaho Department of Fish and Game
Region 6
1515 Lincoln Road
Idaho Falls, ID 83401

Mr. W.F. Kopfler, II, P.E.
Regional Engineer
Federal Energy Regulatory Commission
333 Market Street, 6th Floor
San Francisco, CA 94105

Mr. Odell Frandsen
District Manager
U.S. Bureau of Land Management
Idaho Falls District
940 Lincoln Road
Idaho Falls, ID 83401

Mr. Bob Harper
United States Geological Survey
230 Collins Road
Boise, ID 83702

Mr. Ernest Carlsen
Regional Supervisor
Idaho Department of Water Resources
Eastern Region
150 Shoup
Idaho Falls, ID 83401

Mr. Thomas Green
State Archaeologist
State Historic Preservation Office
610 North Julia Davis Drive
Boise, ID 83702

Mr. John P. Wolfin
Field Supervisor
U.S. Department of the Interior
Fish and Wildlife Service
Boise Field Office
4620 Overland Road, Room 209
Boise, ID 83705

Mr. Jerry Conley, Director
Idaho Department of Fish and Game
P.O. Box 25
Boise, ID 83707

Mr. Clair Whitlock, Director
U.S. Bureau of Land Management
State Office
3380 Americana Terrace
Boise, ID 83706

RECEIVED
JUN 10 1970

June 26, 1984

RE: Amended Application for Permit No. 33-7154

Rick or Rob Stauffer
Box 44
Howe, Idaho 83244

Gentlemen:

Though the initial processing of the above captioned application for permit is finished, state law requires certain information be furnished to supplement the filing.

Since the application seeks to establish a water right for power generating purposes, and it appears a commercially marketable amount of power may be produced, the following information must be submitted in accordance with Section 42-202 of the Idaho Code.

1. Preliminary engineering design of the facility identifying approximate locations, dimensions, and elevations of diversion structure, penstock, and generating facility. This should include a scale drawing showing the proposed layout of these structures so the impact to the stream can be determined.
2. An itemized estimate of the construction costs.
3. Demonstration of financial ability to build the project by furnishing either a financial statement showing that the applicant has the necessary financial resources or a letter of commitment to finance the project from an institution with sufficient resources.

RECEIVED

Rick or Rob Stauffer
June 26, 1984
Page 2

To insure there is adequate opportunity for furnishing the above information, all administrative action on your application will be suspended for the next 90 days. Failure to submit the information within this time period could jeopardize the standing of the application with the Department.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

MICROFILMED

June 19, 1984

Rick or Rob Stauffer
Box 44
Howe, ID 83244

Gentlemen:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to your Application No. 33-7154 as amended. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest 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 speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

Enclosure

cc: IDWR - State Office

MICROFILMED

June 19, 1984

RE: Application for Permit No. 33-7154 Amended STAUFFER

Bruce Hillman
Howe,
Idaho 83244

Dear Mr. Hillman:

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 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 an 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 speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

MICHAEL MED

June 19, 1984

RE: Application for Permit No. 33-7154 Amended STAUFFER

Robert C. Amy
Howa,
Idaho 83244

Dear Mr. Amy:

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 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 an 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 speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

MICROFILMED

June 19, 1984

RE: Application for Permit No. 33-7154 Amended STAUFFER

Jerry Pancherl
Howe,
Idaho 83244

Dear Mr. Pancherl:

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 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 an 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 speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

RECEIVED
JUN 20 1984

June 19, 1984

RE: Application for Permit No. 33-7154 Amended STAUFFER

Cecil F. Scott
Howe,
Idaho 83244

Dear Mr. Scott:

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 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 an 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 speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

RECEIVED

June 18, 1984

RE: Application for Permit No. 33-7154 Amended STAUFFER

James Andreason
Howe,
Idaho 83244

Dear Mr. Andreason:

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 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 an 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 speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?

If this office can be of further assistance, please contact us.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

RECEIVED

JUN 11 1984

Department of Water Resources
Eastern District Office

State of Idaho, Department
of Water Resources
150 Shoup Ave.
Idaho Falls, ID 83401

Re: Application No. 33-7154
(Amended), Stauffer, Richard
and Robert

Gentlemen:

Undersigned, who are resident landholders in the area of the above referenced hydro-electric application, file this letter as a protest against the amended application, as presently on file with the Department of Water Resources.

It is the position of undersigned that the Application, as amended, will substantially and adversely impact our use of our land in the area of the operation of the hydro-electric project. Under the amended application, the water proposed for operation of the hydro-electric plant will be injected into the Little Lost River at a point approximately three miles above Wet Creek. At present, little, if any of the water from Dry Creek reaches Little Lost River. Under the original application, the water used for operation of the hydro-plant would have been introduced into Little Lost River at Wet Creek, some three miles below the present, location.

We feel that the introduction of this additional water will cause flooding problems, at two different times of the year. In the spring, the additional water will increase the already existing flood hazard to our property, as the Little Lost River has not previously been required to carry the additional water which will be introduced into its stream bed. Also, the additional water introduced into the Little Lost River, during the winter season, will cause ice jamming in the bed of Little Lost River, with additional flooding hazard. This would endanger not only the lands of the undersigned Protestants, but also improvements of some of us.

State of Idaho, Department
of Water Resources
Page 2

We therefore ask that we be given an opportunity to be heard on the Application and this Protest, in order that the Department be fully advised of the actual and potential hazards from flooding which will be a natural result of the project, under the amended application.

James P. Anderson 767-3395
Howe, Idaho Telephone No.

Cecil F. Scott 767-3394
Howe, Idaho Telephone No.

W. D. [unclear] 767 3419
Howe, Idaho Telephone No.

Robert C. Amy 767-3392
Howe, Idaho Telephone No.

Bruce Hillman 767-3389
Howe, Idaho Telephone No.



RECEIVED
JUN 8 1984
Department of Water Resources
Eastern District Office

June 6, 1984

Mr. Ernest Carlsen
Assistant Regional Supervisor
Department of Water Resources
150 Shoup-Suite 15
Idaho Falls, Idaho 83402

RE: Application for Permit No. 33-1754 Stauffer (Amended), for
Hydropower-Dry Creek.

Dear Ernie:

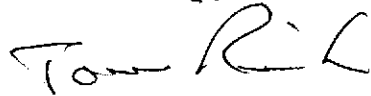
We have reviewed the above referenced application for the use of water in the Dry Creek drainage for hydropower purposes. In general, we believe this project can have net fish and wildlife benefits and we are in concurrence with the project providing the Department's concerns and stipulations can be met.

1. Screening of the diversion will be needed to prevent loss of fish to the penstock and resultant turbine mortalities.
2. All flows in excess of 40 cfs should remain in the natural Dry Creek stream bed for riparian habitat and wildlife needs.
3. Consideration will be needed in design for installation of wildlife and stock water along the entire length of the penstock.

4. The power plant discharge should be located in the Little Lost River at a point downstream of the confluence of Summit and Sawmill creeks to minimize instability and aquatic riparian habitat loss to the Summit Creek station.

We will continue to work with the Stauffer's on this project during FERC consultations.

Sincerely,



Tom Reinecker
Regional Supervisor
Region 6

cc: BLM, Idaho Falls
Fisheries
Steve Elle
USFWS

May 17, 1984

RE: Application for Permit No. 33-7154 STAUFFER (Amended)

David Andreason, Watermaster
Water District No. 33
Howe, Idaho 83244

Dear Mr. Andreason:

We are enclosing a copy of an application that may be of interest to your water district. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is June 11, 1984, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

6994831000

May 17, 1984

RE: Application for Permit No. 33-7154 STAUFFER (Amended)

Bureau of Land Management
940 Lincoln Road
Idaho Falls, ID 83401

Gentlemen:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is June 11, 1984, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

May 17, 1984

RE: Application for Permit No. 33-7154 STAUFFER (Amended)

Mr. Tom Reinecker
Regional Supervisor
Department of Fish & Game
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Tom:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is June 11, 1984, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

MAY 16, 1984

Custer County Publishing Co.
P. O. Box 405
Challis, Idaho 83226

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JUNE 11, 1984.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

RECEIVED
MAY 17 1984

NOTICE OF AMENDED APPLICATION FOR WATER PERMIT

Notice is hereby given that application for permit No. 33-7154 in the name of Rick or Rob Stauffer, Howe, Idaho was filed for the diversion of 40.0 cfs of water from Dry Creek tributary to Little Lost River, with points of diversion within NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 10N, R. 25E; SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36, T. 10N, R. 24 $\frac{1}{2}$ E; NW $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot 2), Sec. 1, T. 9N, R. 24 $\frac{1}{2}$ E, B.M., Custer County; to be used from Jan. 1 to Dec. 31 for power purposes within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 33, T. 10N, R. 26E.

The applicant now proposes to amend application No. 33-7154 changing the place of use to the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, T. 10N, R. 26E, B.M.

Any protest to the proposed amending of the application must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402, on or before June 11, 1984.

A. KENNETH DUNN

Director

Published 5/24 + 5/31/84

**NOTICE OF AMENDED
APPLICATION FOR
WATER PERMIT**

Notice is hereby given that application for permit No. 33-7154 in the name of Rick or Rob Stauffer, Howe, Idaho was filed for the diversion of 40.0 cfs of water from Dry Creek tributary to Little Lost River, with points of diversion within NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 31, T. 10N, R. 25E; SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36, T. 10N, R. 24 $\frac{1}{2}$ E; NW $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot 2), Sec. 1, T. 9N, R. 24 $\frac{1}{2}$ E, B.M., Custer County; to be used from Jan. 1 to Dec. 31 for power purposes within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 33, T. 10N, R. 26E.

The applicant now proposes to amend application No. 33-7154 changing the place of use to the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, T. 10N, R. 26E, B.M.

Any protest to the proposed amending of the application must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402, on or before June 11, 1984.

A. KENNETH DUNN
Director

Published: May 24 & 31, 1984.

INTER-DEPARTMENT MEMO — 1

DATE May 3, 1984

FROM Keith C. Wilson

TO File

SUBJECT 33-7154

Rob Stauffer came in today to see about amending application. Harold had previously had amendment typed. Rob Stauffer and I completed map and Rob Stauffer took amendment with him with understanding that the amendment be returned as soon as possible with \$20 filing fee see attached copy of Amended Application.



Keith C. Wilson

SIGNATURE

OPTION AGREEMENT

This agreement, made and entered into this 29th day of March, 1984, by and between D & D Stauffer - Dry Creek Hydroelectric Project - Rick and Rob Stauffer and Pancheri & Co. - Jerry Pancheri.

Whereas, the above parties have engaged in this agreement for the purpose of right of ways and use of power lines, etc., on the following property:

NE $\frac{1}{4}$ of Sec. 13 T 10 N - R 26 E Boise Meridian

In consideration of the mutual agreements the parties do agree as follows:

1. Line

D & D Stauffer will pay one-half the cost of Pancheri's line (valued at \$20,000.00) or \$10,000.00. Stauffer will guarantee to stand all costs if any changes are made to line. Stauffer will guarantee no damage will occur to Pancheri's Hydro because of Stauffer's Hydro.

2. Option to Buy

D and D Stauffer will buy the land the Hydro sets on at \$1,000.00 per acre and will have the option to buy five (5) acres at \$1000.00 per acre.

3. Pipe

D and D Stauffer will lay pipe to the river. Pancheri and Co. has the option to have a feasibility study done on their own, to determine the possibility of using water from Hydro to river for Hydro development. Pancheri has first right for development after leaving Stauffer Hydro if feasibility study indicates.

4. Easement

Pancheri and Co. will give an easement (pipeline and road) down fence line between Andreason's and Pancheri's property to river.

5. Land Description

NE $\frac{1}{4}$ of Sec. 13 T 10 N - R 26 E Boise Meridian

6. Payment

All moneys to be paid when D and D Stauffer goes on line.

Rick Stauffer
Rick Stauffer

Rob Stauffer
Rob Stauffer

Jerry Pancheri
Jerry Pancheri

*

RIGHT OF WAY AGREEMENT

This agreement is entered into this day the 29th March 1984.
Between Frank Hartman and D&D Stauffer Dry creek Hydroelectric,
Rick and Rob Stauffer.

1. I Frank Hartman give full right and permission for the Stauffer pipeline (Which will be buried) to cross my land located as follows:

N W 1/4 S W 1/4 Sec. 15 T10N
R 25 E N 1/2 S 1/2 and S 1/2
N 1/2 Sec. 18 T10N R 25 E S E 1/4
S W 1/4 Sec. 13 T10N R 25 E.

2. Stauffers agree to install watering trough's in accordance with the Dry Creek ditch. This is will be done with assistance from the Livestock producers involved, the Idaho Fish and Game, Bureau of Land Management, to be fully paid for by the Stauffers.

D&D Stauffer will maintain any pipeline and valves to all existing water trough's. The Stauffers will guarantee water to all water trough's for the life time of the pipeline.

Rick Stauffer

Rick Stauffer

Rob Stauffer

Rob Stauffer

Frank Hartman

Frank Hartman

RECORDED
INDEXED

1-X



STATE OF IDAHO

File Dry Creek

DEPARTMENT OF LANDS

Eastern Idaho Area Office
Route 1, Box 400 (Beeches Corner)
Idaho Falls, Idaho 83401

February 6, 1984

Ted S. Sorensen
550 Linden Drive
Idaho Falls ID 83401

Dear Mr. Sorensen:

Reference is made to your letter of 3 February 1984 requesting a reply from me concerning your desire to place a waterway across Section 16, Township 10 North, Range 26 East in Butte County. Said waterway to transport water from Dry Creek to a proposed hyproelectric power plant for Dry Creek Hydroelectric.

To help you with your application to the Federal Energy Regulator Commission (FERC) I will make the following statement:

The easement requested by Dry Creek Hydroelectric for a waterway across Idaho endowment land in Section 16, Township 10 North, Range 26 East, B.M. to move water from Dry Creek for use at a hydroelectric power plant will precede all other such subsequent requests to the state. The Idaho Department of Lands will consider this request as having first priority and this area can recommend its approval by the Idaho State Board of Land Commissioners - once approval of the project is given by the (1) Idaho Department of Fish and Game, (2) The Idaho Department of Water Resources, and (3) The Federal Energy Regulatory Commission. The Board itself must give their final approval and grant the easement which will include an equitable rental fee and a negotiated percentage of the gross annual proceeds of the project.

Sincerely yours,

L.D. BENEDICK
Area Supervisor

LDB/mlw

cc: Chief, Bureau of Lands

RECEIVED

August 22, 1983

On August 10, 1983, the Board of Directors* of Dry Creek Development, Inc., met with Rick Stauffer and Rob Stauffer to discuss a proposed hydro project to be constructed on Dry Creek by the Stauffers. The Stauffers have asked Dry Creek Development, Inc., to transfer their existing energy permit for 18 cfs (permit #33-708) to them. It was agreed upon by the Board of Directors to transfer the energy permit to the Stauffers if the following conditions were agreed upon. Namely:

1. Richard and Robert Stauffer would install large enough pipe to carry 4000 inches of water.
2. Any water that would be saved as a result of the hydro project would remain in the Blaine County Canal.
3. The energy permit (#33-708) for 900 inches (18 cfs) would be returned to Dry Creek if the proposed hydro project has not reasonably progressed by October 1, 1985.

Richard Stauffer
Richard Stauffer

Robert Stauffer
Robert Stauffer

STATE OF Butte
County of Butte

On this 22 day of August in the year 1983 before me personally appeared Richard Stauffer and Robert Stauffer

known to me.....to be the persons who is described in and who executed the within and foregoing instrument and acknowledge to me that they executed the same.

My commission expires 3-6-85.....Notary Public, Butte County

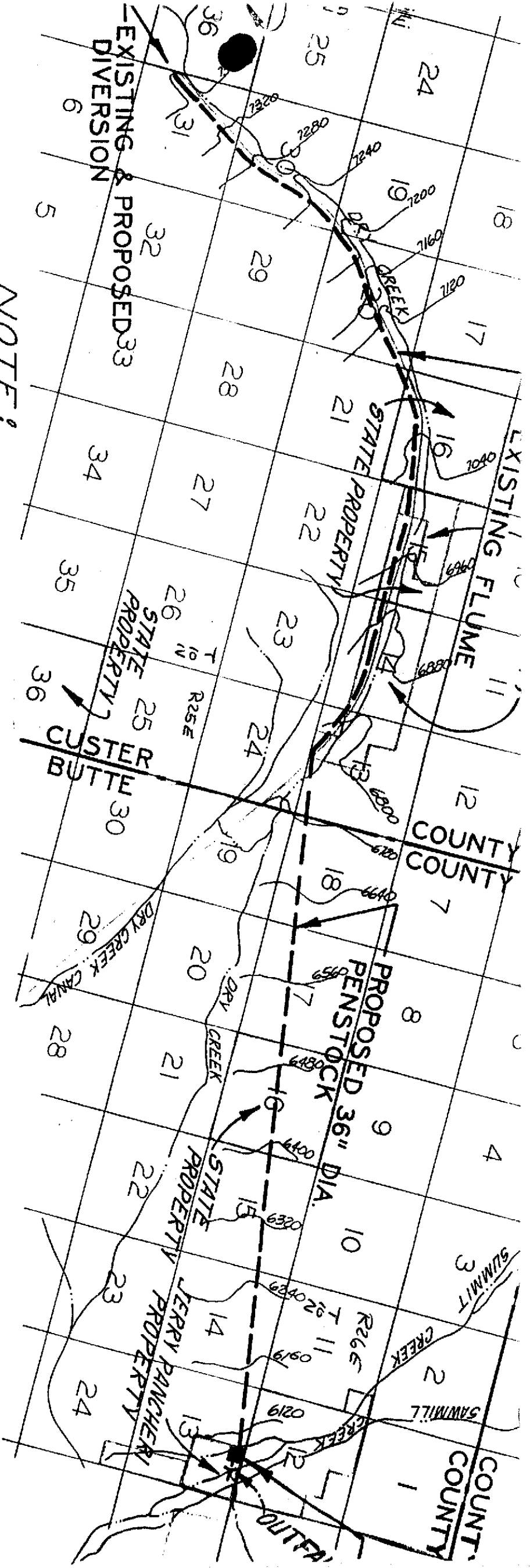
*Board Members in attendance at said meeting were: Enlem Mays, Robert Amy, Bill Stauffer, George Woodie, Earl Wortley and Pat Woodie

RECORDED

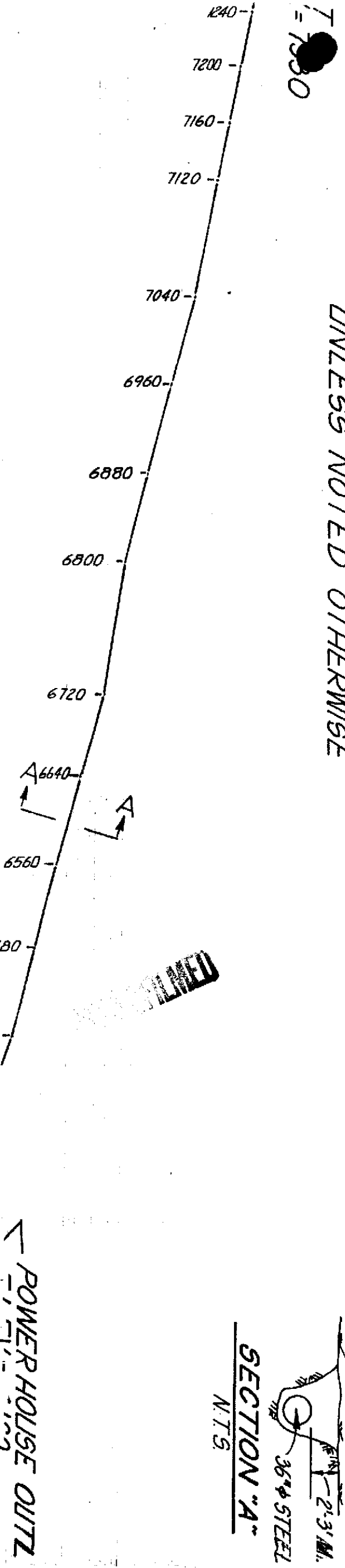
RECEIVED

NOV 2 1983

Department of Water Resources
Eastern District Office



NOTE!
 ALL PROPERTY SHOWN IS B.L.M OWNED
 UNLESS NOTED OTHERWISE



POWERHOUSE OUTL

October 6, 1983

Rick & Rob Stauffer
Box 44
Howe, ID 83244

RE: Residency Affidavit for Assigned Permit #33-7089

Gentlemen::

In August 1983, Dry Creek Development, Inc. assigned to you the above captioned hydropower permit. In accordance with Sections 42-206 and 42-207 of the Idaho Code as the new permit holders you must provide verification of Idaho residency and confirm whether or not the project will use an existing irrigation facility. To satisfy these requirements please complete items A.1 & B of the enclosed residency affidavit and return it to this office bearing your notarized signatures.

It is my understanding you intend to use the existing concrete ditch in constructing the project which is now covered by both permit #33-7089 and application #33-7154. Provided this is correct you must obtain an affidavit from Dry Creek Development, Inc. confirming they have granted you permission to use their ditch. This affidavit should be submitted in duplicate, one for each filing.

Respectfully submitted,

ERNEST CARLSEN
Asst. Regional Supervisor

EC:dk

Enclosures

Ernest Carlson
Affidavit Power
33-7089
10-12-83

CONVERSATION MEMORANDUM

DATE 9-7-83

FILE 33-7154

NAME OF PARTY Rick & Rob Stauffer.

EMPLOYEE Ernie

RE: The Stauffers were in this P.M. to obtain information of filling a storage Cg to supplement natural flow for hydropower. They plan to use the ~~same~~ site where Blaine County Livestment Co. previously constructed an 8.3 ft. high dam (see. 33-2015). P.

MICROFILMED

M E M O

TO: File
FROM: Ernie Carlsen
RE: Application No. 33-7154
DATE: August 16, 1983

Rick and Rob Stauffer came in this p.m. to check on the status of their application. They were given a copy of comment letters we received from Fish and Game and the Bureau of Land Management, and advised the Department would take no further action until they provided a statement of financial resources and verification that FERC had ruled on its jurisdiction over the project. They have started proceedings with FERC and indicated their financial backing will be established after determining feasibility of the project.

MAINTAINED

IN THE MATTER OF:)
Dry Creek Development, Inc.)
Howe, Idaho 83244)

AFFIDAVIT

RECEIVED

AUG 16 1983

Department of Water Resources
Eastern District Office

State of Idaho)
County of Butte)

Emlen G. Mays, President

being first duly sworn,

deposes and says: Following a Board of Directors meeting of

Dry Creek Development, Inc., it was decided and agreed upon

to transfer the energy permit for 18 cfs (granted under

permit # 33-7089) to Rick Stauffer and Rob Stauffer. It

was further agreed to comply with certain provisions listed

under seperate cover.

Emlen G. Mays
(Signature)

Subscribed and sworn to before me this 12 day of August, 1983

Jacqueline G. Dray
(Notary Public)

Residing at Howe, Id. Butte County.
My Commission Expires 3-6-85

RECEIVED



United States Department of the Interior

IN REPLY REFER TO

7250.4

BUREAU OF LAND MANAGEMENT

Idaho Falls District
940 Lincoln Road
Idaho Falls, Idaho 83401

AUG 5 1983

Ernest Carlsen
State of Idaho
Department of Water Resources
Eastern Region
150 Shoup - Suite 15
Idaho Falls, Idaho 83402

RECEIVED

AUG 8 1983

Department of Water Resources
Eastern District Office

Re: Application for Permit No. 33-7154 Stauffer

Dear Mr. Carlsen:

We have reviewed the above referenced application for permit. At this time we do not have significant conflicts with the proposal. However, because the system would be constructed primarily on public lands, Mr. Stauffer will be required to obtain a right-of-way from BLM for this development. He will not be able to perfect his water right until he secures this right-of-way. Mr. Stauffer has already taken preliminary steps to file a right-of-way application. An environmental assessment will be written as part of the right-of-way approval process.

Item #10 of the Application for Permit specifies that Mr. Stauffer will get a "special use permit" from BLM. The correct permit for this development would be a right-of-way, not a special use permit. You may want to make this correction on the application.

Thank you for the opportunity to comment.

Sincerely,

James Gabettas
Acting District Manager

RECEIVED



IDAHO DEPARTMENT OF FISH AND GAME
REGION 6
1515 Lincoln Road
Idaho Falls • Idaho • 83401

August 2, 1983

Mr. Ernest Carlsen
Assistant Regional Supervisor
State of Idaho
Department of Water Resources
150 Shoup - Suite 15
Idaho Falls, Idaho 83402

RECEIVED

AUG 3 1983

Department of Water Resources
Eastern District Office

RE: Application for Permit No. 33-7154
Stauffer, For Hydropower - Dry Creek

Dear Ernie:

We have reviewed the above referenced application for the use of water in the Dry Creek drainage for hydropower purposes. We have no objections to this project at this time with the understanding that some of the minimum flow will have to be established after assessment of trout populations is made. Screening of the intake and maintenance of water quality will have to be designed into this project.

We will continue to work with the Stauffer's on this project during the FERC consultations.

Sincerely,

Tom Reinecker
Regional Supervisor
Region 6

RECEIVED

July 20, 1983

RE: Application for Permit No. 33-7154 STAUFFER

Kent Spencer, Watermaster
Water District No. 33
Howe, Idaho 83244

Dear Mr. Spencer:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is August 8, 1983, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

July 20, 1983

RE: Application for Permit No. 33-7154 STAUFFER

Bureau of Land Management
940 Lincoln Road
Idaho Falls, ID 83401

Gentlemen:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is August 8, 1983, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

100-115180-100

July 20, 1983

RE: Application for Permit No. 33-7154 STAUFFER

Mr. Tom Reinecker
Regional Supervisor
Department of Fish & Game
1515 Lincoln Road
Idaho Falls, ID 83401

Dear Tom:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is August 8, 1983, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

33-7154

STAUFFER, RICK &/or ROB

BOX 44, HOME, ID 83244

Source: DRY CREEK trib. to LITTLE LOST RIVER

Date Filed: 07/01/1983

Diversion Pt: NENW Sec 31 T 10N R 25E SWSE Sec 36 T 10N R 24E LOT 02 (NWNE)
Sec 01 T 09N R 24E

Use: POWER (40.00 CFS)

In: SESE Sec 33 T 10N R 26E

RECORDED

STAFF SHEET FOR POWER GENERATION

INITIAL REVIEW BY 4WJ

APPLICATION NO. _____

DATE REQUESTED

IN FILE

Form 205/206

Financial statement if
operating capacity is more than

500 HP

0.37 MW

373 KW

Statement declaring what the
applicant proposes to do with
the generated power.

(NOT MANDATORY)

Efficiency is between 85% and 60%

P = kilowatts .74 x hp

Q = c.f.s.

H = feet

e = efficiency

$$e = \frac{P (11.8)}{QH} = \frac{(2000) (11.8)}{(40) (960)} = \frac{23600}{38400} = \underline{61.96}$$

RECEIVED

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION
APPLICATION FOR EXEMPTION FROM LICENSING
FOR A SMALL CONDUIT HYDROELECTRIC FACILITY

BY
D & D STAUFFER, INC.

FOR
HYDROELECTRIC POWER DEVELOPMENT

AT THE
DRY CREEK IRRIGATION OUTFALL

PRELIMINARY PERMIT NO. 7623

FEBRUARY 28, 1985

[REDACTED]

DRY CREEK IRRIGATION OUTFALL
HYDROELECTRIC POWER DEVELOPMENT

INTRODUCTORY STATEMENT

1. D & D Stauffer, Inc. applies to the Federal Energy Regulatory Commission for an exemption for the Dry Creek Hydropower Facility, a small conduit hydroelectric facility that meets the requirements of Section 4.91 (f) of this Subpart, as more fully explained in Paragraph 9 of Exhibit A, from certain provisions of Part I of the Federal Power Act.
2. The location of the facility is:

State: Idaho

County: Butte. Specifically, Section 36, Range 26 East,
Township 10 North

Nearby Town: City of Howe, approximately 30 miles southeast of
proposed hydropower facility
3. The exact name and business address of the applicant is:

D & D Stauffer, Inc.
P.O. Box 501
Arco, ID 83213
(208) 527-3087
4. The exact name and business address of each person authorized to act as agent for the applicant in this application are:

Bruce R. Gravette, P.E.	Mr. Rob Stauffer
Forsgren-Perkins Engineering	P.O. Box 501
350 North 2nd East	Arco, ID 83213
Rexburg, ID 83440	(208) 527-3087
(208) 356-9201	

Mr. Rick Stauffer
Howe, ID 83244
(208) 767-3356
5. D & D Stauffer, Inc. is a corporation under the laws of the State of Idaho.
6. Exemption is requested from all of the provisions of Part I of the Federal Power Act.

7. The undersigned does hereby submit this application, the attachments thereto, and Exhibits A, B, E, and G submitted herewith on behalf of D & D Stauffer, Inc.

By Rob Stauffer
Rob Stauffer, President
D & D Stauffer, Inc.

ATTEST Rick Stauffer



EXHIBIT A
SUMMARY OF PROPOSED PROJECT
AND APPENDIX A

DRY CREEK IRRIGATION OUTFALL HYDROELECTRIC POWER DEVELOPMENT

PROJECT OVERVIEW

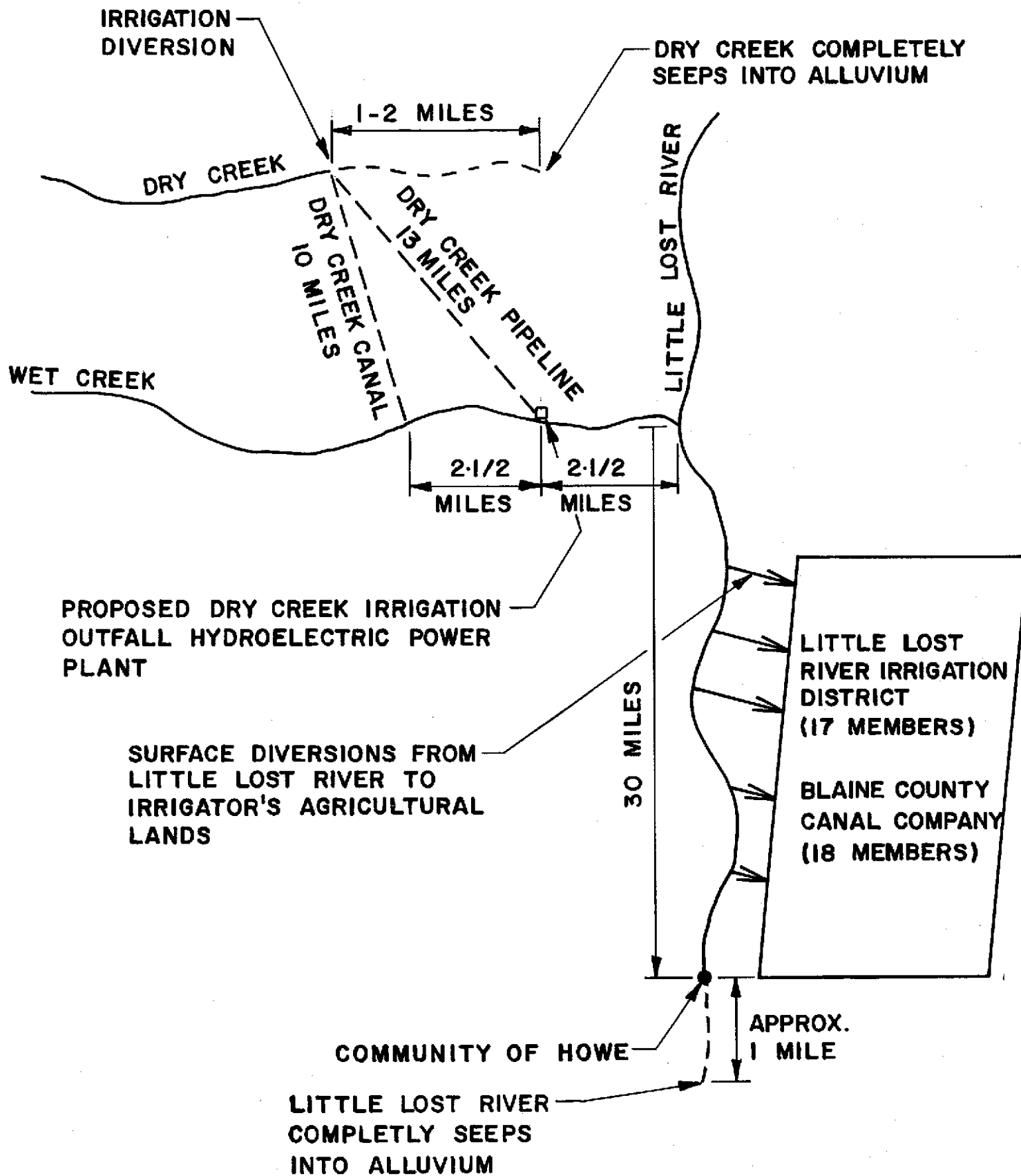
The Applicant is proposing a 3.6 MW hydropower facility which will be connected to an agricultural irrigation system which transports irrigation water from the Dry Creek Basin to the Wet Creek Basin. An examination of the drawing provided on the next page will help understand the configuration of the existing irrigation system and the relationship of the proposed hydroelectric power plant.

An existing diversion structure located on Dry Creek diverts water into an existing concrete irrigation flume which carries the water to Wet Creek, a distance of approximately ten miles. The irrigation water then flows downstream to the Little Lost River, a distance of approximately five miles. The irrigation water is diverted from the Little Lost River as it flows toward the community of Howe, Idaho by the irrigators who are members of the Little Lost River Irrigation District or the Blaine County Canal Company. The diverted water is used to irrigate crops such as hay, wheat, barley, and potatoes, and to provide fresh water for the livestock which are raised in the area.

There are many problems associated with the operation of the existing irrigation flume. The flume is approximately 20 years old and is in a poor state of repair. The flume allows approximately 25 percent of the diverted water to be lost through exfiltration into the porous ground surrounding the flume. Annual repairs are becoming increasingly expensive. The operation of the flume also results in a significant number of big game animals as well as livestock losses each year as animals fall into the flume and are swept downstream by the irrigation water, which travels approximately 15 miles per hour.

The irrigation companies, as well as the Fish and Game Department and the Bureau of Land Management, desire to take the existing concrete flume out of service and replace it with a buried, 36-inch pipeline. This pipeline will deliver the irrigation water, which ranges from 40 to 70 cfs, to Wet Creek at a point approximately 2-1/2 miles below where the concrete flume presently empties into Wet Creek. By discharging the irrigation water further downstream on Wet Creek, the fish and wildlife habitat in the 2-1/2 mile section of Wet Creek will actually be benefitted due to the restoration of natural stream flows in this river section.

The proposed hydroelectric facility would utilize the power potential of the 36-inch pipeline, which would be approximately 12.4 miles long and have an elevation drop from the diversion structure to the proposed power plant of approximately 1,135 feet. The irrigation use of the water would remain unchanged. All of the irrigation water diverted from Dry Creek and utilized by the proposed power plant would be withdrawn downstream by the irrigators, as it is under the present system.



**LITTLE LOST RIVER BASIN
IRRIGATION SYSTEM SCHEMATIC**

DRY CREEK IRRIGATION OUTFALL
HYDROELECTRIC POWER DEVELOPMENT

EXHIBIT A

DESCRIPTION OF PROPOSED PROJECT

1. The project will utilize an existing diversion structure and modify an existing irrigation water transmission system to deliver Dry Creek irrigation water to a proposed power plant which will discharge the water to Wet Creek which has, since 1965, transported the irrigation water to the Little Lost River, approximately 2-1/2 miles downstream. Irrigators of the Blaine County Canal Company and the Little Lost River Irrigation District would then divert their allotted surface water rights from the Little Lost River for their irrigation needs, as under the present system.

The various private irrigation diversions are located along the length of the Little Lost River between the Wet Creek confluence and the community of Howe (see the schematic drawing on the previous page). The delivery of the Dry Creek irrigation water to the Little Lost River is of vital importance to the local economy of the Howe, Idaho area. (No surface water remains in the Little Lost River channel a few miles downstream of the community of Howe due to the porous nature of the channel bottom.)

The existing water transmission system consists of a concrete flume which delivers irrigation water to Wet Creek at a point approximately 2-1/2 miles upstream of the proposed power plant site. The existing concrete flume, which is approximately ten miles long, is becoming a maintenance headache and poses an extreme safety hazard to wildlife and livestock as explained in detail in Exhibit E. The irrigators desire to replace the flume with a 36-inch irrigation pipeline which will deliver the water to Wet Creek. The proposed pipeline will eliminate water transmission losses, estimated at 25 percent, as well as drastically reduce operating costs and eliminate the annual loss of wildlife and livestock that occur in the existing irrigation flume.

The proposed project, therefore, does not include the construction of a diversion structure and it will utilize appropriated irrigation water to produce power. This project possesses significant environmental benefits by restoring land and streambed areas to a natural state as explained in Exhibit E.

2. The source of water for this project is Dry Creek. The existing irrigation diversion structure is located in the northwest quarter of Section 31, T.10N., R.25E., east of the Boise Meridian. The diversion structure consists of a concrete wall approximately 30 feet long and 5 feet high which extends about halfway across Dry Creek. The amount of

water that is diverted is regulated by the amount of riprap material that is maintained adjacent to the concrete diversion structure. A diagram of the existing diversion showing the proposed modifications is presented in Exhibit B-5.

3. The primary purpose of the conduit is to transport irrigation water from Dry Creek to the Little Lost River Basin to be utilized by the irrigators belonging to the Little Lost River Irrigation District and the Blaine County Canal Company.
4. There will be one generating unit having a capacity of 3.6 MW. There will be no provisions for future units.
5. The turbine will be an impulse type.
6. The plant will be automatic and will utilize a run-of-the-river mode of operation.
7. Operating Characteristics:
 - a. Average Annual Operation: 17,700,000 kwh
 - b. Average Head of the Plant: 1,100 feet
 - c. Hydraulic Capacity of the Plant: 70 cfs maximum, 8 cfs minimum
 - d. Average Flow of the Conduit: 31 cfs
 - e. Amount of (D) Above Available for Power Generation: 100 percent
8. The planned date for beginning construction of the facility is August 1, 1985.
9. The irrigators of the Blaine County Canal Company and the Little Lost River irrigators, who own Dry Creek water rights, formed the Dry Creek Development Company and constructed the existing concrete flume in 1965. The harsh environment and varying soil conditions have since caused buckling and other structural problems with the concrete flume and the annual repairs delay the delivery of irrigation water as well as increase the operation and maintenance costs of delivering water. Therefore, the irrigators now plan on replacing the flume with a buried pipeline which will have a capacity of 70 cfs. The proposed power plant will, therefore, also have a 70 cfs flow through capacity.

The proposed hydroelectric facility will utilize appropriated water rights during the summer irrigation season (approximately May 15 through October 15) to generate power. The water rights are as follows:

<u>Owner</u>	<u>Amount</u>	<u>Date of Water Right</u>
Blaine County Canal Company	5 cfs	1891
Little Lost River Irrigators	18 cfs	1891
Blaine County Canal Company	17 cfs	1909
Blaine County Canal Company	<u>110 cfs</u>	1912
Total	150 cfs	

Although the irrigators hold the water rights for essentially the entire irrigation season flow in Dry Creek, limitations in the carrying capacity of the concrete flume permit the diversion of only 60 to 70 cfs. All of this diverted water is used for agricultural purposes in the Little Lost River Basin. Typically, all of the water shares of the irrigation company members are satisfied early in the irrigation season; however, beginning in late July/early August, flows in Dry Creek are greatly reduced and shares are satisfied based on the relative age of the shares, and many irrigators must pump the needed irrigation water from private wells.

Statements from the respective irrigation companies allowing the use of the appropriated water for hydropower purposes are contained in Appendix A-1. Also contained in Appendix A-1 is a statement from the Dry Creek Development Corporation which explains how the replacement of the concrete flume with the buried pipeline will benefit their irrigation operation, plus increase the safety of the water transmission process. The statement is signed by the members of the Dry Creek Development Company, and the respective Dry Creek irrigation water shares of each member are shown on the signature sheet.

Presently, during the non-irrigation season the Dry Creek flow bypasses the diversion structure and, because of the porous nature of the alluvium channel bottom, seeps into the groundwater system within a distance of one to two miles. There is no existing fishery below the point of diversion due to the lack of a dependable water supply.

The proposed operating schedule of the power plant would divert this non-irrigation season flow for power production purposes also. Therefore, the power plant will continue to operate at a significantly reduced flow rate of between 12 to 25 cfs during the non-irrigation season. The estimated non-irrigation season flow amounts to only 29 percent of the total yearly flow of the proposed power plant. To ensure that all non-irrigation season flows are completely infiltrated into the groundwater system, and that groundwater levels in the area are maintained at their present levels, infiltration methods, as described in Exhibit E, Section 2.3.3, will be employed.

The diversion of the non-irrigation season flows will not have any adverse impacts on the environment below the Dry Creek diversion due

to the lack of an existing fishery in this stream area. A letter dated April 8, 1985 from the Idaho Department of Fish and Game is presented in Appendix E-6 which confirms that no environmental impacts will result in the Dry Creek drainage below the diversion point from the diversion of the non-irrigation season flows.

A proposed operating schedule, based on a professional hydrogeologist's report on the estimated monthly Dry Creek flows, is presented below:

<u>Month</u>	<u>Total Stream Flow</u>	<u>Diverted Flow (cfs)</u>	<u>Month</u>	<u>Total Stream Flow</u>	<u>Diverted Flow (cfs)</u>
January	12	12	July	81	70
February	12	12	August	33	33
March	12	12	September	22	22
April	24	24	October	18	18
May	98	70	November	14	14
June	150	70	December	13	13

Flows had to be estimated because no gauge or flow records existed for Dry Creek. The hydrologist's report is presented in Appendix A-2.

The diversion schedule of the Dry Creek flows during the irrigation season, shown in the preceding table, does not signify a change from the diversion schedule that is presently in effect for the irrigation system. Therefore, the same amount of water will be diverted during the irrigation season after the construction of the proposed hydropower plant as is currently diverted into the concrete flume.

In summary, it can be seen from the proposed operating schedule of the hydropower facility that approximately 71 percent of all the water diverted for hydropower production will be withdrawn downstream by the shareholders of the irrigation companies. The remaining 29 percent, which will be diverted during the non-irrigation season, will be returned to the groundwater system to ensure that groundwater levels in the agricultural area are maintained at the present levels. The infiltration methods used to ensure the complete return of the discharged water to the groundwater system are more fully explained in Exhibit E, Section 2.0 of this report.

If it is determined that a petition for a partial waiver of Section 4.91(f) (5) is required, then the information provided may be applied for this purpose. To cover the non-irrigation season flows, D & D Stauffer, Inc. hereby requests such a waiver, however, the applicant

does not feel a waiver is required based on the information presented here and the fact that all of the water would be utilized for irrigation purposes during the irrigation season.

10. No dam construction is involved in this project. The existing concrete flume below the diversion structure on Dry Creek will be modified slightly to direct the flow into a 36-inch pipeline (see Exhibit B-5).

The normal surface water area of the existing diversion structure is .2 acres and the normal elevation is 7315 feet above sea level.

This project offers significant benefits to the natural and human environments in the Little Lost River Basin. The fish and wildlife populations will be benefitted through the elimination of the dangerous concrete flume and canal system which destroys many birds and mammals each year, and leaves many fish stranded when irrigation flows are discontinued at the end of the season. During the most recent irrigation season, approximately ten big game animals perished in the flume as well as approximately ten head of livestock. (See Appendix E-2 for further explanation of how the animals are trapped within the flume and the efforts that have been expended by the Bureau of Land Management and the Fish and Game Department to prevent these losses.)

The discharge point of the proposed irrigation pipeline is 2-1/2 miles downstream of the existing irrigation outfall. Therefore, a natural stream flow environment which permits fish spawning and other vital wildlife activities will be restored in this stream section.

The irrigators will benefit in that transmission losses will be eliminated, operation and maintenance costs drastically reduced, and the cost to cover the existing concrete flume to improve animal safety will be avoided. Improved water delivery to the agricultural areas will benefit the local economy by reducing power costs for pumping irrigation water from private wells and increasing crop yields.

The existing concrete flume will be covered and the construction area reseeded during the installation of the irrigation pipeline, which will restore the land to a natural state. State and Federal agencies, which have for years sought a solution to the flume safety hazard, have been extensively involved in the development of this project and would like to see the project constructed as soon as possible (see Appendix E).

APPENDIX A-1
CORRESPONDENCE FROM
IRRIGATION COMPANIES

Howe, Idaho
November 2, 1984

Letter of Approval:

At a Blaine County Canal Company Board of Directors' meeting held November 2, 1984, an agreement was made between Blaine County Canal Company, Ltd. and D & D Stauffer, Inc.

1. Blaine County Canal Company, Ltd. gives approval for the construction of this proposed project and the use of Blaine County Canal Company, Ltd. decreed water for hydroelectric use.
2. It is understood by both parties that any excess water saved as a result of the building of this pipeline will be delivered to Blaine County Canal Company, Ltd. for irrigation purposes.
3. Blaine County Canal Company, Ltd. feels that this project will greatly benefit the delivery of water to our system.
4. Blaine County Canal Company would like construction on this project to begin as soon as possible.
5. There are no other agreements between Blaine County Canal Company, Ltd. and D & D Stauffer, Inc., either written or implied.

BLAINE COUNTY CANAL COMPANY, LTD.

Telephone (208) 767-3443

Ronald M. Johnson
Board Chairman

W. T. Williams
Vice Chairman

Symon D. Haight
Board Member

D & D STAUFFER, INC.

Rick Stauffer
Rick Stauffer

Rob Stauffer
Rob Stauffer

SUPPORT LETTER

March 6th. 1985

We as members of the Little Lost River Irrigation District fully support the efforts being made by D and D Stauffer Inc. We believe that replacing the Dry Creek flume with a pipeline will be very beneficial to the people of the valley.

Also we feel that this flume has been hazardous to wild life, livestock etc.

We understand that the discharge water will enter Wet Creek on Section 36 which is private property.

We would hope that construction can be started as soon as possible.

Margaret J. Haynure

James J. Anderson

Leslie Jensen

Robert Amy

Frank A. Hartmann

Carlson L. Mays

Doc Lewis

Donald W. Deham

Chmn. Blaine Co. Canal

John B. Robinson

Delvin Amy

L. D. Hawley

Lester Keiser

Al Norris

Al P. Mays

George Woodie

Frank A. Hartmann, Chairman of the Little Lost River Irrigation Dist.

Number 33. (208) 767-3433

AN AGREEMENT BETWEEN DRY CREEK DEVELOPMENT, INC.
AND D & D STAUFFER, INC.

Dry Creek Development, Inc. (hereafter referred to as the "Company") desires to establish its support of the D & D Stauffer, Inc. proposed hydroelectric project which would replace the Company's existing irrigation flume with a buried irrigation pipeline on our behalf. The proposed construction would increase the efficiency and lower the cost of delivering irrigation water to our members and increase the safety of our overall operation; specifically:

1. The replacement of the 20-year-old concrete-lined irrigation flume would serve the Company approximately \$15,000-20,000 per year in annual maintenance costs, which will increase dramatically as the flume gets older. The cost of replacing the flume at some future date will have a severe economic impact on the Company's members.
2. The replacement of the flume would eliminate channel conveyance losses, estimated at 10-15 percent. This would ensure that during dry years the Company would be able to deliver a maximum amount of water to its members.
3. The proposed project would allow the Company to divert water approximately one month earlier in the year. This is because the Company would not have to perform spring maintenance on the concrete irrigation flume prior to diverting the Dry Creek flow.
4. The proposed project would eliminate the extreme safety hazard now associated with the open irrigation flume. The Company is extremely concerned that the operation of the flume unavoidably results in the loss of wildlife such as deer and elk and sometimes livestock. The Company recognizes that to make an existing irrigation flume totally safe would require an investment of over \$ 1 million.
5. The Company desires that the D & D Stauffer Company proceed with this proposed hydroelectric project as soon as possible.

To assist D & D Stauffer, Inc. in gaining approval for the hydroelectric project, the Company agrees to the following conditions:

1. D & D Stauffer will deliver a maximum of 70 cfs to Wet creek in Sec. 36 T 10 N R 26 E East of the Boise Meridian discharge point will be approximately two miles below the existing discharge point of the irrigation flume.
2. The Company grants D & D Stauffer, Inc. permission to install a 36-inch buried irrigation pipeline in the 100 foot right-of-way controlled by the Company and owned by the BLM, the State of Idaho, and Hartman Land and Livestock, Inc. The Company approves the preliminary proposal to install the pipeline approximately 15 feet on the opposite side of the existing flume from the access road, and that in the areas where the proposed pipeline is adjacent to the existing flume, sufficient spoil from the pipeline installation will be placed in the flume to completely cover the flume and restore the area to its natural state.
3. D & D Stauffer may perform minor modifications to the existing diversion structure to divert water into the proposed 36-inch pipeline. These modifications are expected to occur immediately downstream of the existing diversion structure (see Figure 1).
4. The Company grants D & D Stauffer full right and permission to operate and maintain all structures associated with the irrigation pipeline, including the existing diversion works and its minor modifications and the stock watering troughs including branch waterlines and valves.

SHAREHOLDERS - DRY CREEK DEVELOPMENT, INC.

<u>Name</u>	<u>Signature</u>	<u>Date</u>	<u>Shares</u>
<u>CLASS A</u>			
Amy, Delwyn	<i>Delwyn Amy</i>	3-6-85	80
Amy, Robert	<i>Robert Amy</i>	3-7-85	160
Andreason, James	<i>James Andreason</i>	3-10-85	200
Mays Land & Livestock	<i>Eric H. Mays President</i>		242.5
Pancheri, Inc.	<i>John Pancheri</i>		160
<u>CLASS B</u>			
Chambers, Robert R.			58.75
Echeverria, Todd	<i>Todd Echeverria</i>	3-6-85	117.5
Haight, Lynn	<i>Lynn Haight</i>		131.85
Hartmann Land & Livestock	<i>Frank A. Hartmann</i>		58.75
Hejzmanek, Tom	<i>Tom Hejzmanek</i>		117.50
Isham, Don	<i>Don Isham</i>	3-6-85	293.75
Mays, Jack	<i>Jack Mays</i>		235
McDonald, Charles	<i>Charles H. McDonald</i>	3-6-85	117.50
McDonald, John	<i>John L. McDonald</i>		117.50
Nickerson, Keith	<i>Keith Nickerson</i>		528.45
Romrell, Owen	<i>Owen A. Romrell</i>	3-11-85	117.50
Stauffer, Richard	<i>(Rick) Richard Stauffer</i>	3-6-85	293.75
Stauffer, William	<i>William Stauffer</i>	3-6-85	222.81
Strope, Jesse	<i>Jesse H. Strope</i>		176.25
Thomas, Lamar	<i>Lamar Thomas</i>		117.50
Williams, W.T.	<i>Wade T. Williams</i>		337.50
Woodie Land & Livestock	<i>George Woodie (Pres)</i>		235
Wortley, Earl	<i>Earl Wortley</i>		205.64

Members of the board of directors of Dry Creek Development, Inc.

Robert Amy, (208) 767-3366 George Woodie (208) 767-3461

APPENDIX A-2
HYDROLOGIST'S REPORT ON
FLOWS IN DRY CREEK

Basin : Dry Creek , tributary to the Little Lost River in Custer County.

Drainage area : 42.1 mi^2 taken from USGS 1:24000 scale maps.

Mean annual flow : 13.2 inches or 41 cfs. This was obtained as follows;

Maps of water yield for all of Idaho by Marvin Rosa and published by the Agricultural Research Service, USDA were used. The drainage boundaries were outlined on the map and the water yield planimetered. The water yield obtained was 13.43 inches or 40.1 cfs.

Next a procedure developed by the Idaho Water Resources Research Institute was used. The mean annual precipitation was determined for the basin as 38.17 inches ranging from 40 inches at the top of the basin to less than 30 below the old reservoir. Next runoff coefficients were determined for surrounding basins with similar characteristics. This was found to be 0.35. The mean annual runoff was then found to be $(0.35) \times (38.17) = \underline{13.36 \text{ inches or } 41.1 \text{ cfs.}}$

A final method of obtaining the mean annual flow was to plot the runoff in cfs/ mi^2 vs drainage area for all the surrounding basins that had comparable records. This plot gave 0.94 cfs/ mi^2 for Dry Creek with an area of 42.1 mi^2 . The product of these two numbers gives 39.7 cfs or 12.8 inches.

All of the above were done independently without cross-checking so the agreement can be considered very good. By using the above three methods I would consider the mean annual flow to be 41 cfs.

Average minimum monthly flow: 2.4 percent of the annual flow or 12 cfs.

To obtain the average minimum monthly flow, the percent of the mean annual flow that occurs in each month was found for basins in the Little Lost and Big Lost drainages. The low month percent was plotted against drainage area. The following data were plotted:

<u>area (mi^2)</u>	<u>low month percent</u>
8.25	1.7
27.6	2.2
74.3	2.6
93.4	2.5
114	1.5 not used
440	2.6

Using 1.7 and 2.5 percent as the range, I obtain 6.4 to 12.3 cfs as the range of minimum monthly flow. Using my chosen value of 2.4 percent as a reasonable average, 12 cfs is obtained.

I found some measured base flows for Dry Creek which I gave to you in late Oct. These flows were 19.1, 10.0, 6.7, 15.9 and 16.5 cfs all measured during 1959-61. These were low precipitation years so the value of 12 cfs in a "normal" year seems quite reasonable.

I would recommend an average annual minimum monthly flow value of between 11.5 and 12 cfs.

In order to have some sort of an idea of the variation in this minimum monthly flow, I did a frequency analysis on the 30 day average flow. I determined the 10 year frequency value to be 8.5 cfs with a possible range of 8.0 to 9.3 cfs. Thus the flow to be expected on the average of one year in ten for a 30 day period is 8.5 cfs. This agrees with the measured flows for the low precipitation years and is a reasonable amount below the mean monthly low value of 12 cfs.

Monthly distribution of flow:

The mean monthly flows were arrived at by using surrounding stations that had comparable records. Greater weight was given to those records that were most similar to Dry Creek in both basin elevation and orientation. The results are as follows:

Month	Flow(cfs)	Month	Flow(cfs)
Oct	13	Apr	24
Nov	14	May	98
Dec	13	Jun	150
Jan	12	Jul	61
Feb	12	Aug	33
Mar	12	Sep	22

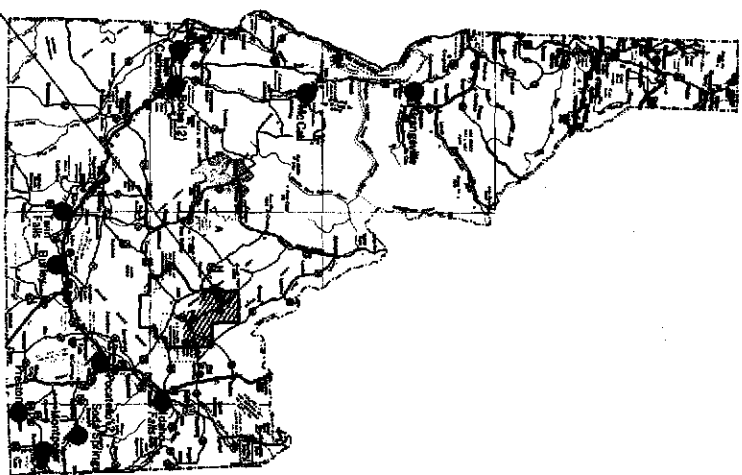
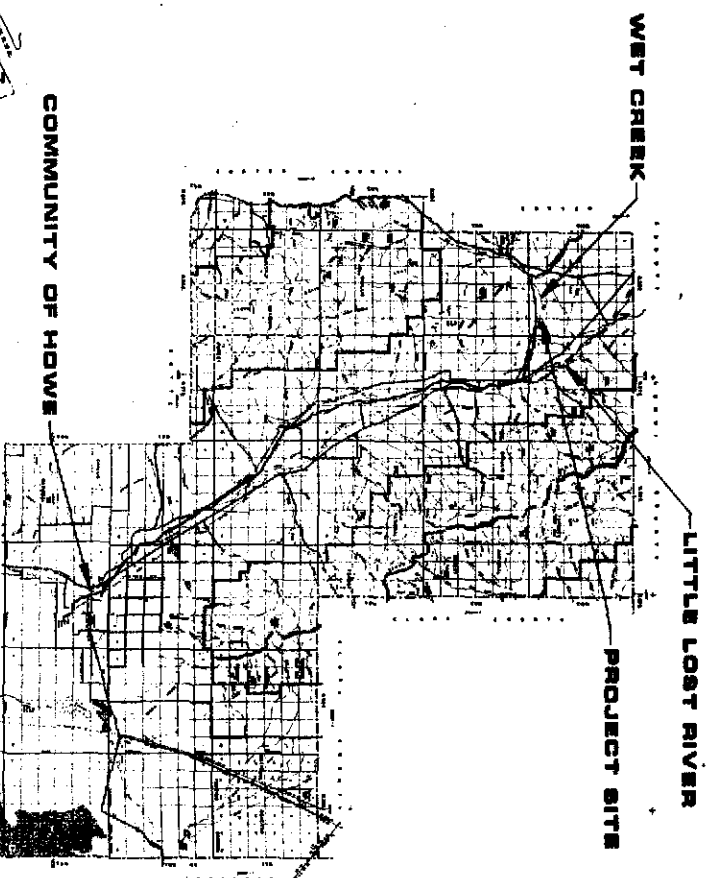
The minimum flows occur in all the records during November through March. While I show the same flow for Jan-Mar, the absolute minimum flow often occurs in February. The above values are long term averages derived by distributing the mean annual flow according to the percent of annual flow that occurs in each month.

To obtain an idea of the variability of the above monthly flows did not prove possible without considerably more money with no guarantee of success.

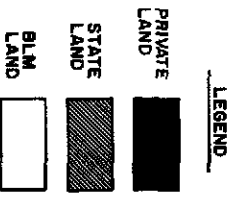
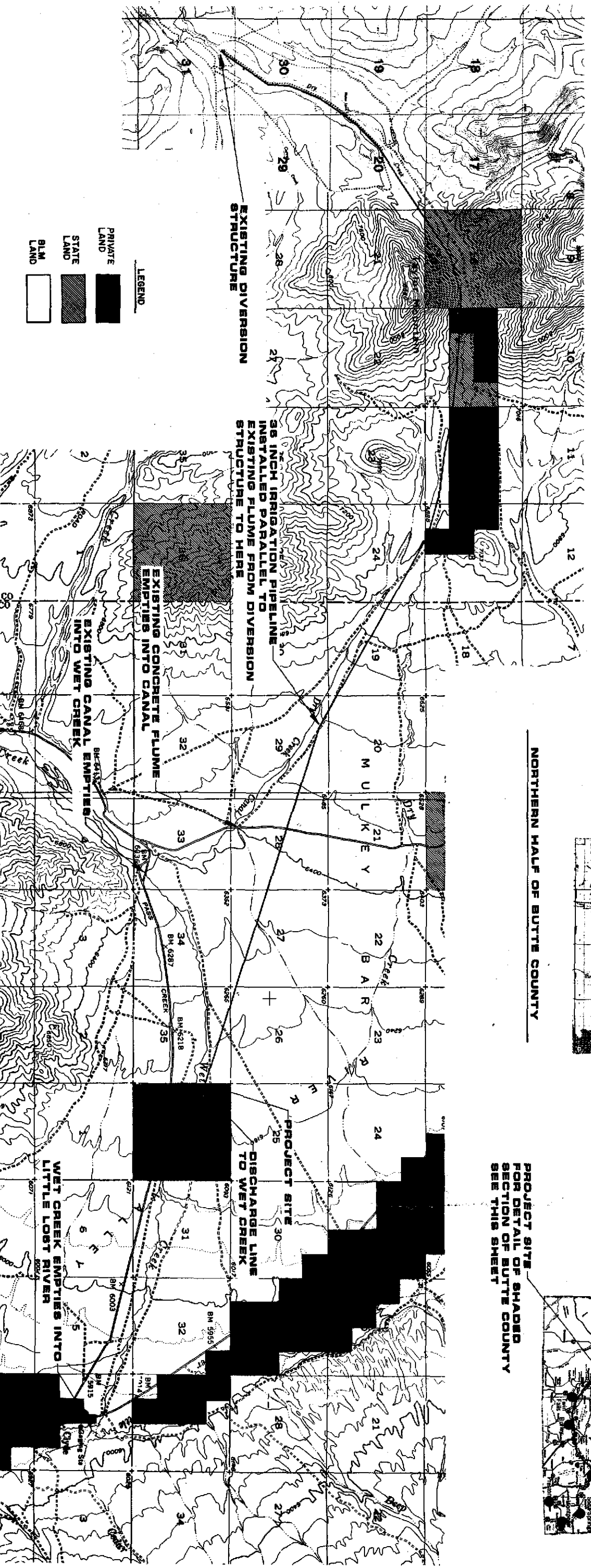
EXHIBIT B

GENERAL LOCATION MAP

- B-1 PLAN VIEW OF PHYSICAL STRUCTURES**
- B-2 PROFILE VIEW OF PHYSICAL STRUCTURES**
- B-3 PROJECT SITE PLAN**
- B-4 PROJECT SITE CHARACTERISTICS**
- B-5 MODIFICATIONS AT DIVERSION SITE**
- B-6 OPTION AGREEMENT WITH LANDOWNER**



PROJECT SITE FOR DETAIL OF SHADED SECTION OF BUTTE COUNTY SEE THIS SHEET

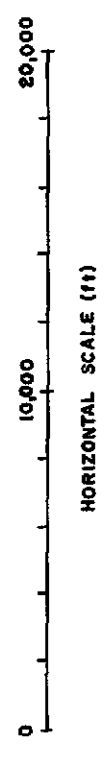
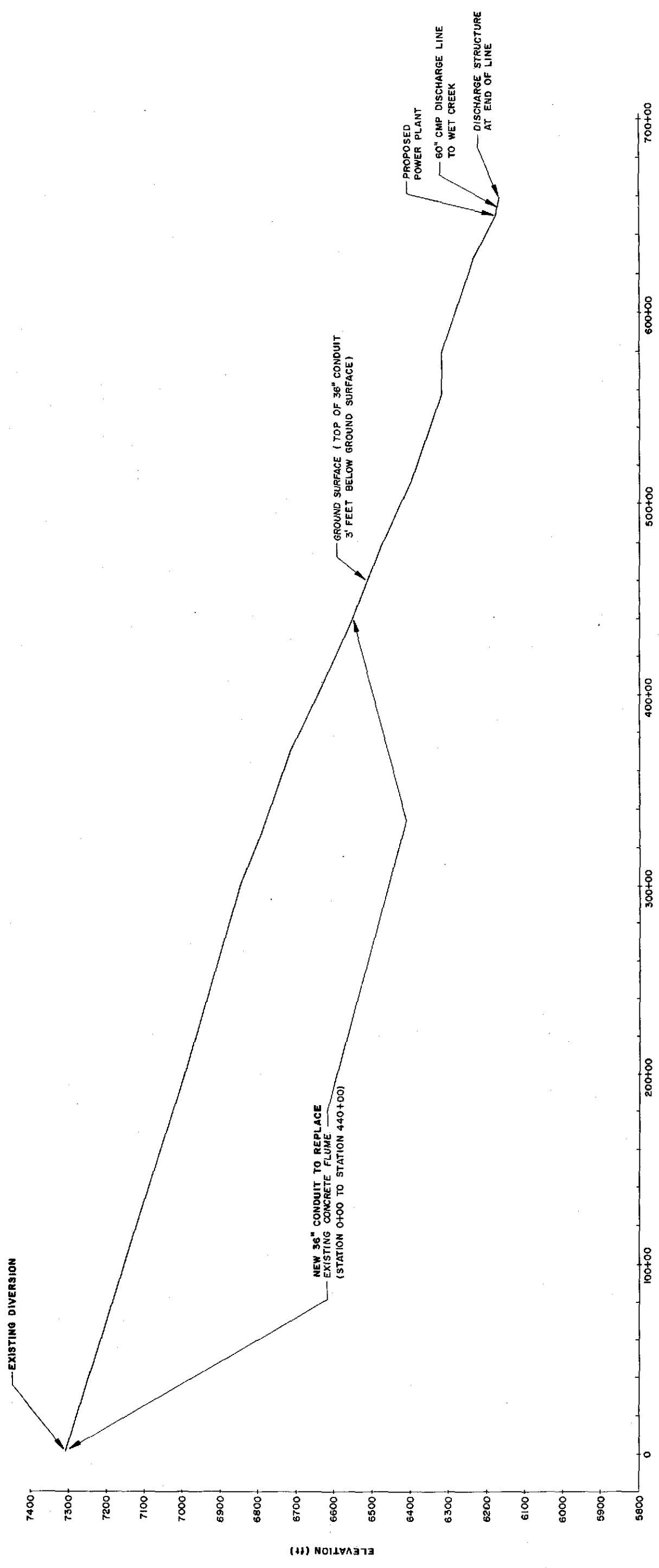


SCALE (MILES)

EXHIBIT B-1

DRY CREEK
HYDRO PROJECT

PLAN VIEW OF PHYSICAL STRUCTURES
OF THE HYDROELECTRIC FACILITY
IN RELATION TO THE CONDUIT
AND DIVERSION STRUCTURE



DRY CREEK
HYDRO PROJECT
EXHIBIT B-2
PROFILE VIEW OF PHYSICAL STRUCTURES
OF THE HYDROELECTRIC FACILITY
IN RELATION TO THE CONDUIT
AND DIVERSION STRUCTURE

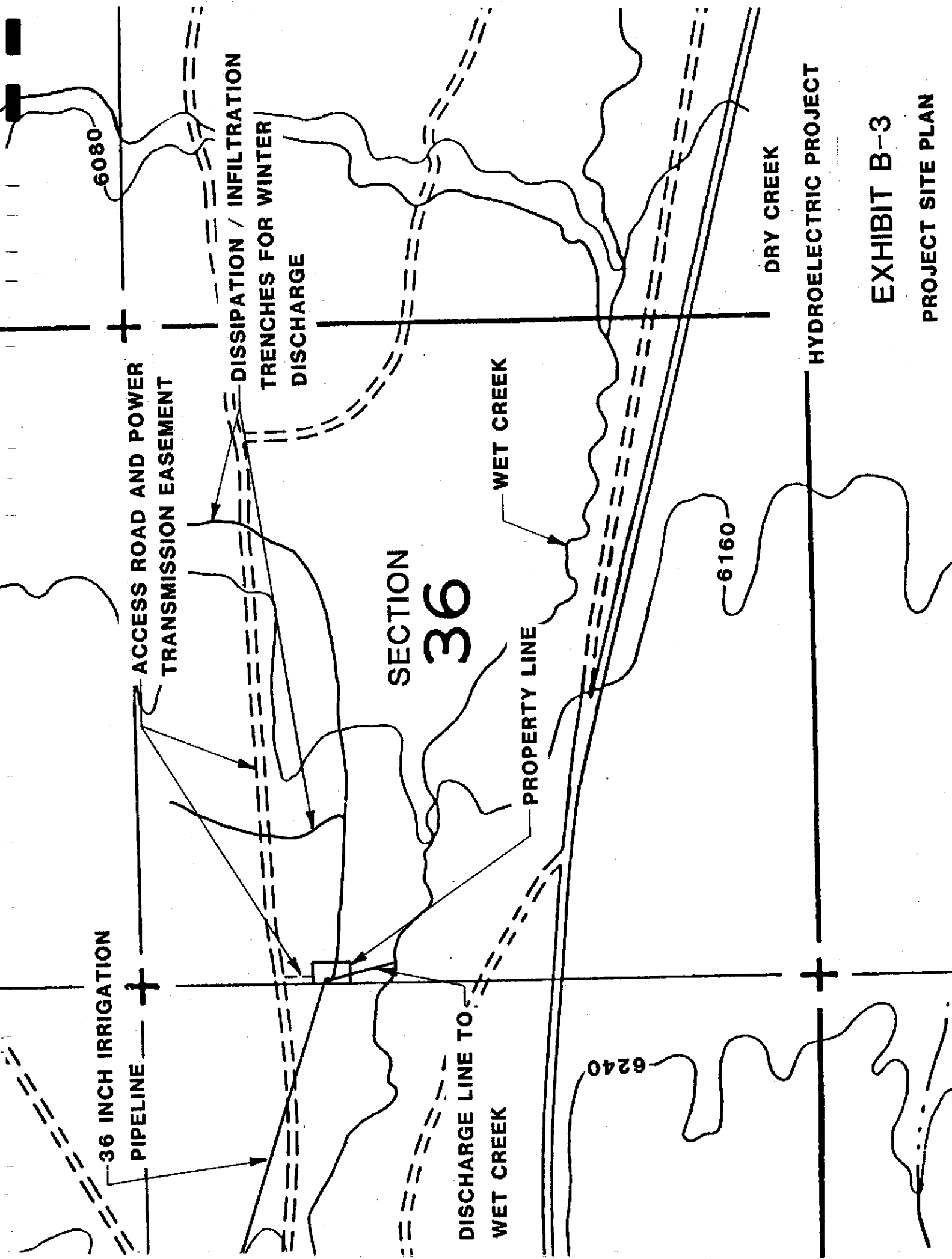
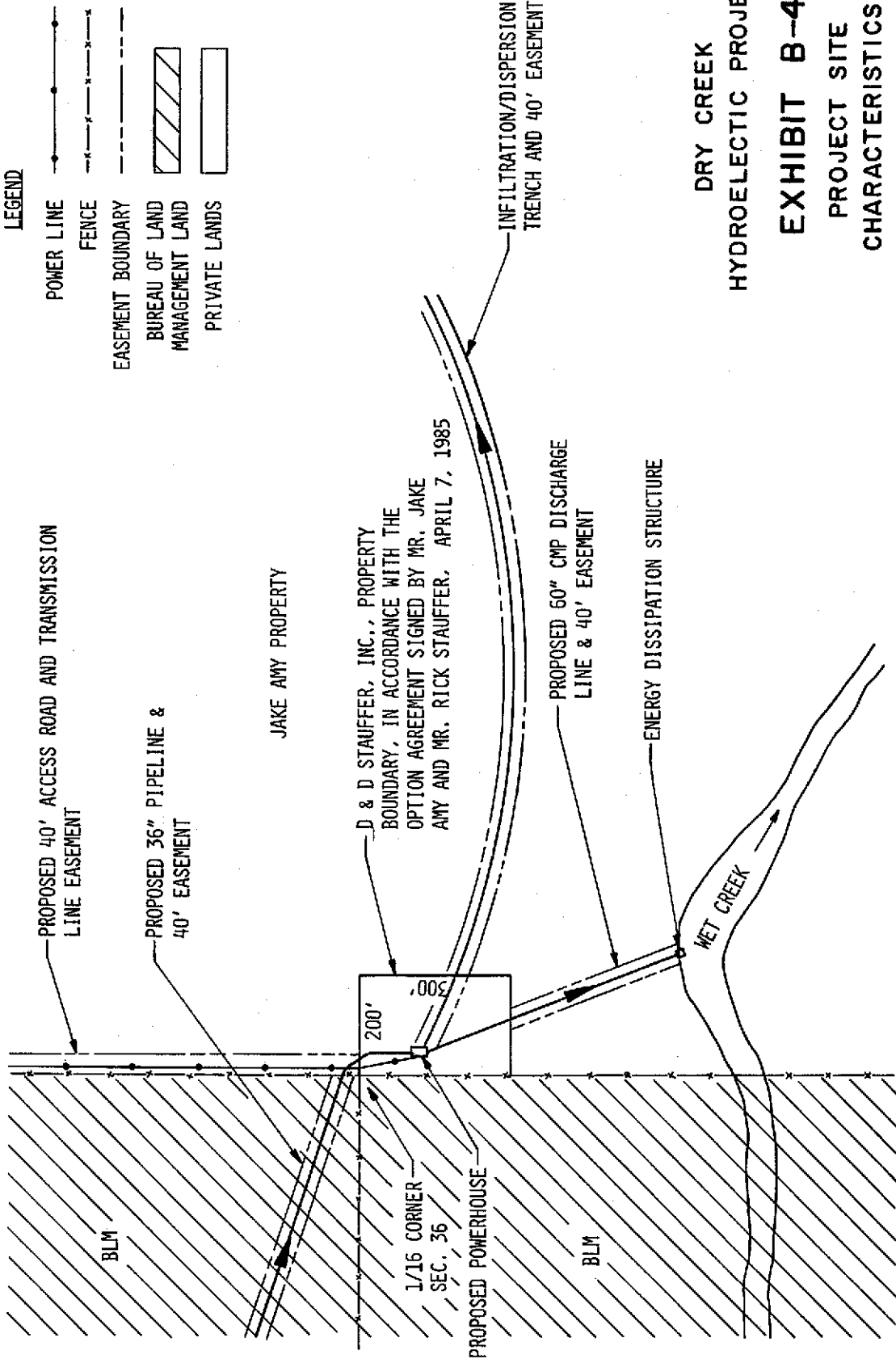
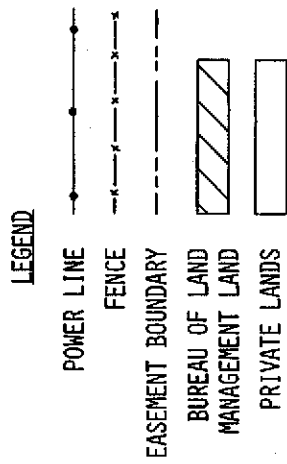
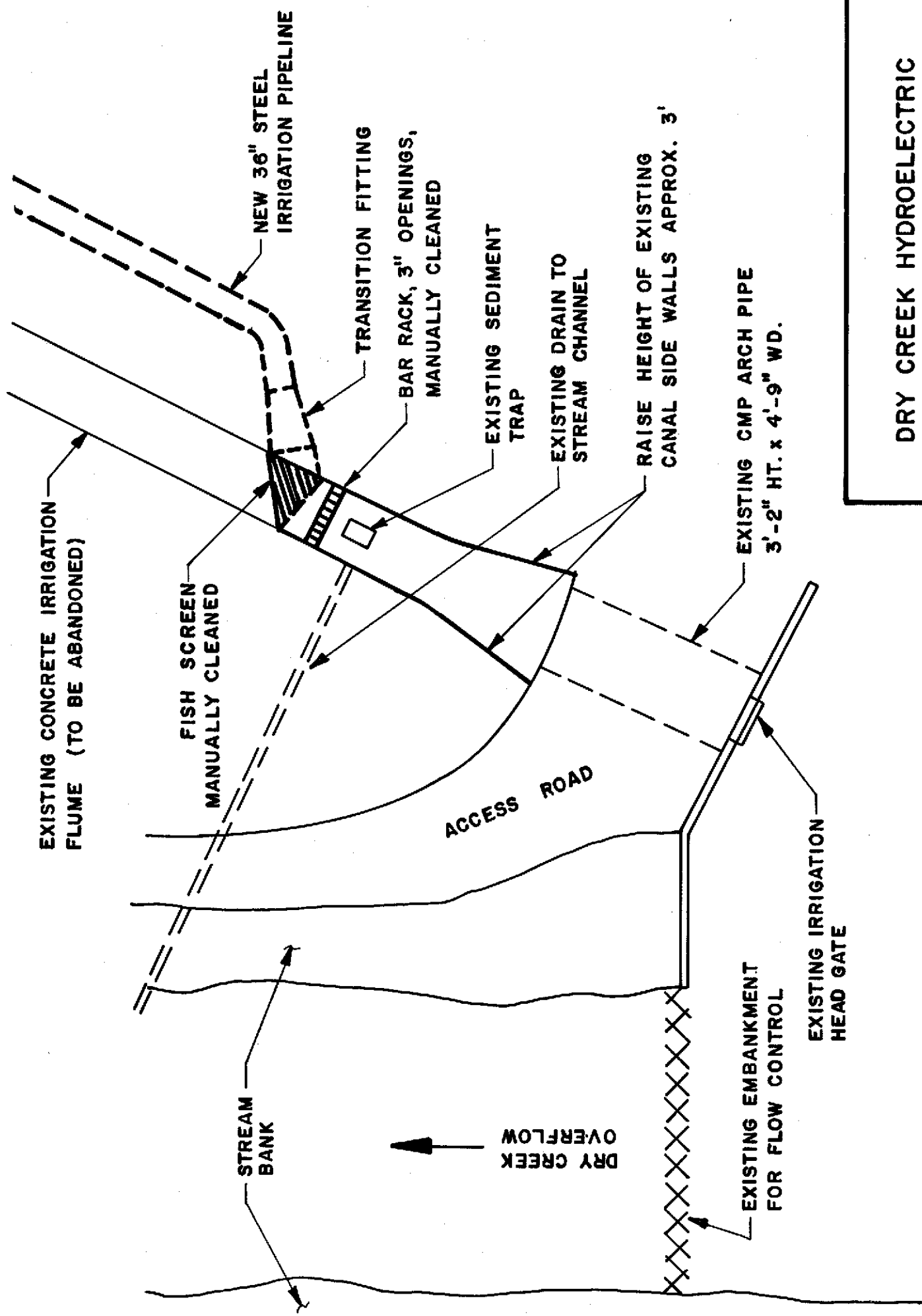


EXHIBIT B-3

PROJECT SITE PLAN



DRY CREEK
HYDROELECTRIC PROJECT
EXHIBIT B-4
PROJECT SITE
CHARACTERISTICS



DRY CREEK HYDROELECTRIC
MODIFICATIONS AT DIVERSION SITE
EXHIBIT B-5

OPTION AGREEMENT

This agreement is made between D & D Stauffer, Inc. (Rick and Rob Stauffer) and Allen "Jake" Amy. The following conditions are agreed upon by D & D Stauffer, Inc., and Jake Amy regarding the proposed Dry Creek Irrigation outfall Hydroelectric Project:

- a. Jake Amy, who owns the northern half of Section 36, Range 26 East, Township 10 North, agrees to sell a parcel of land approximately 200 feet by 300 feet to D & D Stauffer for the construction of the power plant and all associated equipment. The land will be sold for \$1,000 an acre.
- b. Jake Amy will grant D & D Stauffer easements for the following structures which are necessary for the operation of the power plant facility:
 1. A 50-foot wide easement for an access road and power transmission line, approximately 1/4 mile long.
 2. A 50-foot wide easement for a discharge line to Wet Creek , approximately 400 feet long.
 3. A ditch easement leading to smaller distrubution ditches for the purpose of infiltration on private property.
- c. Jake Amy will have diversion rights to all the water that is discharged from the proposed power plant during the non-irrigation season (Mid-October through Mid-May). Jake Amy will have access to the diversion structures, to control the amount of water diverted during the non-irrigation season.

- d. Jake Amy feels that because of the small amount of water during the winter months that there won't be a problem with infiltration on his property.
- e. D & D Stauffer will pay for all expenses to divert water on Jake Amy's property.

Rob Stauffer April 7, 1985
D & D Stauffer, Inc. Date

Allan J. Amy April 7, 1985
Allan J. Amy Date

PH 767-3374

EXHIBIT E

1.0 DESCRIPTION OF THE EXISTING ENVIRONMENT

2.0 DESCRIPTION OF ENVIRONMENTAL IMPACTS

3.0 FISH AND WILDLIFE AGENCY CONSULTATION

APPENDIX E

DRY CREEK IRRIGATION OUTFALL HYDROELECTRIC POWER DEVELOPMENT

EXHIBIT E

1.0 DESCRIPTION OF THE EXISTING ENVIRONMENT

1.1 General

The proposed hydropower facility will be located on private land as shown in Exhibit B-1. Exhibit B-6 contains the option agreement between the applicant and the property owner for the purchase of the necessary land and the granting of the easements for the appurtenant structures. The project site includes the private land which will be purchased by the applicant upon which the facility will be located as well as the easements for the discharge line, the power transmission line and access road, and the infiltration/dissipation trenches which are described in Exhibit E, Section 2.3.3.

The project site is located in the Little Lost River Basin approximately 30 miles northwest of Howe, Idaho. The Little Lost River Basin is a northwest trending, structurally-formed valley which drains an area of about 900 square miles and forms a part of the Snake River Plain. No surface water remains in the Little Lost River within a few miles downstream of Howe due to the highly transmissive nature of the alluvial fill which exists in most of the valley areas and causes most of the surface water to rapidly percolate into the groundwater system.

All of the water resources in the basin originate as precipitation ranging from an annual rate of 9-1/2 inches near Howe (elevation 5000 feet) to over 40 inches in the mountains above 9,000 feet. The project site is located at an elevation of approximately 6,180 feet. The mean annual air temperature of the project site is about 41° F. and the frost-free period is about 50 days. The average annual temperature for December, January, and February is about 15° F. with periods of temperatures of between -10 to -30° F.

The proposed hydropower plant is located on gently sloping, relatively even terrain and is located approximately ten feet above the Wet Creek floodplain. Currently, the irrigation water that is diverted from Dry Creek by the Dry Creek Development Corporation for irrigation purposes is transported in a concrete-lined canal which empties into Wet Creek at a point approximately 2-1/2 miles upstream of the project site. The Dry Creek Development Corporation intends to replace this canal system with a 36-inch pipeline to reduce operation and maintenance costs, increase safety, and reduce canal transmission losses. Because the project site is located downstream of the existing discharge point of the irrigation water, the proposed project will not discharge water to any previously unaffected watercourse.

The soils in the immediate vicinity of the proposed hydropower plant consist of approximately 12 inches of gravelly loam which are well drained and composed of mixed sedimentary and metamorphic rocks. The soils are highly resistant to erosion and because of their granular composition, are highly suitable for construction purposes such as road, trench, and building foundation requirements.

1.2 Vegetation

The proposed hydropower plant is located on land that is presently used for livestock grazing and the vegetation is limited mainly to native grasses. The remainder of the project site contains native vegetation which is grouped into two major categories: sagebrush and riparian. The sagebrush types predominate in the short distance between the northern boundary of the proposed hydropower site and Wet Creek. The sagebrush type includes the Wyoming big sagebrush as well as other shrub species including black sagebrush, shadscale, saltbush, and winterfat. The major understory grass species in the sagebrush type is bluebunch wheatgrass. Other important grasses and forbes are Sandburg bluegrass, indian rice grass, bottle brush, squirrel tail, and Hood's phlox.

The riparian type vegetation consists of black birch willows, Woods rose, rabbit brush, giant wild rye, sedges, and Kentucky bluegrass. The riparian vegetation extends approximately ten feet on both sides of the banks of Wet Creek.

1.3 Fish and Wildlife Resources

Three species of trout are known to occur in Wet Creek. These are rainbow, dolly varden, and brook trout. The fish habitat above the existing discharge point of the Dry Creek flume into Wet Creek is relatively unaffected by man's activities, and the natural stream areas have more trout per mile than the stream areas below the discharge point. The annual discharge of irrigation water to Wet Creek prevents significant fish propagation in the six-mile section of Wet Creek above the confluence with the Little Lost River. It is thought that the high flow velocities which result from the addition of irrigation water to Wet Creek cause stream bed depositions which tend to cover or wash away the trout eggs. A BLM survey of Wet Creek showed that above the confluence of the Dry Creek irrigation flume, the existing trout population is approximately 1,000 fish per mile, and below the confluence the trout population averaged approximately 100 per mile. The counts include fish larger than four inches long. The average fish length in Wet Creek is about seven inches. It is, therefore, evident that the addition of the irrigation water to Wet Creek does not benefit the native trout populations.

The most common species of waterfowl which may frequent the Wet Creek area are mallards and green-winged teal. Other aquatic wildlife include beaver, muskrat, and possibly mink.

Upland wildlife species which could frequent the project area include morning dove, Hungarian partridge, mountain cottontail, pigmy rabbit, and deer mice. Open land wildlife species which may utilize the project site

include the sage grouse, pronghorn antelope, jackrabbit, badger, coyote, mule deer, and elk. Raptors which may be found at the project site would include the bald and golden eagles, Swainson's hawk, redtail hawk, American kestrel, rough-legged hawk, and ferruginous hawk. The bald eagle is classified as a "threatened species." The ferruginous and Swainson's hawks were cited as "candidate species" by the U.S. Fish and Wildlife Service (USFWS) in the Federal Register as of December 30, 1982. "Candidate species" may become federally listed as threatened or endangered species pending a rangewide status review by the USFWS.

1.4 Water Quality and Quantity

The water quality of Wet Creek is excellent, however, the annual diversion of Dry Creek irrigation water, averaging approximately 70 cfs in the early summer (June 1 - July 1), significantly increases the flows in Wet Creek. There are no gaging stations on Wet Creek, but it is estimated that this annual diversion represents a 50 to 100 percent increase in natural streamflow. These flows, occurring since 1965, have caused considerable bank erosion and streambed depositions.

The livestock grazing which occurs on the project site, as well as along the banks of Wet Creek upstream and downstream of the project site, have also contributed to bank erosion problems and a degradation of the water quality of Wet Creek.

A gauge located below the confluence of Wet Creek and the Little Lost River indicates that flows have ranged from 2.8 to approximately 509 cfs in the Little Lost River. The average winter flow (November through March) at this location is approximately 32 cfs and the irrigation season flow ranges from an average of 230 cfs in June to about 75 cfs in August. Average monthly flows recorded at the Little Lost River gage since 1965 are presented in Appendix E-1. Average maximum flows recorded during the irrigation season (May through September) since 1965 are also presented in Appendix E-1. The District 6 BLM office has calculated the return period for various peak flow rates in the Little Lost River below Wet Creek and the results of this analysis are also presented in Appendix E-1.

1.5 Water Use

The primary purpose of this project is to transport irrigation water to the Little Lost River in a more efficient and safe manner than can presently be achieved with the existing concrete irrigation flume. Surface water diversion rights are very important to the residents of the Little Lost River Basin. During many years there is not enough surface water available in the Little Lost River to satisfy all the irrigation needs of the farmers and ranchers of the Howe, Idaho area. Therefore, there has been an extensive amount of irrigation well development in the lower valley areas. The irrigators of the valley which divert the surface flow at the Little Lost River have been very concerned that the pumping of groundwater has increased the percolation rate of the surface water into the groundwater system. Studies by the State Department of Water Resources has not confirmed that any interrelationship exists, however.

The primary use of the water in Wet Creek and in the Little Lost River is, and will continue to be, for agricultural purposes.

1.6 Land Use

The project site is located in an undeveloped area which is presently used by the owner primarily for grazing during the summer months. Exhibit B-1 contains a plan view of the project site which shows that the site is located on private land. Section 36, which is all private land, is bordered by Bureau of Land Management (BLM) land on all four sides. The BLM is a major landholder in the upland areas of the Little Lost River Basin. The BLM permits grazing on most of these lands.

The private agricultural areas adjacent to the Little Lost River are extensively farmed or ranched. Some of the agricultural land, mostly used for grazing, is located within the Little Lost River floodplain, which results in the inundation of some of these lands during the peak spring runoff, which usually occurs between May 20 and June 20, and lasts approximately one to two weeks.

Agricultural operations in the basin have adapted to the seasonal fluctuations of the river, including those which are caused by man such as the delivery of Dry Creek water to the Little Lost River for irrigation purposes. The majority of landowners with lands located adjacent to the Little Lost River are members of the Blaine County Canal Company or the Little Lost River Irrigation District and are, therefore, vitally concerned that the Dry Creek irrigation water remain available for their use.

1.7 Recreational Use and Visual Resources

The project site could provide a certain amount of recreation use during the hunting season due to the presence of mule deer and antelope on the site, as well as throughout the wide-open range areas that predominate in the Little Lost River Basin. The areas bordering Wet Creek are also probably visited occasionally by duck hunters and fishermen. The visual resources of the project site are not unique to the area. In a letter dated April 8, 1985, the Idaho Department of Fish and Game has noted that no significant impacts are expected with the construction of the proposed hydroelectric facility with respect to wildlife or fishery resources (see Appendix E-6).

1.8 Historical and Archaeological Records

Consultation with the State Historic Preservation Office and the Bureau of Land Management District archaeologist has not revealed the presence of any resources either listed or eligible for inclusion in the National Register of Historic Places which could be affected by the project (see Appendix E-5).

The BLM District 6 archaeologist has noted that eight prehistoric sites exist in the vicinity of the project, however, none of these sites will be adversely affected during construction provided proper avoidance measures are taken. The sites noted consist of predominantly surface scatters of stone flakes, tool making debitage, and some diagnostic tools. A potential rock shelter site and a talus slope hunting blind have also been noted. These sites are not located within any construction areas and may be avoided during construction. (See Section 2.7 for avoidance measures.)

2.0 DESCRIPTION OF ENVIRONMENTAL IMPACTS

2.1 General

In order to understand the environmental benefits which will result from this project, it is necessary to understand the present methods which are used to transport the Dry Creek irrigation water to the Little Lost River channel. A concrete-lined irrigation flume, which is trapezoidal in shape and measures 18 inches at the bottom and 7 feet 2 inches at the top and is approximately 2 feet 2 inches deep, currently transports the Dry Creek flow to Wet Creek. The flume is approximately 10 miles long and flow velocities within the flume often exceed 20 feet per second. Fences are located along both edges of the flume and the Fish and Game Department, as well as the Bureau of Land Management, have provided a number of livestock and game crossings as well as watering troughs along the length of the flume. This has not prevented a significant number of wild game including elk, deer, and antelope from becoming trapped within the flume where they eventually perish. The flume presents an extreme safety hazard for wild game as well as domestic livestock. During the most recent irrigation season, approximately ten big game animals perished in the flume as well as approximately ten head of livestock. The Fish and Game Department, as indicated in the correspondence contained in Appendix E-6, is greatly concerned that the proposed project proceed as soon as possible so that the concrete flume may be eliminated.

The concrete flume empties into a ditch which runs approximately one mile before entering a drop structure whereupon the flow travels approximately 1/4 mile before merging with the Wet Creek channel. The Wet Creek channel transports the irrigation water approximately six miles before emptying into the Little Lost River. The concrete flume was constructed in 1965 by the Dry Creek Development Company which owns and operates the flume. Appendix E-2 contains correspondence from the BLM district wildlife biologists and other BLM personnel which document and further explain the wildlife safety problem with the concrete flume. Appendix E-5 contains correspondence from the BLM supporting this project due to the fish and wildlife benefits that would result.

Because of high maintenance costs and delays in delivering water to downstream users, the Dry Creek Development Corporation has approved the installation of the 36-inch irrigation pipeline to replace the concrete irrigation flume (see Appendix A-1). The installation of the pipeline is expected to save the Dry Creek Development Corporation approximately \$15,000 per year in repairs, a figure which would increase sharply if the existing flume were to remain in operation. The pipeline will be installed adjacent to the concrete irrigation flume and the flume will be covered during the installation of the pipeline. Thus, the elimination of the concrete flume will restore the area to a natural state.

The stock and game watering troughs presently located along the length of the flume will be served by branch connections from the pipeline which

will greatly increase the dependability of water supply to the watering troughs. The watering troughs are necessary to disperse the domestic livestock and wild game over a broader range, thereby limiting the potential impact which could occur at the limited number of naturally occurring watering holes.

The Blaine County Canal Company and the Little Lost River Irrigation District hold the water rights for the Dry Creek flow and are both in favor of the proposed project (See Appendix A-1). The irrigators feel that the pipeline will ensure that the total available flow of Dry Creek is efficiently transported to the Little Lost River, especially during the critical "dry" years. Also, the savings to each irrigator will be substantial in terms of lower operation and repair costs.

2.2 Fish and Wildlife Resources

Discussions with the State Fish and Game Department officials indicate that the fish and wildlife resources of the area will be benefitted through the construction of the proposed project. The proposed project will not adversely affect any Federally listed or designated threatened or endangered species or critical habitat. Correspondence from fish and wildlife agencies is presented in Appendix E-6. The elimination of the concrete flume will prevent the loss of many big game animals as well as numerous birds and small mammals. Appendix E-2 documents that in 1977 as many as five dead badgers were discovered at the point where the flume empties into the canal which eventually discharges to Wet Creek. Two golden eagles were killed, one in 1977 and one in 1978. These losses were documented by spot-checks, and because many animals are removed by irrigation company personnel and never reported, these statistics represent only a fraction of the actual losses.

The fact that the project site is 2-1/2 miles downstream of the existing irrigation water discharge point will benefit the native trout population within Wet Creek by restoring natural flows in this 2-1/2 mile river section. Also, the elimination of the flume will prevent the yearly migration of trout up the 1/4 mile irrigation canal system upstream of the present discharge point on Wet Creek. Fish become entrapped in the deep pool area immediately downstream of the drop structure when the irrigation flows are discontinued at the end of the irrigation season and these fish eventually perish. During the most recent irrigation season approximately 100 mature trout were rescued by BLM personnel from the pool.

To ensure that adequate protection is provided to the fish in the vicinity of the diversion structure on Dry Creek, a fish screen will be installed on the intake structure. To ensure that the discharge water to Wet Creek does not cause erosion of the stream bed or banks, an energy dissipation structure will be constructed at the end of the discharge line.

The wildlife agencies do not feel that the diversion of Dry Creek during the non-irrigation season (October 15 - May 15) will have any significant impacts on the existing environment below the diversion point. No fishery presently exists in the channel area below the diversion due to the fact that the water quickly migrates down through the alluvial material and

enters the groundwater system within one or two miles of the diversion point. During the remainder of the year the Dry Creek flow will be diverted in basically the same manner as has been performed since 1965 when the concrete flume was put into service. Therefore, as explained in the April 8, 1985 letter from the Idaho Fish and Game Department contained in Appendix E-6, this project is not expected to decrease fish and wildlife populations from their present levels. The March 15, 1985 letter from the Bureau of Land Management, contained in Appendix E-5, states that the project is expected to have net wildlife benefits.

2.3 Water Quality and Quantity

2.3.1 Water Quality

This project will protect the water quality of the transported irrigation water to a greater degree than is possible with the existing concrete flume. By transporting the water in a pipeline, the dissolved oxygen levels will remain high, the temperature low, and dissolved and suspended solids contents will remain unchanged. By restoring the 2-1/2 mile Wet Creek channel upstream of the project site, this project will reduce the erosion problem associated with the existing irrigation water transfer from Dry Creek to the Little Lost River.

The fact that the power plant is approximately 600 feet from Wet Creek will allow sufficient time for the gasses which may have been dissolved in the pressurized water to escape into the atmosphere. This would prevent the problem of nitrogen gas precipitation which can harm fish if it occurs after the dissolved gasses are taken into the bloodstream.

A draft copy of this application has been supplied to the State Department of Health and Welfare, Division of Environment, for review however, no response has yet been received. The transmitted letter is contained in Appendix E-8.

2.3.2 Water Quantity, Irrigation Season

The quantity of water delivered to Wet Creek during most of the irrigation season will be approximately the same as what is now delivered, however, because canal conveyance losses will be eliminated, 20 to 30 percent more water will be transferred to Wet Creek during the months of July, August, September, and October. This increase in water will not impact downstream areas this late in the irrigation season and will be of great benefit to the irrigators.

In addition to eliminating conveyance losses, the proposed project would allow the diversion of irrigation water earlier in the year than is possible with the existing concrete flume, which must be repaired in the spring prior to transporting irrigation water. These repairs usually require approximately two weeks in mid to late May. This earlier than usual diversion of Dry Creek water is not expected to create a significant change in the typical peak flow levels in the

Little Lost River because the concrete flume has been in operation during many peak spring runoff periods which have occurred in the Little Lost River.

To ensure that the water discharged from the plant does not cause any damage to the stream banks, an energy dissipation structure will be constructed at the outlet of the discharge pipe. The energy dissipation structure is shown in Exhibit G-2.

The USGS has made a preliminary decision that no additional stream gaging will be required as a result of this project (see Appendix E-3).

2.3.3 Water Quantity, Non-Irrigation Season

During the non-irrigation season, the power plant will discharge from 12 to 30 cfs. The proposed project would not allow any of this non-irrigation season flow to reach Wet Creek due to the flooding potential which exists in the Howe area as discussed in the following paragraph.

There has been a history of flooding caused by ice buildup and river channel damming during the peak winter months in the Howe, Idaho area, which is approximately 30 miles southeast of the project site. During the winter, temperatures often remain in the range of -20° F. to +20° F. for weeks on end in the Howe area. During periods of extreme cold the channel bottom and sides of the Little Lost River can freeze solid, causing the river to spread outward over agricultural fields. This flooding can interfere with agricultural activities and it endangers the structures in the area. Residents of the area have long sought assistance in constructing diversions and infiltration structures upstream of the Howe area to reduce the amount of flow in the Little Lost River upstream of the community of Howe.

In the Winter of 1984, the State of Idaho, as well as the U.S. Soil Conservation Service and the area's residents, completed the first phase of constructing the required diversion and infiltration structures. Two trenches were constructed for a total length of 5,300 feet. The trenches are approximately ten feet deep, with side slopes of 4:1. The trenches can infiltrate approximately 60 cfs, which is estimated to be the flow in the Little Lost River which occurs one percent of the time during the coldest winter months when the flooding potential is at its highest. In the coming year, the U.S. Soil Conservation Service will complete work on the infiltration system by constructing permanent flow control structures and some additional trench length.

If the proposed power plant was to discharge water to Wet Creek, this would increase the amount of water which would have to be infiltrated at the infiltration trench site. Rather than add additional capacity to the existing infiltration trench system, this project would include provisions to infiltrate/disperse the water discharged during the winter on the private land surrounding the proposed power plant, as indicated in Exhibit B-3. This action will allow the applicant to

be solely responsible for the water discharged during the non-irrigation season, and it will eliminate the possibility of the project increasing the flood hazard in the Little Lost River upstream of the infiltration trenches near the Howe, Idaho area.

A trench approximately five feet deep, with 2:1 side slopes, will be constructed to transport the winter discharge water northeastward through Section 36, which is entirely private land. The trench will traverse the alluvial bench above the Wet Creek drainage, and most of the transported water will be lost by infiltration in this process. Normal agricultural diversions located along the length of the trench would also allow the water to flow overland and saturate the soil throughout the area. The dispersion of the available water along the trench length will greatly augment the water supply to the arid, desert-like grazing land. This extra moisture will increase shrub and grasses density and will be a benefit to the landowner's ranching operation. The landowner will grant the easements necessary for the construction of sufficient trench length to infiltrate and disperse all non-irrigation season discharge water in accordance with the option agreement contained in Exhibit B-6.

It should be remembered that the water that presently passes the diversion point on Dry Creek percolates into the groundwater system within a distance of one to two miles below the diversion point. The Fish and Game Department has determined that the diversion of the non-irrigation season flow will have no negative impacts on the environment below the diversion (there is no fishery below the diversion as mentioned earlier). Therefore, the infiltration of this water near the proposed power plant simply ensures that the diverted water is allowed to reach the groundwater system as before and that the hydrology of the basin remains basically the same.

2.4 Water Use

The proposed project will not interfere with the beneficial use of any surface or groundwater rights within the Little Lost River Basin. The installation of the proposed pipeline will eliminate canal conveyance losses and thereby result in a more efficient use of the diverted Dry Creek irrigation water than is now possible in the concrete flume.

Water use during the non-irrigation season will be unaffected by the project as the discharged water will be infiltrated on the private land surrounding the project site.

The State Department of Water Resources has made a preliminary determination that this project will enhance the delivery of irrigation water from Dry Creek, and that no adverse impacts to existing irrigation rights are anticipated with a properly regulated hydropower operation (see Appendix E-4).

2.5 Land Use and Socioeconomic Conditions

The proposed project will have an overall positive impact on the land use and socioeconomic conditions of the Little Lost River Basin. The generation of power during the irrigation season, and at a much reduced rate during the remainder of the year, will produce the revenue necessary to construct and operate a dependable, efficient, irrigation water transfer system. Without the power production revenues the irrigators of the basin will be forced to soon replace the existing concrete irrigation flume at a great personal expense to each irrigator.

The proposed project will also benefit the land use capability of the irrigators of the Little Lost River Basin. The proposed pipeline will eliminate canal conveyance losses, estimated at 20 to 30 percent, and thereby increase the amount of water actually delivered to the irrigators. This increase in water availability is especially important in "dry" years as it can mean the difference of having sufficient surface water available for diversion, or having to operate private wells for the necessary irrigation water, or simply not being able to irrigate and realizing a lesser crop yield. Therefore, the proposed project will result in higher average crop yields and reduced power expenditures for many of the irrigators.

It will be necessary, prior to perfecting the power generation water right for the proposed project, to gain BLM approval for easements across federal lands for pipelines, power transmission lines, and other structures. The necessary field surveys, environmental assessments, and applications will be submitted during the processing of this application. The BLM has indicated that at this point no major obstacles are noted in being able to grant the easements (see Appendix E-5).

2.6 Recreational Use and Visual Resources

Because the proposed hydropower facility does not offer any unique visual or recreation resource, the Fish and Game Department has determined that no significant impacts to these resources will result from this project (see Appendix E-6). The project site and the areas along Wet Creek near the project site may be used occasionally for hunting or fishing; however, the area does not offer the quality of hunting and fishing that is available in areas further upstream on Wet Creek which are more remote from the farming and ranching activities of the valley. Overall, recreational use will be benefitted through the restoration of a fishery in the 2-1/2 mile stretch of Wet Creek located upstream of the project site.

2.7 Historical and Archaeological Resources

It has been noted that there are known historical sites near the construction areas which must be protected during construction. To ensure that the requested easements across federal lands avoid any historical or archaeological sites, a professional archaeologist will perform the necessary survey and report the findings in accordance with all applicable regulations.

To ensure that any identified sites are protected, as well as to ensure that any historical finds which may be encountered during construction are protected and avoided, a professional archaeologist will be retained to make sufficient site visits to ensure that all applicable State and Federal regulations are followed. The BLM archaeologist, in Appendix E-5, notes that adverse affects to historical or archaeological resources are expected to be minimal based on the surveys which have been completed in the past and the steps that will be taken during the design and construction of the project.

2.8 Alternative Means of Obtaining Power

An alternative means of obtaining an amount of power equivalent to that provided by the proposed hydropower plant facility would be through the production of power through conventional fossil fuel burning power production facilities. It has been pointed out previously in this report that if this project were not constructed, the irrigators in the valley would be forced to pump irrigation water from private wells which would result in drastically increased power costs for each irrigator. Therefore, through the construction of this project, not only will a significant amount of power be produced from an existing water transmission system, but the project will also eliminate the extra air pollution and mining impacts which are associated with conventional power production methods.

2.9 Agency Consultation

In accordance with the consultation procedures contained in the Federal Energy Regulatory Commission "Blue Book," key agencies having responsibility to review project impacts as part of the Commission's licensing and exemption proceedings were contacted by the applicant to determine agency concerns regarding potential impacts, necessary studies, and recommended mitigative measures. A short synopsis of these contacts is contained in Appendix E-7.

In the second step of the consultation process, the applicant provided the agencies with a draft copy of the application for exemption for review and comment. The transmittal letters documenting this action are contained in Appendix E-8, and show that a 30-day period has expired since these agencies were provided with the draft application. The agency comments which were received were incorporated into the present application.

In the third and final phase of the consultation process, all involved agencies were provided a copy of the revised application, including a response to all items that were noted in the agencies' review. Correspondence regarding the third phase of consultation is contained in Appendix E-9.

2.10 Public Utilities Commission Involvement

The Idaho Public Utilities Commission has reviewed an application from the Utah Power and Light Company for an Order approving a firm energy sales agreement with the applicant. The Commission has reviewed the sales agreement and determined that the terms and conditions contained therein are just and reasonable and that the acquisition of energy by the Utah Power and Light Company from the applicant is in the public interest (see Appendix E-10).

3.0 FISH AND WILDLIFE AGENCY CONSULTATION

The Idaho Department of Fish and Game has been extensively involved in the development of the proposed project. Input received from the Fish and Game Department influenced a decision to change the power plant siting from a site approximately three miles north of where the project site is now located.

The Fish and Game Department has long sought a solution to the safety problems associated with the existing concrete flume. The annual loss of big game animals, as well as eagles, various raptors, and a variety of other animals in the flume has led to a number of improvements to the concrete flume such as animal crossings and watering troughs, but these improvements have been costly and have not produced the desired results in terms of animal safety. The animal losses have also created conflicts between the Fish and Game Department officials and the irrigators, who have not participated adequately in the funding of the improvements. It has been estimated that to cover the entire flume would cost approximately \$200,000. Therefore, the Fish and Game Department is very much in favor of replacing the concrete flume and feels that the project will provide net fish and wildlife benefits to the area (see Appendix E-6).

The high level of involvement of the Fish and Game Department in the project planning process is documented by the following actions:

January 10, 1985: The Applicant and the Engineer met with Mr. Tom Reinecker, Regional Supervisor, and Steve Ely, Wildlife Biologist, both of the Region 6, Idaho Department of Fish and Game at the previous project site discussed above to inspect river sections which could have been negatively impacted and to discuss specific measures to mitigate the potential impacts. Other people present at the site investigation included two landowners of the areas in question. Mr. Reinecker requested that a more in-depth hydrological analysis be performed on the river section above Wet Creek to determine the exact extent and nature of the impacts which could occur in this river section due to the extra water that would result from the hydropower plant operation.

January 16, 1985: The Engineer met with Mr. Tom Reinecker, Regional Supervisor, Region 6, Idaho Department of Fish and Game to discuss locating the proposed hydropower plant facility near the confluence of Wet Creek and Little Lost River. Mr. Reinecker indicated that this site would be far more favorable environmentally than the previous site. Mr. Reinecker was informed that a detailed project cost evaluation would be performed by the Engineer prior to any further project development at this site, however.

February 14, 1985: The Engineer met with Mr. Tom Reinecker, Tracy Trent, Justin Naderman, and Steve Ely, all of Region 6, Idaho Department of Fish and Game to present a new project site located in Section 36, Range 26 East, Township 10 North, which is the project site for which this application is submitted. Topics discussed included the native population of plants and animals which could be found on the site, any potential impacts to any endangered plant or animal species which could result from the proposed project, and the requirement to maintain water flow to the existing stock and wildlife watering troughs which are located along the existing flume after the proposed project is completed. The Fish and Game Department personnel stated that this project site offers net benefits to the wildlife of the area in terms of removing the safety hazard that exists with the concrete flume, and they recognized that the project would have no more impact on the Little Lost River or Wet Creek fisheries than already exists with the present diversion of the Dry Creek water.

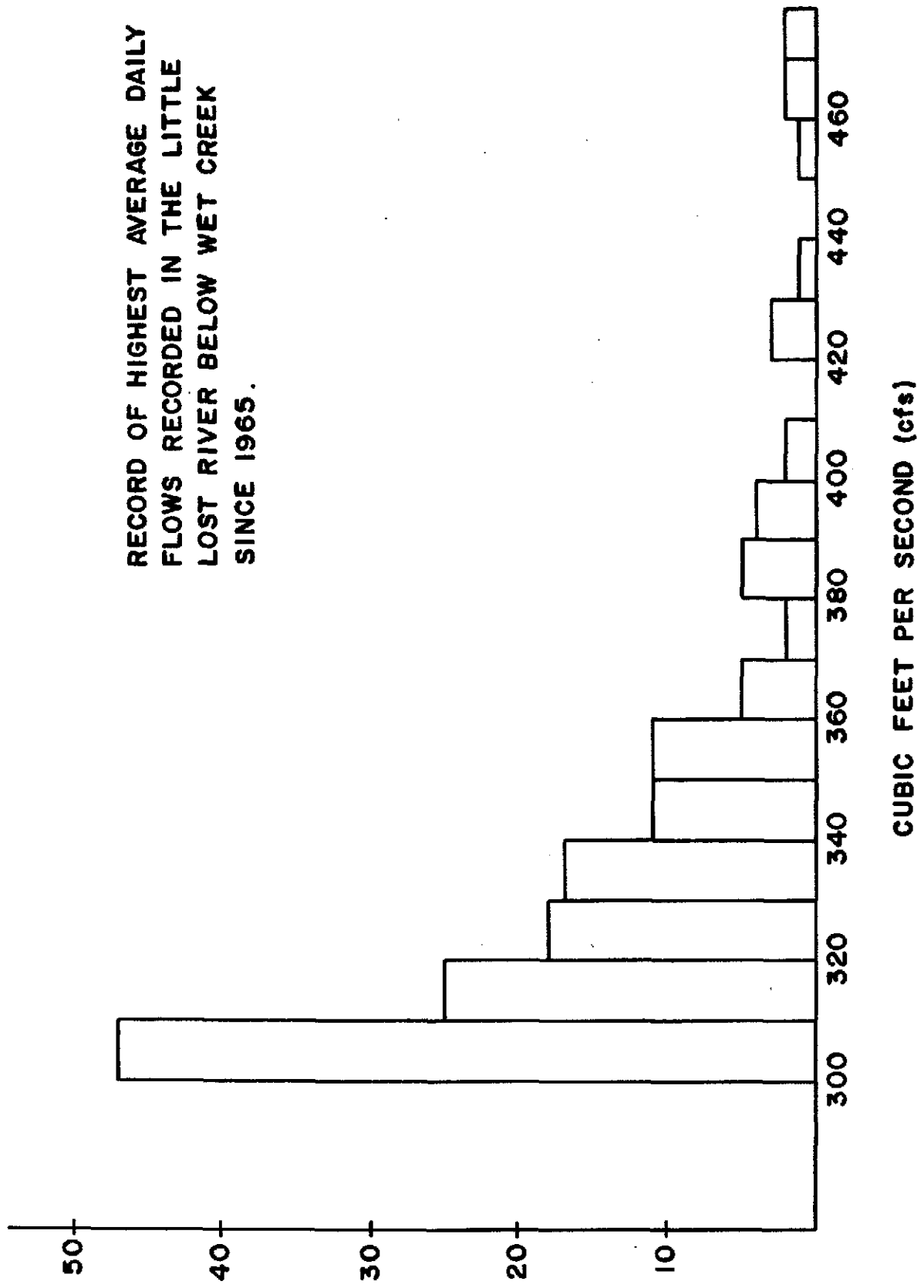
APPENDIX E-1

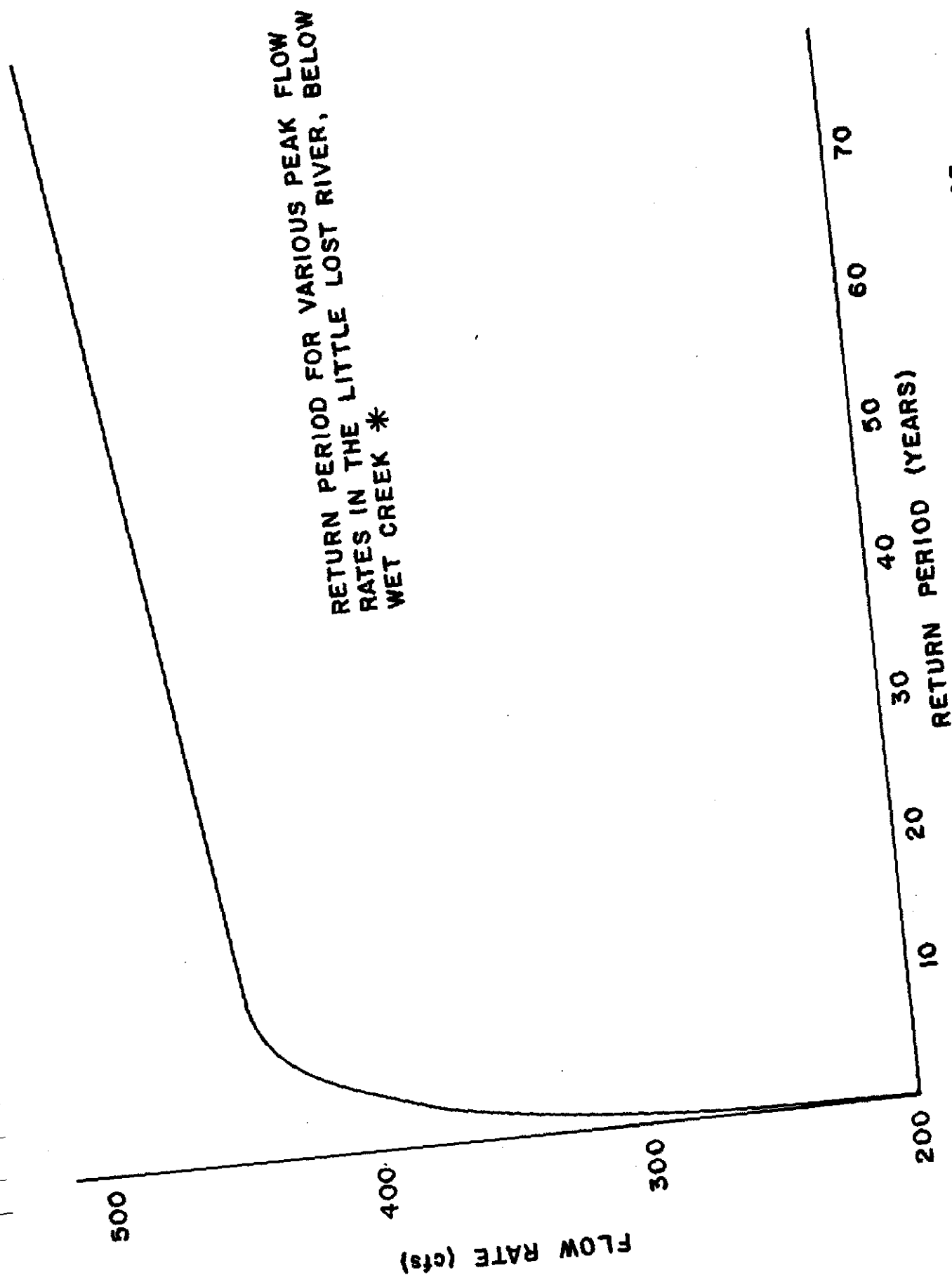
FLOW DATA FOR THE LITTLE LOST
RIVER DOWNSTREAM OF WET CREEK

AVERAGE MONTHLY FLOWS, AVERAGE PEAK FLOWS
LITTLE LOST RIVER GAGE NEAR WET CREEK, IDAHO
SINCE 1965

<u>Month</u>	<u>Average Flow</u>	<u>Average of Peak Flows</u>
October	66.7	--
November	43.2	--
December	22.3	--
January	24.0	--
February	25.9	--
March	36.3	--
April	65.5	100.5
May	157.4	263.8
June	228.3	308.9
July	121.2	178.5
August	73.9	93.8
September	68.3	84.7

NUMBER OF DAYS SINCE 1965 THAT FLOWS
HAVE BEEN IN THE INDICATED RANGE





* BASED ON PEAK DAILY FLOW RECORDS, 1966 TO 1983

APPENDIX E-2

**CORRESPONDENCE FROM BLM OFFICIALS
CONCERNING WILDLIFE LOSSES**

UNITED STATES GOVERNMENT

Memorandum

I-015694

TO : Area Manager, Big Butte RA

DATE: April 30, 1979

FROM : Wildlife Biologist, Big Butte RA

SUBJECT: Recommendations for Dry Creek Flume

File Summary:

Every year, throughout the irrigation season, the Dry Creek flume presents a serious hazard to wildlife, livestock, and the public.

Since it became operable in 1964, many deer, elk, sheep, antelope, badgers, raptors, coyotes, and other small mammals have been killed in the flume. Two people are reported to have fallen in the flume, one of whom (Cecil Scott) was unable to get out and was swept down to the end and suffered extensive injury to his palms, heels, and backside.

The flume is approximately 10 miles long, 7.33 feet wide at the top, tapering down to 1.5 feet at the bottom, and drops 1000 feet in elevation. The water velocity has been estimated between 15 and 20 miles per hour. During the early part of the season (June) the flume carries the maximum water and decreases with the season. As the irrigation needs diminish (between October 1 and October 15) the water will be diverted back into the natural channel.

The flume is fenced on each side by a five-strand barbed wire fence. The fence is very close to each side of the canal. The height of the fence is 42" and a dirt maintenance road parallels the canal on the north and east side. A deer, elk, or antelope could easily jump this fence and would most likely land directly in the canal if they did. Small animals can easily walk through the fence. Once anything enters the canal, the fast flowing water and steep sides allow no chance of escape.

Although BLM has no legal responsibility for losses caused by the flume approximately 8 miles of the flume cross BLM managed Public Lands under a right-of-way permit. The area is grazed by cattle, mule deer, elk, and antelope and is receiving increased recreational use annually. The right-of-way stipulations require a fence, three animal crossings, one truck crossing, and watering troughs along the length of the flume.

For the past 4 years, BLM has met with the other government agencies involved and with the canal company to try and rectify the dangerous conditions. However, once again, the irrigation season is upon us and no acceptable solution has been found to reduce the wildlife losses or to prevent the potential threat to humans. The canal company feels that they



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

have complied with all of the right-of-way stipulations, and since modification of the flume to eliminate wildlife losses would be very costly, they should not be required to bear the entire expense for such modifications. Canal company members have implied that the wildlife losses are not significant when compared to highways that kill many more animals every year than the flume. Total animal losses are unknown, but spot checks in 1977 revealed that big game losses occurred regularly throughout the season. As many as 5 dead badgers were documented at one time near the mouth of the flume. Two golden eagles were documented as killed in the flume, one in 1977 and one in 1978. Attempts to quantify wildlife losses in 1978 proved unsuccessful because dead animals were being removed from the flume before they were documented.

The stipulations also state that, if it is determined the three animal crossings are not sufficient, three more will be installed. Evidence to date indicates that the three animal crossings are not sufficient. One original stipulation requiring the canal company to cover the flume with a wire mesh was substituted by the fence requirement in 1965. All stipulations (except the three additional animal crossings) have been met by the canal company, but the hazard remains.

Many alternatives to reduce the hazard have been explored by the parties involved. Total prevention of animal and human casualties would be accomplished only by returning the water from the flume to the original Dry Creek channel. Riparian habitat along Dry Creek would also be improved and deep channel cutting in Wet Creek caused by the additional erosive action of the flume water would be reduced. However, the loss of irrigation water on 5890 acres of cropland would be a severe blow to the farmers in the canal company. No alternative water source is available unless irrigation wells were drilled in the valley and the water pumped to the fields.

Covering the canal would be the second most desirable alternative for public safety and wildlife protection. However, costs for such covering would be too high for the canal company to shoulder alone. Cost estimate range from \$1,030,000 to \$1,500,000 (G. Woodie March 11, 1978).

The U.S. Solicitor has advised against any BLM participation on alterations within the right-of-way. No progress has been reported to this office from ASCS for cost sharing or from SCS for design modifications. In addition, the canal company has indicated that covering the flume would create a hardship for annual maintenance of the structure.

Escape devices that could be placed in the canal would not be practical due to the high velocity of the water flow. The steep sided narrow design of the canal and degree of fall over the length of the flume make any obstacle to the flow of water unfeasible. SCS engineers were opposed to installation of a BLM designed "skimmer" for this reason.

Construction of the 8' fence with mesh wire at the bottom would reduce losses to small mammals and would eliminate big game losses. However, the cost for 20 miles of such fence was too high for the canal company to afford. Some

wildlife losses would still be expected, even with a deer-proof fence, but such losses would be substantially reduced over the present situation. Cost estimates for materials is \$180,800 (G. Woodie March 11, 1978).

Recommendations:

In my mind, the best solution to mitigation of the hazard is as follows:

1. Continue to explore the possibilities of escape devices which could be installed in canal to allow safe exit.
2. Continue to explore various means of covering the canal to allow access for maintenance while providing an adequate surface for human and animal crossing.

Until such designs are feasible:

3. The Dry Creek canal company should construct a deer, elk, and antelope-proof fence along both sides of the approximately $3\frac{1}{2}$ miles of private and state land through which the canal runs.
4. BLM and SCS should enter into a cost sharing cooperative agreement to construct a deer, elk, and antelope-proof fence along both sides of the remaining approximately $6\frac{1}{2}$ miles of flume on the outside of the right-of-way.
5. The fences should be constructed with wire mesh along the bottom small enough to prevent badgers, ground squirrels, and rabbits from going through.
6. The canal company should provide six additional animal crossings (the three remaining in the original stipulations and three more) to provide a crossing every mile.
7. BLM should provide signs to warn the public of the danger associated with the flume and place them every $\frac{1}{2}$ mile along the length of the canal.
8. The canal company should maintain the water troughs, fence, and animal crossings annually.

The animal crossings and signs should be constructed before the 1979 irrigation season. Construction on the fence should start before the 1980 irrigation season and be completed before the 1981 irrigation season.

Positive action is necessary to mitigate the hazard the flume presents to wildlife and the public. Clearly, the right-of-way stipulations are inadequate. The design of the flume is successful in delivering valuable water to local irrigators but safety standards have been neglected.

Due to the recent controversy generated by the letters written to several high government offices by George Crockett, the flume has received considerable attention. Much time has been spent answering congressional inquiries regarding the hazard, but any efforts toward mitigation seem to have reached a stalemate. The warnings have been heard and no action at this time would be a disservice to the safety of wildlife and the public. Instruction Memo No. ID-79-207 states "The safety of employees carrying out the administrative duties of the Bureau and the safety of public visitors are paramount. Safety must take precedence over expediency or short cuts. Every attempt will be made to reduce the possibility of an accident occurrence."

Robert S. McCarty Jr.

MemorandumDEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENTIN REPLY REFER TO:
I-015694

TO : Area Manager, Big Butte Resource Area

FROM : Wildlife Biologist, Big Butte Resource Area

SUBJECT: Dry Creek Flume Modification

Date: 1/15/81

Several alternatives to reduce wildlife losses in the Dry Creek flume are presented and discussed. The attached map shows the locations of proposed modifications. The upper section of the flume (from the beginning to State Section 16) will be discussed separately from the lower section (T. 10 N., R. 25 E., Sec. 14, SW $\frac{1}{4}$ SW $\frac{1}{4}$ to the end). About 7.2 miles of the flume lies on BLM-managed lands. The remaining 2.3 miles are on State and private lands.

Although the alternatives presented would reduce overall animal losses, some animals would still enter the flume and be killed. The only way to stop all losses would be to cover the entire flume. This would cost \$150,000 and is unacceptable to the Canal Corporation as shown in letters from George Woodie, President of Dry Creek Development, Inc.

Four animal crossings and one vehicle crossing have been installed on the flume. Twelve operational water troughs receive concentrated wildlife use. Four more animal crossings should be installed to provide a crossing every mile. Two of these crossings should be located at water troughs and two placed at strategic locations on State and private lands. The canal corporation installed one animal crossing in 1979 for \$1,000 including labor. Right-of-way stipulations require that two more crossings be installed by the corporation. These should go in Sections 16 and 13 as shown on the attached map.

The design of the present fence and proximity of the road create problems for big game. I have encountered antelope twice along the flume. Each time, the animal ran along the road in front of my truck, repeatedly trying to get through the fence. Even though I slowed down and stopped, the antelope persisted in trying to cross the flume. It finally got through a loose part of the fence, jumped the flume, and was stopped by the fence on the other side. Once trapped between the two fences, the antelope bounced off each fence repeatedly, jumping the flume each time until it finally got through the other side. On another occasion, a doe mule deer jumped the fence near the uppermost trough and immediately entered the flume. She eventually drowned. Once an animal enters the flume, it is nearly impossible for it to escape at any water level.

Deer appear to be the most susceptible to entering the flume. Deer use is concentrated on the upper section of the flume. Elk also would be more likely to enter the upper section because of habitat characteristics. Antelope use occurs along the flume's entire length. The existing fence is an effective barrier to antelope when it is maintained and tight. However, the fence is easily negotiated by deer and elk. The existing fence also allows passage by coyotes and small mammals. It is theorized that raptors are pulled into the flume when they try to catch small mammals floating by.

The following alternatives contain cost estimates and expected results. Twenty thousand dollars have been earmarked from the 1981 wildlife budget to modify a portion of the flume. An overall plan for modifications must be made to establish priorities and request additional funding in the future. An environmental assessment will be prepared once an initial decision is made.

Cost estimates are for materials only except for the deer-proof fence, road relocation and cattleguards. An additional cost of \$1,400 per mile for fence relocation should be added if labor is contracted.

Upper Section 2.8 miles

Alternative 1

Cover 2.8 miles of the flume with 26 gauge tin and reinforce the ends with angle iron. Cost for materials: \$15,000/mile (G. Woodie) Total estimated cost: \$42,000. Labor provided by YACC or contracted at additional cost. YACC would remove the existing fence where the flume was covered.

Alternative 2

Cover 1.25 miles of the flume with 26-gauge tin and move the existing fence on 1.55 miles (3.1 miles of fence). Install cattleguards in 8 places where the fence crosses the road. Cost estimate: \$23,250 for cover, \$12,800 for cattleguards, \$2,480 for fence materials. Total estimated cost: \$38,530. Labor provided by YACC or contracted at additional cost. YACC would remove the existing fence where the flume was covered.

Alternative 3

Construct deer-proof fence on 2.8 miles of the flume (5.6 miles of fence). Cost estimate: \$58,140, labor by contract.

Alternative 4

Move back the existing fence where possible and tie back into the present fence where movement is impossible. Reconstruct the fence on top of the bench where steep slopes on the southeast side would inhibit construction. About 4.35 miles of fence would be moved. Cattleguards would be required in eight places. Cost estimate: \$3,480 for fence materials, \$12,800 for cattleguards. Total estimated cost: \$16,280. Labor provided by YACC or contracted at additional cost. If labor is contracted, an additional \$7,000 would be required.

Discussion

The upper section of the flume lies in a canyon. Fence movement is impossible along 1.25 miles of the flume on the northwest because the Dry Creek channel cuts too close to the road. Fence movement is difficult along about 1 mile on the southeast because steep slopes occur adjacent to the flume. The existing fence does not exclude deer and elk from the flume. Most of the deer and elk habitat occurs in this area.

Alternative 1 would completely exclude wildlife from the flume in this area. However, a cover on the flume would make the ditch harder to maintain.

Alternative 2 would allow wildlife access to the flume wherever the fence was moved, but would provide room for big game to jump the flume. Wildlife would be completely excluded on the 1.25 miles covered with tin, but maintenance would be hindered. The possibility for human losses would increase on 1.55 miles where no fence would occur between the road and flume. Wildlife losses would continue, but big game losses would be reduced significantly.

The deer-proof fence in Alternative 3 would effectively exclude all big game but would hinder accessibility to the flume for maintenance. Small mammals and raptors would still be caught but losses would be reduced because woven wire would stop many of the small mammals. Annual maintenance of the fence would be costly.

Alternative 4 would have the least affect on reducing wildlife losses. The present fence problem would not be rectified on 1.25 miles on the northwest side of the flume. No additional problems to maintenance would be created. Small mammal and raptor losses would remain the same. Big game losses would be reduced but remain significant. The possibility for human losses would be increased in areas where the road and flume would not be separated by the fence.

Lower Section 4.5 miles

Alternative 1

Cover 4.5 miles of the flume with 26-gauge tin and reinforce the ends with angle iron. Cost for materials: \$15,000/mile (G.Woodie). Total estimated cost: \$67,500. Labor provided by YACC or contracted at additional cost. YACC would remove the existing fence.

Alternative 2

Move the existing fence on 4.5 miles of the flume. Install cattleguards at eight places where the new fence would cross the road. Cost for materials: \$7,200 for fence, \$12,800 for cattleguards. Total estimated cost: \$20,000. An easement would be required for the private land in Section 13. Labor provided by YACC or contracted at additional cost.

Alternative 3

Move back the existing fence on 4.5 miles of the flume. Relocate the road outside the fence. Cost for materials: \$7,200 for fence, \$2,250 for road relocation. Total estimated cost \$9,450. An easement would be required for the private land in Section 13. Labor provided by YACC or contracted at additional cost.

Alternative 4

Relocate the fence on 3 miles above the lower animal crossing. Install net wire in place of barbed wire at 39" height. Relocate the road outside the fence. Cost for materials: \$12,800 for fence, \$1,600 for road relocation. Total estimated cost: \$14,400. An easement would be required for the private land in Section 13. Labor provided by YACC or contracted at additional cost.

Discussion

The lower section of the flume starts in the mouth of a canyon and proceeds to an open fan. Enough room for fence and road relocation is available in this section. The existing fence restricts antelope movement, but deer and elk can jump it easily. Antelope do penetrate the fence on occasion. Deer and elk habitat is marginal in this area, and most of the losses come from the upper section.

The cover in Alternative 1 would completely exclude wildlife from the flume, in this area. However, it would create a hardship for maintenance of the ditch.

Alternative 2 would allow wildlife access to the flume but would provide room for big game to jump the fence. The possibility for human losses would be increased where no fence would lie between the road and flume. Wildlife losses would continue, but antelope losses would be reduced significantly.

Alternative 3 would have the same effect as Alternative 2, but the hazard to humans would be less by maintaining a fence between the road and flume. The location of the road outside the fence could cause more antelope to pass through the fence because of their habit of trying to pass in front of a moving vehicle.

Alternative 4 would reduce the possibility of antelope entering the flume above the first crossing. The section below the first animal crossing would not change, but antelope activity is low in this area. If an animal entered the flume below the first crossing it would have a good chance of surviving because the ride would be short. Deer and elk would be able to jump the fence and have room to jump the flume. Small mammal and raptor losses would be reduced but remain significant. Antelope losses would be less than any alternative except Alternative 1. Human hazard would be less by placing a fence between the road and flume.

TABLE OF ALTERNATIVES

Install four additional crossings at \$1,000 each - \$4,000

Upper Section

<u>Alt.</u>	<u>Performance</u>	<u>Cost *</u>	<u>Results</u>
1	Cover w/tin 2.8 miles	\$42,000	Exclude wildlife maintenance problems
2.	Cover w/tin 1.25 miles Move fence 1.55 miles Install 8 cattleguards	\$38,530	Reduce most big game losses. Maintenance problems. Harzard to humans.
3	Install deer-proof fence	\$58,140	Exclude big game Maintenance problems
4	Move fence on all but 1.25 miles along flume	\$13,500	Reduce big game losses, but not much. Increase human hazard.

Lower Section

1	Cover 4.5 miles	\$67,500	Exclude wildlife. Maintenance problem.
2	Move fence 4½ miles Install 8 cattleguards	\$20,000	Reduce big game loss. Increase human hazards
3	Move fence 4½ miles relocate road	\$9,450	Reduce big game loss
4	Relocate fence 3.2 miles Install net wire Relocate road	\$14,400	Reduce big game losses more than Alt. 2 or 3. Reduce small mammal and bird losses.

* Add \$1,400/mile if fence is contracted. No labor costs included in cover estimates.

Priorities

No mix of alternatives will completely stop the wildlife losses because 2.3 miles of State and private lands will remain unchanged except for installation of two animal crossings. Fence relocation would be difficult on 1.2 miles of State and private lands. The remaining 1.1 miles could be improved by fence relocation, but this action is not expected to occur.

The upper section of the flume has the highest potential for losses to elk and deer. However, current funding is inadequate for any alternative except Alternative 4. The problems in this area are complex, and further study and coordination should be made before a decision is made.

The lower section remains a hazard to antelope, small mammals, birds, and some deer and elk. Current funding is adequate to effectively reduce the hazard, although some wildlife losses would continue under any alternative except Alternative 1.

To effectively start action for hazard reduction on the flume, the \$20,000 available in FY 81 should be used on the lower section first. Alternative 4 was selected. This alternative calls for moving the fence on 3.2 miles above the lower animal crossing. Net wire should be installed at 39" height in place of the existing barbed wire. The road would be relocated outside the fence. Three animal crossings are required. Estimated costs for materials total \$17,400. This includes \$12,800 for fencing, \$1,600 for road relocation and \$3,000 for animal crossings. If actual costs do not exceed the estimate, an additional .65 miles of the flume could be modified on the upper section. However, additional expense is expected for an easement across private land in Section 13, inflated cost of materials and possible problems for road construction. If labor is contracted, the lower 3.2 miles would require an additional \$8,960. If labor is contracted, only 2.25 miles of the flume can be modified with present funding.

Enclosure

Robert S. McCarty

MemorandumDEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

Idaho Falls District

I-015694

TO : State Director (930)

Date: March 9, 1982

FROM : District Manager I-3

SUBJECT: Dry Creek Flume Improvement

Positive actions were taken in FY 81 to reduce big game mortality associated with the Dry Creek Flume. A cooperative agreement was finalized in July, 1981, between BLM and Dry Creek Development Inc. to authorize these actions. The original right-of-way (I-015694) was amended to include the provisions of this cooperative agreement.

YACC crews under the direction of Tom Lopez installed seven animal crossings in strategic locations along the flume. The crossings were located by Bob McCarty of BLM and Al Nicholson of Idaho Department of Fish and Game in areas where maximum benefits to big game would occur. There are now 11 animal crossings.

Six of the new crossings were constructed near water troughs where big game use was evident. Three crossings require gates while livestock are present because different allotments lie on either side of the flume. Eight crossings don't require a gate because the same allotment lies on both sides of the flume.

Dry Creek Development has agreed to install two more crossings on the flume, neither of which will require a gate. This would make a total of 13 crossings. Before 1981, only four animal crossings were built on the 10 miles of flume.

The YACC also upgraded the existing fence to more effectively exclude antelope on the lower section of the flume. They modified about 3 miles of fence by installing one fence post every rod where only one fence post for every 5 rods stood before. Another 4 miles of fence were partially modified by placing posts every 2½ rods. They posted signs at every animal crossing to warn the public of the dangers associated with the flume.

District personnel attempted to remove brush along the fence where it impaired visibility. They cleared .5 miles out of about 6 miles of fence where clearing is necessary with chain saws and brush cutters. Because this method was slow, burning the brush will be tried as an alternative this spring. This year we also plan to cover with dirt the seven new crossings and one crossing installed in 1980 by Dry Creek Development Inc.

R McCarty

It is difficult to judge the effectiveness of these endeavors.
We do feel that our efforts will help the situation, although we realize
some big game losses will continue to occur.

Bill A. Funder

R. McCarty
RM^c Carty:TN

APPENDIX E-3
USGS CORRESPONDENCE



United States Department of the Interior

GEOLOGICAL SURVEY

WATER RESOURCES DIVISION

IDAHO OFFICE

230 Collins Road

Boise, Idaho 83702

February 22, 1985

Mr. Bruce R. Gravette
Forsgren-Perkins Engineering
350 North 2nd East
Rexburg, ID 83440

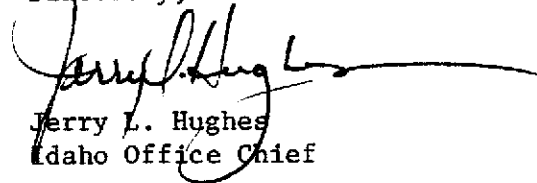
RE: FERC Project No. 7623 - Dry Creek Hydroelectric Project

Dear Mr. Gravette:

Under the terms of Article 1 (Form P-1), our responsibility is to recommend to FERC the amount and kind of streamflow data needed for any stream affected by a proposed hydroelectric project.

For the hydroelectric project referenced above, miscellaneous discharge measurements that define the range of flow and correlation with discharge of Little Lost River below Wet Creek, near Howe (Station number 13118700) should provide data necessary for feasibility and engineering design studies.

Sincerely,



Jerry L. Hughes
Idaho Office Chief

LCK/jb

APPENDIX E-4
IDAHO DEPARTMENT OF WATER
RESOURCES CORRESPONDENCE



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

150 Shoup — Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

April 5, 1985

RE: Application for Permit No. 33-7154 STAUFFER

Mr. Bruce R. Gravette, P.E.
Forsgren-Perkins Engineering, p.a.
350 North Second East
Rexburg, ID 83440

Dear Mr. Gravette:

The Department of Water Resources has examined the documentation provided relative to D & D Stauffer's FERC application for exemption from licensing under preliminary permit No. 7623 and their application for permit 33-7154 to appropriate water for use in the hydropower facility.

This preliminary review indicates the project, as described in the exemption application, should enhance delivery of irrigation water from Dry Creek into the Little Lost River. With proper regulation no adverse impacts to existing irrigation rights are anticipated.

The pipeline, of course, will also allow for the elimination of the Dry Creek flume which has been a hazard to wildlife, domestic stock, and man since its construction.

The copies of documents you provided reveal strong public support for construction of the project. With the amendment of Application 33-7154, so the location of the power house and tailrace are correctly identified, we do not anticipate any conflicts concerning local public interest.

Mr. Bruce R. Gravette
April 5, 1985
Page 2

We understand the amended application will be submitted in the near future. Following readvertisement of the application the department will conduct an extensive review for final determination concerning local public interest and possible impacts to existing water rights.

Respectfully submitted,

A handwritten signature in cursive script, reading "Ernest Carlsen".

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

APPENDIX E-5

BLM CORRESPONDENCE

STATE HISTORIC PRESERVATION

OFFICE CORRESPONDENCE



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Idaho Falls District

940 Lincoln Road

Idaho Falls, Idaho 83401

IN REPLY
REFER TO: 7250.4

March 15, 1985

Mr. Bruce Gravette
Forsgren-Perkins Engineering, P.A.
350 North 2nd East
Rexburg, Idaho 83440

Dear Mr. Gravette:

We have reviewed the Federal Energy Regulatory Commission application by D&D Stauffer, Inc., for a small hydropower plant on Dry Creek.

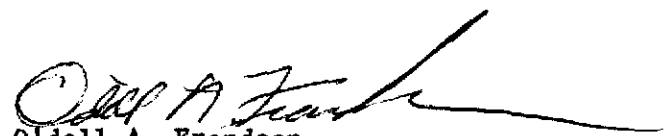
This project will have a net benefit to wildlife in the project area by dewatering the Dry Creek flume which has been a significant wildlife trap for many years. The project should allow safe migration of elk, deer, antelope and other game species through the area. The project will also allow approximately 2 miles of Wet Creek habitat (riparian vegetation and channel structure) to recover from past erosion due to excess flows from the Dry Creek flume. This should provide improvements to both wildlife and fishery habitat. We would expect an increase in trout populations in this reach as the habitat recovers.

We understand that your firm is presently analyzing streamflows, project design and project feasibility. We will need this data along with detailed maps to allow assessment of project impacts, mitigation requirements and to process your right-of-way application. At this point we do not see any major obstacles.

A cultural resource inventory has been completed for a portion of the proposed pipeline route. Eight prehistoric sites were recorded. These sites are not directly in the pipeline's path, and will not be adversely affected by pipeline construction and operation. About 3 miles of pipeline route between the flume and power plant must be inventoried before a right-of-way is approved. However, site density is expected to be low and any adverse effects are expected to be minimal.

Our staff will be available to work with you on completing the project right-of-way. This will involve the completion of a land report and a complete environmental assessment.

Sincerely,


O'dell A. Frandsen
District Manager

IDAHO STATE HISTORICAL SOCIETY

610 NORTH JULIA DAVIS DRIVE BOISE. 83702



March 11, 1985

Mr. Bruce R. Gravette, P.E.
Forsgren-Perkins Engineering
350 North Second East
Rexburg, Idaho 83440

Dear Mr. Gravette:

Thank you for forwarding the draft copy of the application for exemption for the Dry Creek Hydroelectric Power project (FERC No. 7623).

We reviewed the information contained in the application regarding historical and archaeological resources and agree with Mr. Hill's determinations and recommendations for a survey prior to granting any easements. Thus, we will be looking forward to receiving a cultural resource report as soon as it is available.

Sincerely,

A handwritten signature in cursive script, reading "Thomas J. Green".

Thomas J. Green
State Archaeologist
State Historic Preservation Office

TJG/bhd

APPENDIX E-6
FISH AND WILDLIFE AGENCY
CORRESPONDENCE

IDAHO DEPARTMENT OF FISH AND GAME
REGION 6
1515 Lincoln Road
Idaho Falls • Idaho • 83401

March 19, 1985

Mr. Bruce Gravette, P.E.
Forsgren-Perkins Engineering, P.A.
350 North 2nd East
Rexburg, Idaho 83440

RE: Stauffer, Inc. FERC Application for Exemption Licenses No.
7623 Dry Creek, Little Lost River.

Dear Bruce:

Idaho Department of Fish and Game has reviewed the referenced application. The Department strongly supports the current Dry Creek project due to its potential benefits to fish and wildlife resources in the Little Lost River Valley. The burial of the flume will eliminate wildlife mortalities and the reduction in flows in Middle Wet Creek will benefit fisheries.

The following comments are clarifications and/or considerations to be included in the exemption application.

Diversion and inlet design will have to prevent air entrainment to the penstock so that no changes occur in dissolved nitrogen at the outlet which would affect fisheries in the Little Lost River.

As stated in the application, the present wildlife and livestock watering sites will be maintained by the applicant.

Fish screens are necessary at the water diversion structure. The screens shall be designed, constructed, operated and maintained in conformance with criteria furnished or approved by IDFG. Exhibit B indicates screens but the text does not indicate planning for fish screens within the project.

The penstock shall be buried, as proposed, to prevent interference with wildlife movements.

Velocity dissipation construction as approved by the Department shall be installed to reduce exit water velocities from the powerhouse to a level which will not result in head cutting at the project and Wet Creek confluence.

Mr. Bruce Gravette, P.E.
March 19, 1985
Page 2

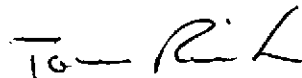
Adequate flow control and energy dissipation for bypass flows to prevent erosion in case of turbine shutdown will be required as approved by the Department.

If project design should be changed from that shown in the application, the above terms and conditions may be revised to take into account changes in project designs.

These comments do not constitute submission of terms and conditions under Section 408 of the Energy Security Act of 1980. Terms and conditions will be submitted after notice of application from the Federal Energy Regulatory Commission (FERC).

As required by Section 4.107 (a), (2) of the FERC Order No. 106, please forward a copy of the exemption application to Idaho Department of Fish and Game, P. O. Box 25, Boise, Idaho 83707 at the time it is submitted to the Federal Energy Regulatory Commission.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Tom Reinecker', with a stylized 'R' and 'L'.

Tom Reinecker
Regional Supervisor
Region 6

TR:SE:dnb

cc: U.S. Fish and Wildlife Service
Bureau of Fisheries
Gary Hompland
BLM, Idaho Falls
Rick Stauffer
Rob Stauffer

IDAHO DEPARTMENT OF FISH AND GAME
REGION 6
1515 Lincoln Road
Idaho Falls • Idaho • 83401

April 8, 1985

Mr. Bruce Gravette, P.E.
Forsgren-Perkins Engineering, P.A.
350 North 2nd East
Rexburg, Idaho 83440

Dear Bruce:

In response to your telephone call last week requesting the Department's position concerning two additional issues with The Stauffer Hydro Project in the Little Lost, the following is our position.

1. Diversion of flows from the Penstock. Based on the present use and practices of the irrigation company, we do not anticipate any additional fisheries losses with your operation.
2. Construction of the hydro plant in Section 36 on Wet Creek. Again based on present practices of the irrigation company with flow in Wet Creek, we would not anticipate any out of the ordinary problems with the construction of the Stauffer Hydroelectric facility in this location as it is related to wildlife or fishery values.

Sincerely,



Tom Reinecker
Regional Supervisor
Region 6

TR:dnb

cc: Bureau of Fisheries
Bureau of Program Coordination

APPENDIX E-7

**INITIAL CORRESPONDENCE WITH
STATE AND FEDERAL AGENCIES**

APPENDIX E-7

1983

The Applicant Took the Following Actions

- July 1 Applied for Energy Permit from Idaho Department of Water Resources (IDWR)
- July 5 Discussed Energy Permit with Mr. Keith Wilson, IDWR
- July 8 Discussed project with Mr. Brent Jensen, Bureau of Land Management (BLM)
- July 8 Discussed project with Mr. Virgil Moore, Idaho Fish and Game Department (ID F&G) Wildlife Biologist
- July 21 Discussed a site visit with Mr. Virgil Moore
- August 2 Discussed time limit on the Energy Permit with Mr. Ron Carlson of the IDWR
- August 2 Requested permission to install a weir above the Dry Creek diversion with Mr. Virgil Moore, ID F&G; obtained permission
- August 10 Discussed weir measuring procedures with Mr. Keith Wilson of the IDWR
- August 16 Discussed project with Mr. Brent Jensen, BLM; discussed the positive benefits of replacing the concrete flume; discussed items that required further investigation
- Oct. 27 Discussed a possible hydropower plant location on Mr. Jerry Panacheri's ground (hereafter referred to as the "Panacheri site") with Mr. Brent Jensen, BLM
- Dec. 6 Discussed with Mr. Keith Wilson of the IDWR a transfer of an 18 cfs Energy Permit from the Dry Creek Development Corporation to D & D Stauffer, Inc.
- Dec. 8 Sent letter to IDWR further explaining the requested transfer of the Energy Permit

1984

- Jan. 26 Spoke with Mr. Tom Reinecker of the ID F&G about the requested Energy Permit. Mr. Reinecker stated that the project would have net fish and wildlife benefits through the elimination of the Dry Creek flume; however, engineering plans would have to be presented before a final fish and wildlife determination could be made. The Fish and Game Department did, however, indicate that the processing of the requested Energy Permit could proceed.

- Jan. 30 Met with Mr. James Gabettas, Acting BLM District 6 Manager, to discuss the requested Energy Permit. Mr. Gabettas informed the Applicant that a right-of-way would be required prior to perfecting the requested water right.
- July 18 Discussed the proposed flood control project near Howe, Idaho with Mr. Jim Esget, BLM hydrologist; discussed the proposed hydropower project in relation to the flood control project
- August 27 Requested a meeting with Mr. Tom Reinecker of the ID F&G at the project site
- August 29 Called Mr. Brent Jensen, BLM District 6 Manager, to request a meeting at the project site
- Sept. 5 Met with the ID F&G and the BLM (Mr. Tom Reinecker and Steve Elle from the ID F&G; Mr. Brent Jensen of the BLM) at the Panacheri project site. Items discussed included the need to construct an energy dissipation device at the end of the discharge line and discharging into Sawmill rather than Summit Creek.

1985

- Jan. 10 The Applicant, the Engineer, and Mr. Tom Reinecker and Mr. Steve Elle met at Mr. Bruce Hillman's residence to discuss a protest which had been raised regarding the requested Energy Permit which would have discharged water into Sawmill Creek. Discussed the potential impacts of the extra discharge water on Mr. Hillman's property. Met with Mr. Jim Andreson who had also issued a protest to the water right and toured Mr. Andreson's property to evaluate potential problem areas. It was decided that a hydrological analysis would be performed to evaluate the expected impacts in the river section below the proposed discharge point.
- Jan. 16 The Engineer and Applicant met with Mr. Tom Reinecker of the ID F&G and presented an alternative project site located near the confluence of Wet Creek and the Little Lost River. The Fish and Game Department indicated that this project site would be far more favorable than the Pancheri site in that the river below this point had historically carried the irrigation flows.
- Jan. 18 Met with Mr. Brent Jensen and Jim Esget of the BLM and discussed this new project location. Because the project site was located on BLM land, Mr. Jensen indicated that a transfer of this property to the Applicant would be extremely difficult and they urged that a project site be developed on private land which was located approximately one-quarter mile from the river area.

Jan. 30 Met with the ID F&G and the BLM and discussed locating the project site on Mr. Jake Amy's ground in Section 36, adjacent to Wet Creek, which is the present project site included in this application. Both the Fish and Game Department and the BLM felt that this site offered the most benefits of all the sites previously considered and they could see no major problems in the development of this site. We informed these agencies that a draft FERC application would be provided for their review and comment within the next month. (See transmittal letters in Appendix E-8.)

APPENDIX E-8
FORMAL CONSULTATION WITH
STATE AND FEDERAL AGENCIES



FORSGREN-PERKINS ENGINEERING, p.a.

February 28, 1985

843051

Mr. Odell Frandsen
District Manager
U.S. Bureau of Land Management
Idaho Falls District
940 Lincoln Road
Idaho Falls, ID 83401

Dear Mr. Frandsen:

D & D Stauffer, Inc., is seeking approval from the Federal Energy Regulatory Commission (FERC) for the construction of a hydropower plant which would utilize the summer irrigation water which is presently diverted from Dry Creek into Wet Creek. The project location, description, and an environmental assessment are contained in the preliminary draft copy of the FERC application, which is provided for your review.

The FERC application will be for an "exemption from licensing for a small conduit hydroelectric facility." The major features of this project which qualify it to be categorized as a small conduit hydroelectric facility are that it:

1. Utilizes, for electric power generation, the hydroelectric potential of a conduit.
2. Is located on private ground.
3. Is not an integral part of a dam and does not include any dam construction.
4. Does not interfere with the beneficial use of the water for its primary purpose, which is irrigation.

You will notice that within the draft application there are references to your agency's response to certain items. These references are intended to assist you in preparing the response that will be included in the final application. The referenced items for the Bureau of Land Management response are contained in Exhibit E, Sections 2.5 and 2.7.

Mr. Odell Frandsen
February 28, 1985
Page 2

Please be aware that these references, as well as the remainder of the text, will be modified to suit your agency's response. We request your response by March 15, 1985, so that the application may be finalized and submitted to FERC. Your agency, in accordance with Title 18, Chapter 1, Paragraph 4.93(c) of the Federal Energy Regulatory Commission regulations, will then receive notice from FERC that the final application has been accepted for filing and is available for your review comments.

The discussion and investigations that have taken place up to this point on the Dry Creek Hydroelectric project indicate that the project will have an overall positive impact on the natural and human environments in the area. Your continued and prompt assistance in developing this project is vital to insuring that these benefits are realized.

Sincerely,

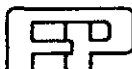
FORSGREN-PERKINS ENGINEERING



Bruce R. Gravette, P.E.

ccp

Enclosure





FORSGREN-PERKINS ENGINEERING, p.a.

February 28, 1985

843051

Mr. Clair Whitlock, Director
U.S. Bureau of Land Management
State Office
3380 Americana Terrace
Boise, ID 83706

Dear Mr. Whitlock:

D & D Stauffer, Inc., is seeking approval from the Federal Energy Regulatory Commission (FERC) for the construction of a hydropower plant which would utilize the summer irrigation water which is presently diverted from Dry Creek into Wet Creek. The project location, description, and an environmental assessment are contained in the preliminary draft copy of the FERC application, which is provided for your review.

The FERC application will be for an "exemption from licensing for a small conduit hydroelectric facility." The major features of this project which qualify it to be categorized as a small conduit hydroelectric facility are that it:

1. Utilizes, for electric power generation, the hydroelectric potential of a conduit.
2. Is located on private ground.
3. Is not an integral part of a dam and does not include any dam construction.
4. Does not interfere with the beneficial use of the water for its primary purpose, which is irrigation.

You will notice that within the draft application there are references to your agency's response to certain items. These references are intended to assist you in preparing the response that will be included in the final application. We have requested a response from your Idaho Falls District office for the items mentioned in Exhibit E, Sections 2.5 and 2.7.

Mr. Clair Whitlock
February 28, 1985
Page 2

Please be aware that these references, as well as the remainder of the text, will be modified to suit your agency's response. We request your response by March 15, 1985, so that the application may be finalized and submitted to FERC. Your agency, in accordance with Title 18, Chapter 1, Paragraph 4.93(c) of the Federal Energy Regulatory Commission regulations, will then receive notice from FERC that the final application has been accepted for filing and is available for your review comments.

The discussion and investigations that have taken place up to this point on the Dry Creek Hydroelectric project indicate that the project will have an overall positive impact on the natural and human environments in the area. Your continued and prompt assistance in developing this project is vital to insuring that these benefits are realized.

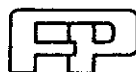
Sincerely,

FORSGREN-PERKINS ENGINEERING

Bruce R. Gravette
Bruce R. Gravette, P.E.

ccp

Enclosure





FORSGREN-PERKINS ENGINEERING, p.a.

February 28, 1985

843051

Mr. Tom Reinecker
Regional Supervisor
Idaho Department of Fish and Game
Region 6
1515 Lincoln Road
Idaho Falls, ID 83401

Dear Mr. Reinecker:

D & D Stauffer, Inc., is seeking approval from the Federal Energy Regulatory Commission (FERC) for the construction of a hydropower plant which would utilize the summer irrigation water which is presently diverted from Dry Creek into Wet Creek. The project location, description, and an environmental assessment are contained in the preliminary draft copy of the FERC application, which is provided for your review.

The FERC application will be for an "exemption from licensing for a small conduit hydroelectric facility." The major features of this project which qualify it to be categorized as a small conduit hydroelectric facility are that it:

1. Utilizes, for electric power generation, the hydroelectric potential of a conduit.
2. Is located on private ground.
3. Is not an integral part of a dam and does not include any dam construction.
4. Does not interfere with the beneficial use of the water for its primary purpose, which is irrigation.

You will notice that within the draft application there are references to your agency's response to certain items. These references are intended to assist you in preparing the response that will be included in the final application. The referenced items for the Fish and Game Department response are contained in Exhibit E, Sections 2.1, 2.2, and 3.0.

Mr. Tom Reinecker
February 28, 1985
Page 2

Please be aware that these references, as well as the remainder of the text, will be modified to suit your agency's response. We request your response by March 15, 1985, so that the application may be finalized and submitted to FERC. Your agency, in accordance with Title 18, Chapter 1, Paragraph 4.93(c) of the Federal Energy Regulatory Commission regulations, will then receive notice from FERC that the final application has been accepted for filing and is available for your review comments.

The discussion and investigations that have taken place up to this point on the Dry Creek Hydroelectric project indicate that the project will have an overall positive impact on the natural and human environments in the area. Your continued and prompt assistance in developing this project is vital to insuring that these benefits are realized.

Sincerely,

FORSGREN-PERKINS ENGINEERING

Bruce R. Gravette

Bruce R. Gravette, P.E.

ccp

Enclosure





FORSGREN-PERKINS ENGINEERING, p.a.

February 28, 1985

843051

Mr. Jerry Conley, Director
Idaho Department of Fish and Game
P.O. Box 25
Boise, ID 83707

Dear Mr. Conley:

D & D Stauffer, Inc., is seeking approval from the Federal Energy Regulatory Commission (FERC) for the construction of a hydropower plant which would utilize the summer irrigation water which is presently diverted from Dry Creek into Wet Creek. The project location, description, and an environmental assessment are contained in the preliminary draft copy of the FERC application, which is provided for your review.

The FERC application will be for an "exemption from licensing for a small conduit hydroelectric facility." The major features of this project which qualify it to be categorized as a small conduit hydroelectric facility are that it:

1. Utilizes, for electric power generation, the hydroelectric potential of a conduit.
2. Is located on private ground.
3. Is not an integral part of a dam and does not include any dam construction.
4. Does not interfere with the beneficial use of the water for its primary purpose, which is irrigation.

You will notice that within the draft application there are references to your agency's response to certain items. These references are intended to assist you in preparing the response that will be included in the final application. We have requested a response from your District 6 office on items mentioned in Exhibit E, Sections 2.1, 2.2, and 3.0. It would be very helpful if your office would respond to these items also.

Mr. Jerry Conley
February 28, 1985
Page 2

Please be aware that these references, as well as the remainder of the text, will be modified to suit your agency's response. We request your response by March 15, 1985, so that the application may be finalized and submitted to FERC. Your agency, in accordance with Title 18, Chapter 1, Paragraph 4.93(c) of the Federal Energy Regulatory Commission regulations, will then receive notice from FERC that the final application has been accepted for filing and is available for your review comments.

The discussion and investigations that have taken place up to this point on the Dry Creek Hydroelectric project indicate that the project will have an overall positive impact on the natural and human environments in the area. Your continued and prompt assistance in developing this project is vital to insuring that these benefits are realized.

Sincerely,

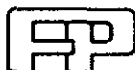
FORSGREN-PERKINS ENGINEERING

Bruce R. Gravette

Bruce R. Gravette, P.E.

ccp

Enclosure





FORSGREN-PERKINS ENGINEERING, p.a.

February 28, 1985

843051

Mr. John P. Wolfin
Field Supervisor
U.S. Department of the Interior
Fish and Wildlife Service
Boise Field Office
4620 Overland Road, Room 209
Boise, ID 83705

Dear Mr. Wolfin:

D & D Stauffer, Inc., is seeking approval from the Federal Energy Regulatory Commission (FERC) for the construction of a hydropower plant which would utilize the summer irrigation water which is presently diverted from Dry Creek into Wet Creek. The project location, description, and an environmental assessment are contained in the preliminary draft copy of the FERC application, which is provided for your review.

The FERC application will be for an "exemption from licensing for a small conduit hydroelectric facility." The major features of this project which qualify it to be categorized as a small conduit hydroelectric facility are that it:

1. Utilizes, for electric power generation, the hydroelectric potential of a conduit.
2. Is located on private ground.
3. Is not an integral part of a dam and does not include any dam construction.
4. Does not interfere with the beneficial use of the water for its primary purpose, which is irrigation.

You will notice that within the draft application there are references to your agency's response to certain items. These references are intended to assist you in preparing the response that will be included in the final application. We have requested a response from the Idaho Department of Fish and Game on items mentioned in Exhibit E, Section 2.1, 2.2, and 3.0. It would be very helpful if the Fish and Wildlife Service would respond to these items also.

Mr. John P. Wolfin
February 28, 1985
Page 2

Please be aware that these references, as well as the remainder of the text, will be modified to suit your agency's response. We request your response by March 15, 1985, so that the application may be finalized and submitted to FERC. Your agency, in accordance with Title 18, Chapter 1, Paragraph 4.93(c) of the Federal Energy Regulatory Commission regulations, will then receive notice from FERC that the final application has been accepted for filing and is available for your review comments.

The discussion and investigations that have taken place up to this point on the Dry Creek Hydroelectric project indicate that the project will have an overall positive impact on the natural and human environments in the area. Your continued and prompt assistance in developing this project is vital to insuring that these benefits are realized.

Sincerely,

FORSGREN-PERKINS ENGINEERING


Bruce R. Gravette, P.E.

ccp

Enclosure





FORSGREN-PERKINS ENGINEERING, p.a.

February 28, 1985

843051

Mr. Ernest Carlsen
Regional Supervisor
Idaho Department of Water Resources
Eastern Region
150 Shoup
Idaho Falls, ID 83401

Dear Mr. Carlsen:

D & D Stauffer, Inc., is seeking approval from the Federal Energy Regulatory Commission (FERC) for the construction of a hydropower plant which would utilize the summer irrigation water which is presently diverted from Dry Creek into Wet Creek. The project location, description, and an environmental assessment are contained in the preliminary draft copy of the FERC application, which is provided for your review.

The FERC application will be for an "exemption from licensing for a small conduit hydroelectric facility." The major features of this project which qualify it to be categorized as a small conduit hydroelectric facility are that it:

1. Utilizes, for electric power generation, the hydroelectric potential of a conduit.
2. Is located on private ground.
3. Is not an integral part of a dam and does not include any dam construction.
4. Does not interfere with the beneficial use of the water for its primary purpose, which is irrigation.

You will notice that within the draft application there are references to your agency's response to certain items. These references are intended to assist you in preparing the response that will be included in the final application. The referenced item for the Department of Water Resources response are contained in Exhibit E, Section 2.4

Mr. Ernest Carlsen
February 28, 1985
Page 2

Please be aware that these references, as well as the remainder of the text, will be modified to suit your agency's response. We request your response by March 15, 1985, so that the application may be finalized and submitted to FERC. Your agency, in accordance with Title 18, Chapter 1, Paragraph 4.93(c) of the Federal Energy Regulatory Commission regulations, will then receive notice from FERC that the final application has been accepted for filing and is available for your review comments.

The discussion and investigations that have taken place up to this point on the Dry Creek Hydroelectric project indicate that the project will have an overall positive impact on the natural and human environments in the area. Your continued and prompt assistance in developing this project is vital to insuring that these benefits are realized.

Sincerely,

FORSGREN-PERKINS ENGINEERING

Bruce R. Gravette
Bruce R. Gravette, P.E.

ccp

Enclosure





FORSGREN-PERKINS ENGINEERING, p.a.

February 11, 1985

843051

Mr. Bob Harper
United States Geological Survey
230 Collins Road
Boise, ID 83702

RE: Dry Creek Hydroelectric Project

Dear Mr. Harper:

D & D Stauffer, Inc., is seeking approval from the Federal Energy Regulatory Commission (F.E.R.C.) for exemption from licensing for a small conduit hydroelectric facility which will be located in Section 36, T.10N, R.26E., east of the Boise Meridian. The proposed facility will utilize the irrigation flow from Dry Creek for power production, and discharge the flow to Wet Creek in Section 36. The project includes installing a 36-inch pipeline to replace the irrigation company concrete flume which has many operational problems, including being an extreme safety hazard to wildlife and livestock in the area.

Presently, there is a gaging station downstream from the proposed facility near the Clyde School on the Little Lost River. This station, therefore, has historically measured the natural stream flows of the Little Lost River, including the summer irrigation flows which are transported by Wet Creek. The D & D Stauffer project would not change the Little Lost River flow patterns during the irrigation season, however, the facility will operate at a considerably reduced flow rate (12-25 cfs) during the remainder of the year.

We request that you inform us as to the need for any additional stream gaging required if necessary. Your office will receive a complete permit application for review and comment during the F.E.R.C. review process. However, your input regarding stream gaging requirements would be appreciated at this point. If you require any additional information, please feel free to contact me at (208) 356-9201.

Sincerely,

FORSGREN-PERKINS ENGINEERING

Bruce Gravette
Bruce R. Gravette, P.E.

ccp

cc: Nathan Jacobson
Rob Stauffer



FORSGREN-PERKINS ENGINEERING, p.a.

February 28, 1985

843051

Mr. Bob Harper
United States Geological Survey
230 Collins Road
Boise, ID 83702

Dear Mr. Harper:

D & D Stauffer, Inc., is seeking approval from the Federal Energy Regulatory Commission (FERC) for the construction of a hydropower plant which would utilize the summer irrigation water which is presently diverted from Dry Creek into Wet Creek. The project location, description, and an environmental assessment are contained in the preliminary draft copy of the FERC application, which is provided for your review.

The FERC application will be for an "exemption from licensing for a small conduit hydroelectric facility." The major features of this project which qualify it to be categorized as a small conduit hydroelectric facility are that it:

1. Utilizes, for electric power generation, the hydroelectric potential of a conduit.
2. Is located on private ground.
3. Is not an integral part of a dam and does not include any dam construction.
4. Does not interfere with the beneficial use of the water for its primary purpose, which is irrigation.

You will notice that within the draft application there are references to your agency's response to certain items. These references are intended to assist you in preparing the response that will be included in the final application. The referenced item for the U.S.G.S. Water Resources Division response is contained in Exhibit E, Section 2.3.2.

Mr. Bob Harper
February 28, 1985
Page 2

Please be aware that these references, as well as the remainder of the text, will be modified to suit your agency's response. We request your response by March 15, 1985, so that the application may be finalized and submitted to FERC. Your agency, in accordance with Title 18, Chapter 1, Paragraph 4.93(c) of the Federal Energy Regulatory Commission regulations, will then receive notice from FERC that the final application has been accepted for filing and is available for your review comments.

The discussion and investigations that have taken place up to this point on the Dry Creek Hydroelectric project indicate that the project will have an overall positive impact on the natural and human environments in the area. Your continued and prompt assistance in developing this project is vital to insuring that these benefits are realized.

Sincerely,

FORSGREN-PERKINS ENGINEERING

Bruce Gravette
Bruce R. Gravette, P.E.

ccp

Enclosure





FORSGREN-PERKINS ENGINEERING, p.a.

February 28, 1985

843051

Mr. Thomas Green
State Archaeologist
State Historic Preservation Office
610 North Julia Davis Drive
Boise, ID 83702

Dear Mr. Green:

D & D Stauffer, Inc., is seeking approval from the Federal Energy Regulatory Commission (FERC) for the construction of a hydropower plant which would utilize the summer irrigation water which is presently diverted from Dry Creek into Wet Creek. The project location, description, and an environmental assessment are contained in the preliminary draft copy of the FERC application, which is provided for your review.

The FERC application will be for an "exemption from licensing for a small conduit hydroelectric facility." The major features of this project which qualify it to be categorized as a small conduit hydroelectric facility are that it:

1. Utilizes, for electric power generation, the hydroelectric potential of a conduit.
2. Is located on private ground.
3. Is not an integral part of a dam and does not include any dam construction.
4. Does not interfere with the beneficial use of the water for its primary purpose, which is irrigation.

You will notice that within the draft application there are references to your agency's response to certain items. These references are intended to assist you in preparing the response that will be included in the final application. You will notice that the project site has been changed since your last review of this project (your letter dated February 13, 1984). The referenced items for your office are contained in Exhibit E, Sections 1.8 and 2.7.

Mr. Thomas Green
February 28, 1985
Page 2

Please be aware that these references, as well as the remainder of the text, will be modified to suit your agency's response. We request your response by March 15, 1985, so that the application may be finalized and submitted to FERC. Your agency, in accordance with Title 18, Chapter 1, Paragraph 4.93(c) of the Federal Energy Regulatory Commission regulations, will then receive notice from FERC that the final application has been accepted for filing and is available for your review comments.

The discussion and investigations that have taken place up to this point on the Dry Creek Hydroelectric project indicate that the project will have an overall positive impact on the natural and human environments in the area. Your continued and prompt assistance in developing this project is vital to insuring that these benefits are realized.

Sincerely,

FORSGREN-PERKINS ENGINEERING

Bruce R. Gravette

Bruce R. Gravette, P.E.

ccp

Enclosure

FP



FORSGREN-PERKINS ENGINEERING, p.a.

March 18, 1985

843051

Mr. Al Murrey, Chief
Bureau of Water Quality
Dept. of Health & Welfare
Division of Environment
Statehouse
Boise, ID 83270

Re: Dry Creek Hydro Study Project

Dear Mr. Murrey:

D & D Stauffer, Inc., is seeking approval from the Federal Energy Regulatory Commission (FERC) for the construction of a hydropower plant which would utilize the summer irrigation water which is presently diverted from Dry Creek into Wet Creek. The project location, description, and an environmental assessment are contained in the preliminary draft copy of the FERC application, which is provided for your review.

The FERC application will be for an "exemption from licensing for a small conduit hydroelectric facility." The major features of this project which qualify it to be categorized as a small conduit hydroelectric facility are that it:

1. Utilizes, for electric power generation, the hydroelectric potential of a conduit.
2. Is located on private ground.
3. Is not an integral part of a dam and does not include any dam construction.
4. Does not interfere with the beneficial use of the water for its primary purpose, which is irrigation.

A copy of the preliminary permit is provided for your review and determination of whether the project will cause a violation of any applicable water quality standards. Information pertaining to water quality can be found in Section 2.3.1. It is felt that this project will have an overall positive effect on the water quality of the transported irrigation water.

Mr. Al Murrey
March 18, 1985
Page 2

The discussion and investigations that have taken place up to this point on the Dry Creek Hydroelectric project indicate that the project will have an overall positive impact on the natural and human environments in the area. Your continued and prompt assistance in developing this project is vital to insuring that these benefits are realized.

Sincerely,

FORSGREN-PERKINS ENGINEERING

Bruce Gravette

Bruce R. Gravette, P.E.

kfh

Enclosures



APPENDIX E-9

**TRANSMITTAL OF FINAL APPLICATION
TO STATE AND FEDERAL AGENCIES**



FORSGREN-PERKINS ENGINEERING, p.a.

April 15, 1985

843051

Mr. Tom Reinecker
Regional Supervisor
Idaho Dept. of Fish and Game
Region VI
1515 Lincoln Road
Idaho Falls, ID 83401

RE: Dry Creek Hydroelectric Project

Dear Tom:

D & D Stauffer would like to provide you with a copy of the Federal Energy Regulatory Commission (FERC) application for exemption from licensing for the Dry Creek Irrigation Outfall Hydroelectric Power Plant.

The guidance and support your department has provided us during the development of this project has been a great asset. We have integrated your comments and addressed the additional issues you raised in your March 19th letter in this final application. Specifically, the items for which you requested additional information and/or clarification are as follows:

<u>Item</u>	<u>Section</u>
1. Potential fishery impact due to nitrogen gas precipitation at the outlet	2.3.1
2. Wildlife and livestock water troughs	2.1
3. Fish screens on the intake structure	2.2 Exhibit B-5
4. Velocity dissipation on the discharge line to Wet Creek	2.2 Exhibit B-4
5. Necessity to bury the irrigation pipeline	2.1
6. Adequate flow control and bypass flow structures	2.2
7. Infiltration of winter discharge water	2.3.3
8. As you requested, a copy of this application is being sent to the Idaho Dept. of Fish and Game in Boise	

Mr. Tom Reinecker
April 15, 1985
Page 2

In accordance with FERC application procedures for exemption of small hydroelectric power projects of five MW or less (Code of Federal Regulations Cite 4.107), your agency's comments regarding this application are requested within the 30-day time period specified. These comments will be forwarded to the Federal Energy Regulatory Commission and included in this application.

Your continued support of this project is appreciated. We will continue to work with the Fish and Game Department to replace the concrete flume and help eliminate the wildlife losses that occur with each irrigation season. If you have any questions, please feel free to call me at (208) 356-9201.

Sincerely,

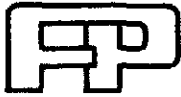
FORSGREN-PERKINS ENGINEERING

Bruce Gravette
Bruce R. Gravette, P.E.

kfh

Enclosure





FORSGREN-PERKINS ENGINEERING, p.a.

April 15, 1985

843051

Mr. John P. Wolfin, Field Supervisor
U.S. Dept. of the Interior
Fish and Wildlife Service
Boise Field Office
4620 Overland Road, Room 209
Boise, ID 83705

RE: Dry Creek Hydroelectric Project

Dear Mr. Wolfin:

D & D Stauffer, Inc. would like to provide you with a copy of the Federal Energy Regulatory Commission (FERC) application for exemption from licensing for the Dry Creek Irrigation Outfall Hydroelectric Power Plant. We have worked closely with the Idaho Department of Fish and Game, Region VI, in the development of this project. Correspondence from the Idaho Department of Fish and Game is contained in Appendix E-6 of this application and verifies that this project will have a net wildlife benefit in that a dangerous concrete irrigation flume will be eliminated which annually destroys a great number of wild and domestic animals that become trapped in the flume. A detailed description of the potential environmental impacts of the project are contained in Exhibit E, Section 2.

In accordance with FERC application procedures for exemptions of small hydroelectric power projects of five MW or less (Code of Federal Regulations Cite 4.107), your agency is requested to submit comments regarding the final application within the 30-day time period specified. Your comments will be forwarded to FERC and included in the application.

Our involvement with the Fish and Game Department as well as with the Bureau of Land Management and the Idaho Water Resources Department has indicated a strong support by these agencies for the proposed project. We feel that the proposed project will benefit the fish and wildlife populations as well as the local economy, which is highly dependent upon

Mr. John P. Wolfin
April 15, 1985
Page 2

the efficient transfer of the irrigation water to the agricultural areas in the Little Lost River Basin. If you have any questions, please feel free to call me at (208) 356-9201.

Sincerely,

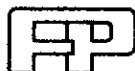
FORSGREN-PERKINS ENGINEERING



Bruce R. Gravette, P.E.

kfh

Enclosure





FORSGREN-PERKINS ENGINEERING, p.a.

April 15, 1985

843051

Mr. Jerry Conley, Director
Idaho Dept. of Fish and Game
P.O. Box 25
Boise, ID 83707

RE: Dry Creek Hydroelectric Project

Dear Mr. Conley:

D & D Stauffer, Inc. would like to provide you with a copy of the Federal Energy Regulatory Commission (FERC) application for exemption from licensing for the Dry Creek Irrigation Outfall Hydroelectric Power Plant. We have been working closely with Region VI in developing this project. As you are aware, this project would replace the existing concrete flume which presently transports the Dry Creek irrigation water and is a death trap for many big game animals, raptors, domestic livestock, and fish which become stranded when the irrigation flows are discontinued at the end of the irrigation season. Detailed Fish and Game involvement in this project is contained in Exhibit E, Section 3 of this report, as well as in Appendix E-7.

We have requested a response from the Region VI office regarding this application. Your review and comments would also be appreciated. We will forward your response to FERC so that it may be included in the application. Please provide these comments within a month so that the FERC review proceeds on schedule.

Your support of this vital project is appreciated. If you have any questions, please call me at (208) 356-9201.

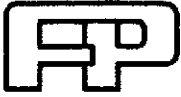
Sincerely,

FORSGREN-PERKINS ENGINEERING

Bruce R. Gravette, P.E.

kfh

Enclosure



FORSGREN-PERKINS ENGINEERING, p.a.

April 15, 1985

843051

Mr. Odell Frandsen
District Manager
U.S. Bureau of Land Management
Idaho Falls District
940 Lincoln Road
Idaho Falls, ID 83401

RE: Dry Creek Hydroelectric Project

Dear Mr. Frandsen:

D & D Stauffer, Inc. would like to provide you with a copy of the Federal Energy Regulatory Commission (FERC) application for exemption from licensing for the Dry Creek Irrigation Outfall Hydroelectric Power Plant (Preliminary Permit No. 7623). Your agency's support, and the information you have provided throughout the development of this project, have been a great asset. We have included your comments and recommendations from your March 15, 1985 letter into this final application. The following comments apply to the items you mentioned in your letter:

1. Right-of-Way Application: As you noted, additional information must be supplied before a right-of-way application can be granted, such as a legal description of the requested right-of-way, an archaeological survey of the right-of-way, and a detailed project design and feasibility report. We are proceeding with the necessary hydrological analysis of the Dry Creek Basin which forms a critical part of the feasibility report. We appreciate your offer of assistance in developing the land report and environmental assessment for the right-of-way applications.
2. Cultural Resource Inventory: As stated above, an archaeological survey will be completed in support of the right-of-way application. To insure that the sites which are in the area are adequately protected and to insure that finds which may be discovered during the construction process are protected, a professional archaeological consultant will be on site to take the steps necessary to assure this is accomplished (see Exhibit E, Section 2.7).

In accordance with FERC application procedures for exemption of small hydroelectric power projects of five MW or less (Code of Federal Regulations Cite 4.107), your agency is requested to provide a response to this final application within the 30-day time period specified. Your response will be forwarded to FERC and included in this application.

Mr. Odell Frandsen
April 15, 1985
Page 2

Your continued support in the elimination of the Dry Creek flume and the more efficient transfer of irrigation water to the Little Lost River is appreciated. If you have any questions, please call me at (208) 356-9201.

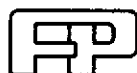
Sincerely,

FORSGREN-PERKINS ENGINEERING

Bruce Gravette
Bruce R. Gravette, P.E.

kfh

Enclosure





FORSGREN-PERKINS ENGINEERING, p.a.

April 15, 1985

843051

Mr. Ernest Carlson
Regional Supervisor
Idaho Dept. of Water Resources
Eastern Region
150 Shoup
Idaho Falls, ID 83401

RE: Dry Creek Hydroelectric Project

Dear Ernest:

D & D Stauffer would like to provide you with a copy of the Federal Energy Regulatory Commission (FERC) application for exemption from licensing for the Dry Creek Irrigation Outfall Hydroelectric Power Plant. Your review of the draft application and the comments you provided regarding the necessary energy permit for the project are appreciated. Your office should have received by now an updated copy of the energy permit from D & D Stauffer, Inc. As you stated in your letter, a readvertisement of the permit will be required to provide the necessary public review of the requested water right.

The letters of support from the Blaine County Canal Company, the Little Lost River Irrigation District, and the Dry Creek Development Corporation indicate that the requested permit will not conflict with any existing water right and, in fact, will benefit the existing water rights by making more water available for their use (see Appendix A-1 of this application). We are working with the BLM to gain the necessary easements which will be required to perfect our requested water right.

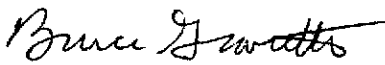
In accordance with FERC application procedures for exemptions of small hydroelectric power projects of five MW or less (Code of Federal Regulations Cite 4.107), a response from your agency is requested regarding this final application within the 30-day time period specified. Your response will be forwarded to FERC and included in the application.

Mr. Ernest Carlson
April 15, 1985
Page 2

Your continued support and processing of the requested energy permit is appreciated. If you have any questions, please feel free to call me at (208) 356-9201.

Sincerely,

FORSGREN-PERKINS ENGINEERING


Bruce R. Gravette, P.E.

kfh

Enclosure





FORSGREN-PERKINS ENGINEERING, p.a.

April 15, 1985

843051

Mr. Al Murrey, Chief
Bureau of Water Quality
Dept. of Health & Welfare
Division of Environment
Statehouse
Boise, ID 83270

RE: Dry Creek Hydroelectric Project

Dear Mr. Murrey:

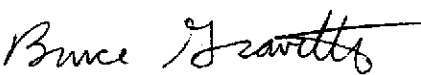
D & D Stauffer, Inc. would like to provide you with a copy of the Federal Energy Regulatory Commission (FERC) application for exemption from licensing for the Dry Creek Irrigation Outfall Hydroelectric Power Plant. Specific information regarding the preservation of the water quality of the Dry Creek Water is contained in Section 2.3.1 of Exhibit E. It is evident that this project will actually increase the water quality of the transported irrigation water by transporting the irrigation water in a pipeline rather than in the canal system which presently exists. Water quality criteria such as dissolved oxygen level, temperature, as well as dissolved and suspended solids will be maintained at their original levels.

In accordance with FERC application procedures for exemptions of small hydroelectric power projects of five MW or less (Code of Federal Regulations Cite 4.107), a response from your agency is requested within the 30-day time period specified. Your response will be forwarded to FERC and included in the application.

Your support of this vital project is appreciated. If you have any questions, please call me at (208) 356-9201.

Sincerely,

FORSGREN-PERKINS ENGINEERING


Bruce R. Gravette, P.E.

kfh

Enclosure



FORSGREN-PERKINS ENGINEERING, p.a.

April 15, 1985

843051

Mr. Thomas Green
State Archaeologist
State Historic Preservation Office
610 North Julia Davis Drive
Boise, ID 83702

RE: Dry Creek Hydroelectric Project

Dear Mr. Green:

D & D Stauffer, Inc. would like to provide you with a copy of the Federal Energy Regulatory Commission (FERC) application for exemption from licensing for the Dry Creek Irrigation Outfall Hydroelectric Power Plant. Avoidance measures which the applicant intends to take during the construction process are contained in Paragraph 2.7 of Exhibit E.

If you wish to provide any comments regarding this final application, please forward them to me within 30 days so that I may forward them to FERC and they may be included in the final application. As you noted in your last correspondence, D & D Stauffer, Inc. will be required to fulfill all State and Federal requirements regarding archaeological resources prior to the granting of the necessary easements for the project.

Your continued support of this project is appreciated. If you have any questions, please feel free to call me at (208) 356-9201.

Sincerely,

FORSGREN-PERKINS ENGINEERING


Bruce R. Gravette, P.E.

kfh

Enclosure



FORSGREN-PERKINS ENGINEERING, p.a.

April 15, 1985

843051

Mr. Bob Harper
U.S. Geological Survey
230 Collins Road
Boise, ID 83702

RE: Dry Creek Hydroelectric Project

Dear Mr. Harper:

D & D Stauffer, Inc. would like to provide you with a copy of the Federal Energy Regulatory Commission (FERC) application for exemption from licensing for the Dry Creek Irrigation Outfall Hydroelectric Power Plant. The comments you provided in response to the draft application were appreciated. Water quantity during the irrigation season is addressed in Section 2.3.2 as is your initial response provided by your letter dated February 22, 1985.

As you are aware, this project has not changed the hydrology of the Little Lost River Basin in that Wet Creek will still carry the irrigation water to downstream users. Winter discharge water will be infiltrated on the private land surrounding the hydropower plant.

In accordance with FERC application procedures for exemptions of small hydroelectric power projects of five MW or less (Code of Federal Regulations Cite 4.107), a response from your agency is requested within the 30-day time period specified. Your comments will be forwarded to FERC and included in the application.

Your continued support of this project is appreciated. If you have any questions, please call me at (208) 356-9201.

Sincerely,

FORSGREN-PERKINS ENGINEERING

Bruce R. Gravette, P.E.

kfh

cc: Nathan Jacobsen, USGS, Idaho Falls

Enclosure

APPENDIX E-10

IDAHO PUBLIC UTILITIES

COMMISSION CORRESPONDENCE

FEB 14 1985

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF UTAH POWER & LIGHT COMPANY FOR)
AN ORDER APPROVING A FIRM ENERGY)
SALES AGREEMENT)

CASE NO. U-1009-153

ORDER NO. 19450

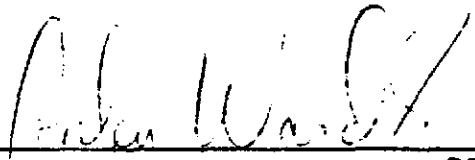
On January 14, 1985, Utah Power & Light Company (Utah Power) submitted an application to the Idaho Public Utilities Commission for an Order approving a firm energy sales agreement with D & D Stauffer.

The Commission finds that the agreement as signed and submitted by the parties contains avoided cost rates in conformity with Commission Order No. 16048 issued in Case No. P-300-12. We further find that such rates are just and reasonable and that the acquisition of energy by Utah Power from D & D Stauffer is in the public interest.

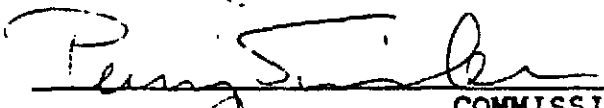
Appendix C of the submitted agreement allows for adjustment of the contract upon its termination. This requires Stauffer to refund to Utah Power an amount equal to one-half the difference between the sum of fixed energy payments paid to Utah Power and those which would have been paid absent a termination. This is in compliance with Order No. 16025. However, since that time we have found it more equitable to require full refund in the event of termination brought on by the power producer. We find that this should be required in this case. We

may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. U-1009-153. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See Idaho Code §61-626.

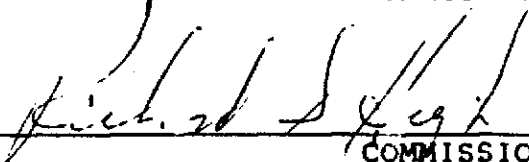
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this ~~14~~ day of February, 1985.



PRESIDENT



COMMISSIONER



COMMISSIONER

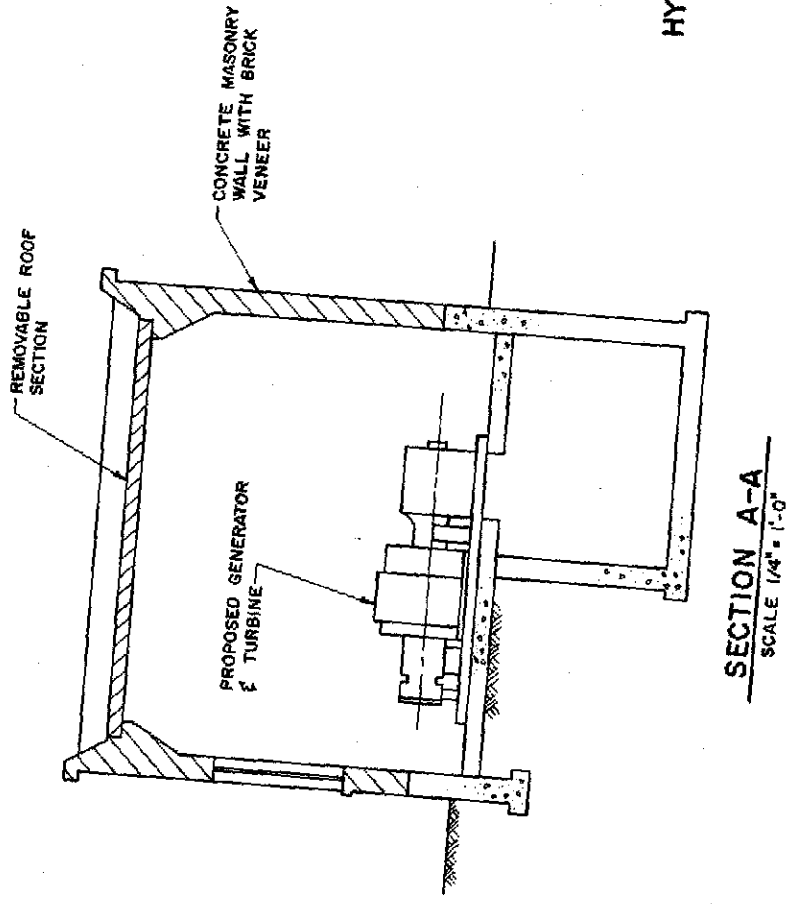
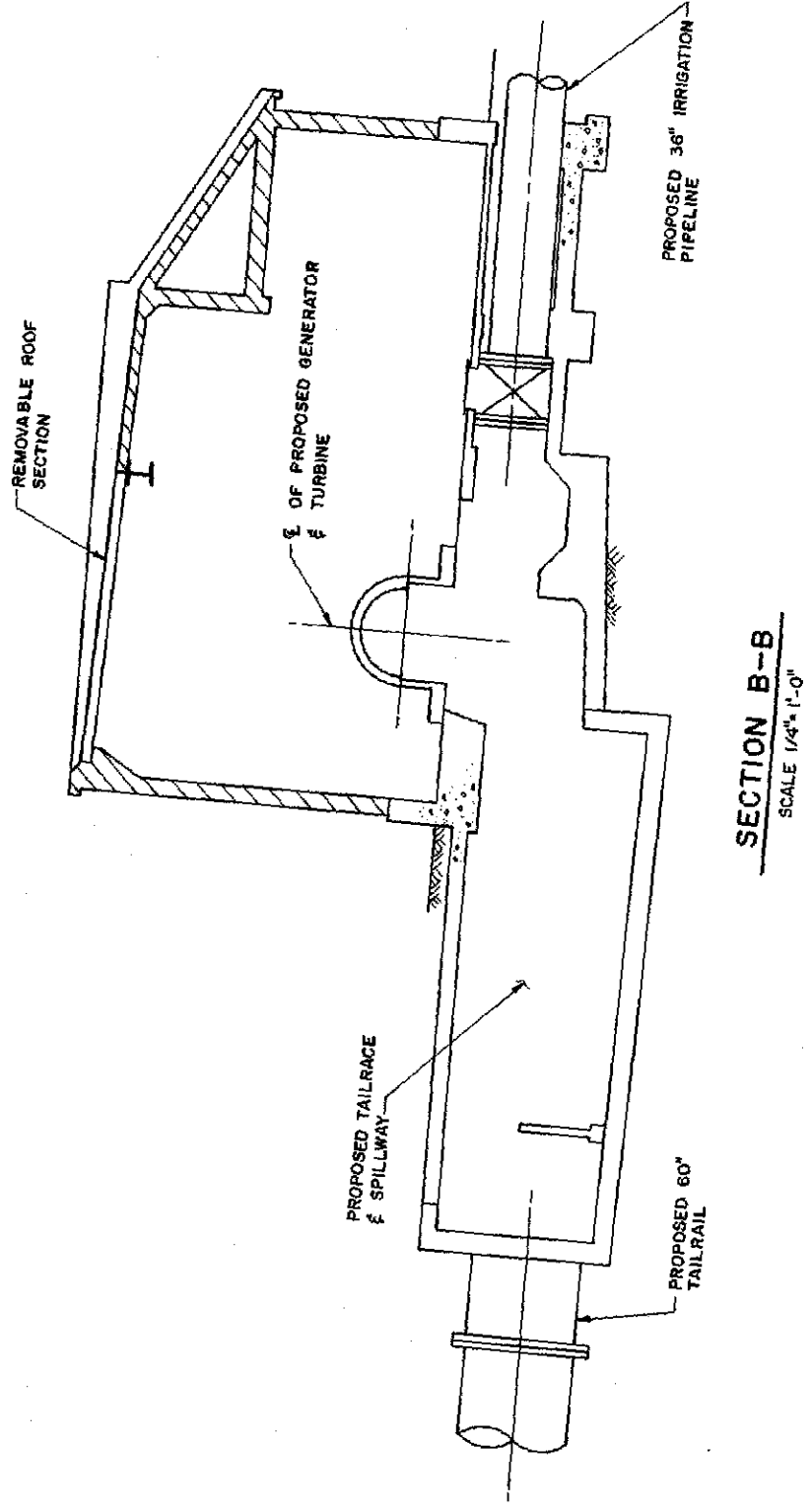
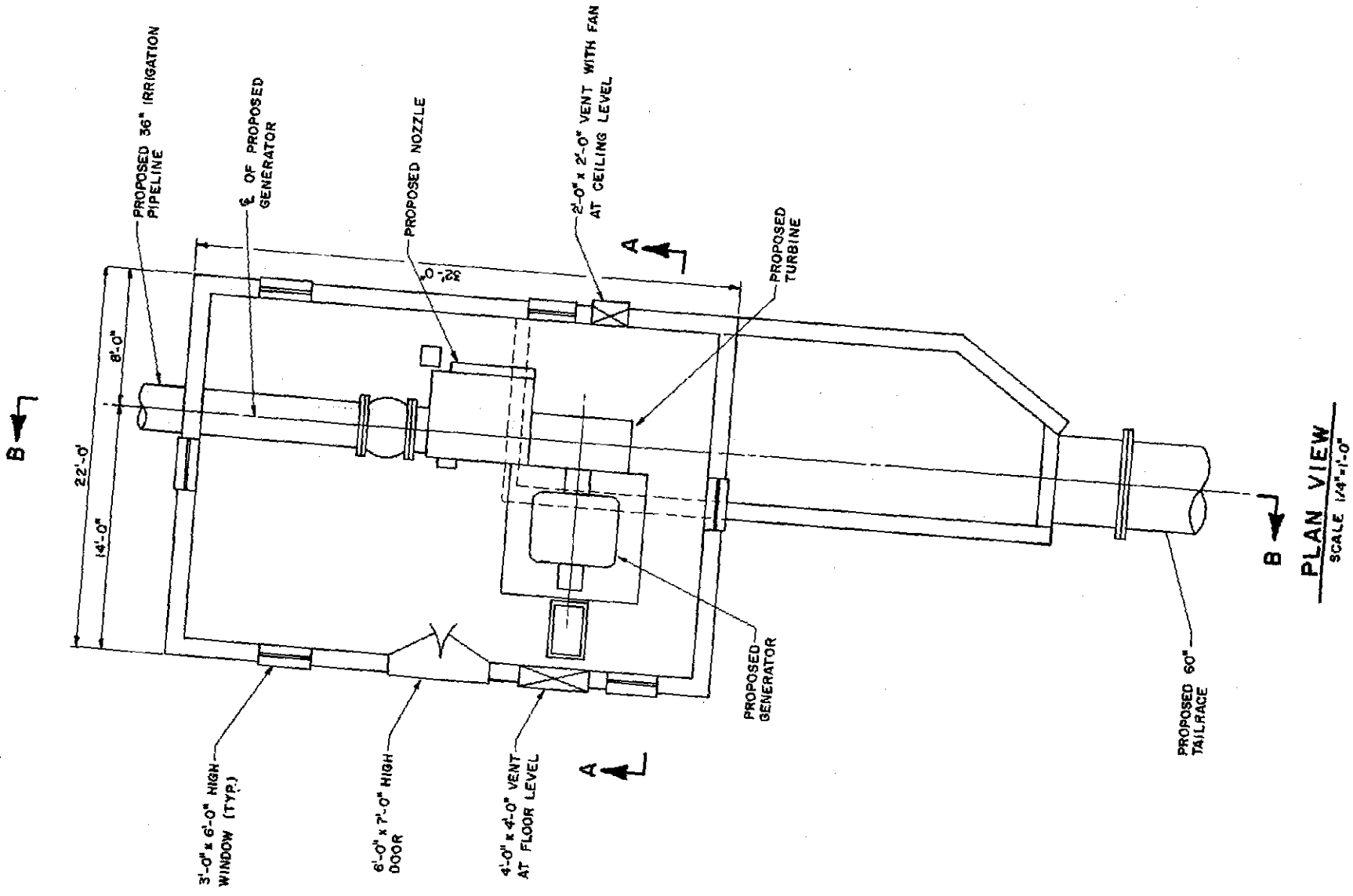
ATTEST:



SECRETARY

jd/cb75L

EXHIBIT G
SMALL CONDUIT HYDROELECTRIC FACILITY



DRY CREEK
HYDROELECTRIC PROJECT

EXHIBIT G

PROPOSED
HYDROELECTRIC FACILITY

STILLING BASIN FOR PIPE OR OPEN CHANNEL OUTLETS

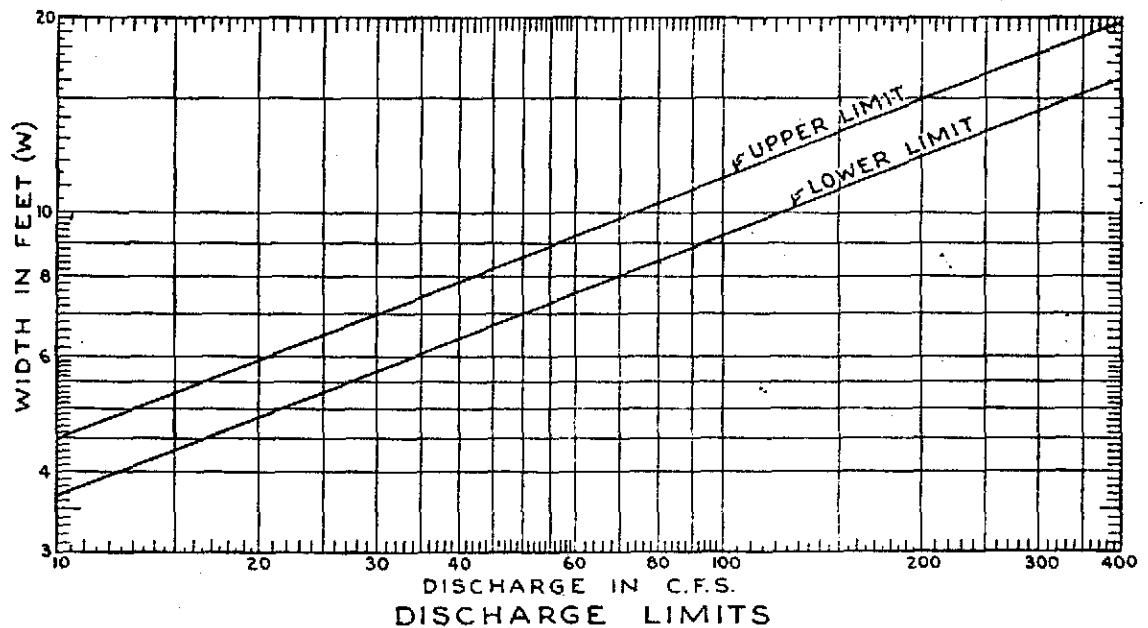
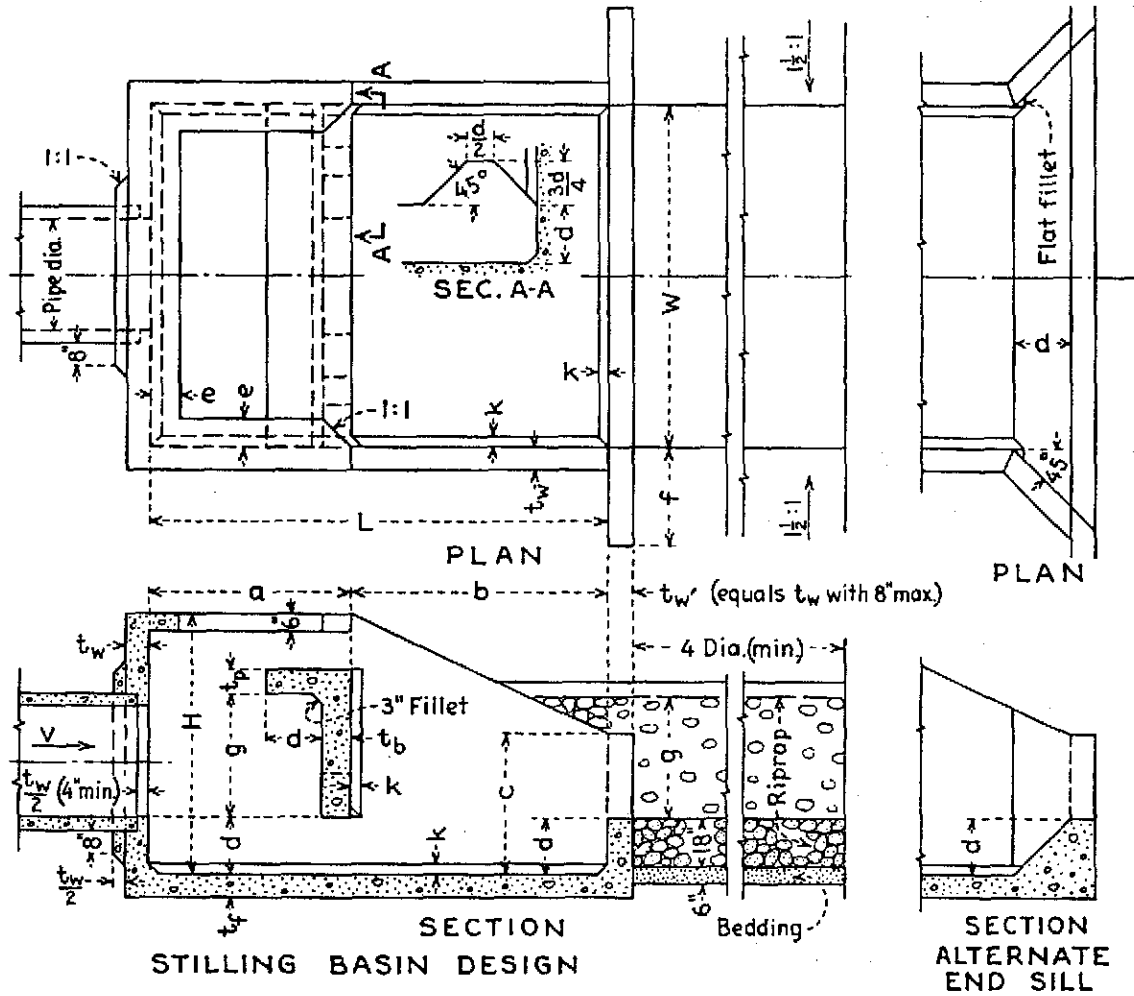


EXHIBIT G-2

ENERGY DISSIPATION STRUCTURE

EXHIBIT H
CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have supplied the below listed Agencies with a copy of this Application, as documented in Appendix E-9 of this Application:

State Department of Fish and Game, Region VI
State Department of Fish and Game, State Office
U.S. Fish and Wildlife Service
U.S. Bureau of Land Management, Idaho Falls District
State Department of Water Resources, Eastern Region
State Department of Health and Welfare, State Office
State Historic Preservation Office
U.S. Geological Survey

FORSGREN-PERKINS ENGINEERING



Bruce R. Gravette, P.E.

Elam, Burke and Boyd
Attorneys and Counselors at Law
Suite 1010, First Interstate Bank Bldg. P.O. Box 1559
Boise, Idaho 83701

TO: Mr. Gary Spackman, Supervisor
Water Allocation Division
Department of Water Resources
State of Idaho
450 W. State Street
Boise, ID 83702

VIA HAND DELIVERY

MICROFILMED

APR 01 1988

ELAM, BURKE AND BOYD

ATTORNEYS AND COUNSELORS AT LAW

FIRST INTERSTATE BUILDING
702 WEST IDAHO
POST OFFICE BOX 1559
BOISE, IDAHO 83701
TELEPHONE 208-343-5454
TELECOPIER 208-343-5454

LAUREL E. ELAM (1888-1974)	MELVILLE W. FISHER II
CARL A. BURKE (1898-1961)	WILLIAM G. DRYDEN
CARL P. BURKE	TODD J. WILCOX
PETER J. BOYD	PETER C. K. MARSHALL
J. RAY DURTSCHI	KENNETH M. SEBBY
M. ALLYN DINGEL, JR.	TRUDY HANSON FOUSER
JACK S. GJORDING	D. ALAN KOFOED
JOHN MAGEL	SCOTT L. CAMPBELL
DAVID B. LINCOLN	BOBBI KILLIAN DOMINICK
RICHARD C. MELLON, JR.	W. DALLAS BURKHALTER
ROBERT M. TYLER, JR.	ALAN CONOLOGUE
JAMES D. LARUE	ELAINE D. HANSON
RANDALL A. PETERMAN	JEFFERY J. VENTRELLA
WILLIAM J. RUSSELL	BRENDA G. MEIER
KAYE L. O'RIORDAN	JOHN J. JANIS
RYAN P. ARMBRUSTER	WENDY E.D. SMITH*
DAVID E. COMSTOCK	

*PENN. & D.C. BARS ONLY

March 2, 1987

VIA HAND DELIVERY

Mr. Gary Spackman, Supervisor
Water Allocation Division
Department of Water Resources
State of Idaho
450 W. State Street
Boise, ID 83702

RECEIVED

MAR 02 1987

hand delivered
Department of Water Resources

Re: Dry Creek Hydroelectric Project

Dear Mr. Spackman:

Pursuant to our telephone conversation of March 2, 1987, I have enclosed a copy of the Power Purchase Agreement Between Hydroelectric Development, Inc. and Utah Power & Light Company.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

ELAM, BURKE AND BOYD

Scott L. Campbell
Scott L. Campbell

SLC:ls
Enclosure

MICROFILMED

APR 01 1988

POWER PURCHASE AGREEMENT

BETWEEN

HYDROELECTRIC DEVELOPMENT, INC.

AND

UTAH POWER & LIGHT COMPANY

INC.,

Colorado

1997

In

COMP

Utah

ref

contract

Sum

their

above

four thousand

additional

C10:030

MICROFILMED

APR 01 1988

POWER PURCHASE AGREEMENT
BETWEEN
HYDROELECTRIC DEVELOPMENT, INC.
AND
UTAH POWER & LIGHT COMPANY

THIS AGREEMENT is entered into this 2nd day of MAY, 1986, by and between HYDROELECTRIC DEVELOPMENT, INC., a corporation organized and existing under the laws of the State of Colorado and owners of a qualifying facility as defined in 18 CFR 5292.101(b)(1) with the appropriate representation for qualification as specified in Appendix K, hereinafter referred to as "Seller," and UTAH POWER & LIGHT COMPANY, a corporation organized and existing under the laws of the State of Utah, hereinafter referred to as "Buyer." Seller and Buyer are sometimes referred to collectively as "Parties" and individually as "Party".

WITNESSETH:

WHEREAS, on November 30, 1984, D & D Stauffer entered into a contract with Buyer for the sale of three-thousand (3,000) kilowatts from their Summit Creek Project; and

WHEREAS, on December 23, 1985, D & D Stauffer assigned all of their development rights for the Dry Creek Project to Seller; and

WHEREAS, Seller has approached Buyer to obtain approval of the above assignment and to increase the capacity of the Dry Creek Project to four-thousand (4,000) kilowatts; and

WHEREAS, Buyer and Seller shall enter into this Agreement for the additional capacity and new location, and the contract between D & D Stauffer

MICROFILMED
APR 01 1988

and Buyer shall be terminated, along with all rights and obligations granted under that contract, upon approval of this Agreement by the Idaho Public Utilities Commission; and

WHEREAS, Seller intends to construct, own, operate and maintain a hydroelectric generating facility consisting of one (1) synchronous generator, with a Name Plate Rating not to exceed four-thousand (4,000) kilowatts, hereinafter referred to as Facility*; and

WHEREAS, Seller wishes to sell to Buyer and Buyer agrees to purchase all electric energy generated for sale by such Facility, but only in accordance with the terms of this Agreement.

2. Seller agrees to sell and deliver and Buyer agrees to purchase

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

1. TERM OF AGREEMENT AND TERMINATION

1.1 Subject to the terms and conditions hereof, this Agreement shall become effective upon execution by the Parties and shall remain in full force and effect for a term of thirty-five (35) years from the Operation Date. It is anticipated that testing of the Facility pursuant to Appendix E and in-service generation will commence in April 1987.

*Initial capitalization of words and phrases other than proper names indicates that these terms are defined in Appendix A hereof.

MICROFILMED

APR 01 1988

1.2 This Agreement cannot be terminated by Seller except by subsequent mutual agreement of the Parties in writing or by abandonment of the Facility and payment by Seller to Buyer of the sums required by Appendix C.

1.3 This Agreement cannot be terminated by Buyer except by subsequent mutual agreement of the Parties in writing or in accordance with Appendix C.

2. SALE OF POWER

2.1 Seller agrees to sell and deliver and Buyer agrees to purchase and accept all energy generated from the subject Facility in accordance with the terms of this Agreement.

2.2 Seller's proposed Facility is located in the Northwest 1/4 of Section 36, Township 10 North, Range 26 East, Boise Meridian, approximately 15 miles north of Howe, Butte County, Idaho on Wet Creek and shall provide energy as set forth herein.

2.3 If Seller intends to increase the generating capability of the generators beyond the stated Name Plate Rating, Seller shall notify Buyer. The Parties will enter into a mutually acceptable agreement to purchase any additional energy provided from such increase in accordance with the terms and at the rates then required by the appropriate regulatory authority. Seller shall be responsible for the costs that may be incurred by Buyer to accept the additional energy provided from such increase.

MICROFILMED
APR 01 1988

3. PURCHASE PRICE AND METHOD OF PAYMENT

3.1 Buyer shall pay Seller, for the energy delivered to the Point of Delivery. The payment shall be the sum of the following:

3.2 (a) A fixed energy rate of 40.49 mills per kilowatt-hour for the energy delivered to the Point of Delivery. This portion of the payment will only be paid for the energy that is delivered after the Operation Date, but in no case will this portion of the payment be paid until after the Scheduled Operation Date. This rate reflects a 1987 scheduled in-service date and a thirty-five (35) year term as shown in Appendix B. This rate shall not change due to a delay in completion of construction nor shall it be subject to escalation or change.

(b) A variable energy rate of 14.00 mills per kilowatt-hour for all energy delivered to the Point of Delivery before and after the Operation Date. This rate will be updated annually by the Idaho Public Utilities Commission and applied to this Agreement as specified in Appendix B.

3.2 The kilowatt-hours for which Buyer shall be obligated to purchase shall be the kilowatt-hours measured on Buyer's metering equipment located at the Point of Delivery. Payment shall be based on total generation from the Facility less Station Use. In the event that during a month Station Use exceeds gross generation, then Seller

MICROFILMED

APR 01 1988

shall pay Buyer for the excess energy at the then-current applicable rate(s).

- 3.3 Buyer's obligation to pay Seller the fixed energy rate for energy furnished to Buyer shall commence on the Operation Date of the Facility. Buyer shall pay Seller the variable energy rate for energy furnished to Buyer during the test period prior to the Operation Date and after the Operation Date for energy furnished to Buyer for the term of this Agreement.

4. ENTIRE AGREEMENT

- 4.1 This Agreement shall supersede the contract between D & D Stauffer and Utah Power & Light dated November 30, 1984 upon the approval of this Agreement by the Idaho Public Utilities Commission, pursuant to Appendix A, Section L, and shall supersede all other prior contracts, proposals, representations, negotiations, discussions or letters between the Parties. If the Idaho Public Utilities Commission does not give such approval, this Agreement shall be of no force or effect.
- 4.2 This Agreement cannot be amended by either Party except by subsequent mutual agreement of the Parties in writing.
- 4.3 This Agreement may be unilaterally terminated by Buyer twelve (12) months after the Scheduled Operation Date if the Facility has

MICROFILMED
APR 01 1988

5. ~~AGREEMENT~~ not commenced delivery of energy pursuant to this Agreement, unless Seller can show just cause why the Facility is not complete and that it will be operational within a reasonable period of time.

4.4 This Agreement may be unilaterally terminated by Buyer twelve (12) months after the execution date above, if Seller has failed to obtain all necessary licenses and permits, including qualifying facility representation, needed to construct and operate the Facility throughout the term of this Agreement.

4.5 This Agreement includes the following Appendices, all of which are attached hereto and incorporated herein by reference:

- Appendix A: Power Purchase General Terms and Conditions
- Appendix B: Schedules of Capacity and Energy Rates
- Appendix C: Adjustment of Payments
- Appendix D: Parallel Generation Interconnection Requirements
- Appendix E: Performance Test Criteria for Seller's Interconnection Facilities
- Appendix F: Metering Equipment, Communication Equipment and Communication Channels.
- Appendix G: Seller's Interconnection Facilities
- Appendix H: Buyer's Interconnection Facilities
- Appendix I: Point of Delivery
- Appendix J: Description of Facility
- Appendix K: Qualifying Facility Representation

MICROFILMED
APR 01 1988

5. NOTICES

5.1 All written notices given pursuant to this Agreement shall be addressed as follows:

first date (a) To Buyer: Corporate Secretary
UTAH POWER & LIGHT COMPANY
1407 West North Temple Street, Room 326
P.O. Box 899
Salt Lake City, UT 84110

With a copy to: Manager, Resource Contracts
UTAH POWER & LIGHT COMPANY
1407 West North Temple Street, Room 3312
P.O. Box 899
Salt Lake City, UT 84110

(b) To Seller: HYDROELECTRIC DEVELOPMENT, INC.
10394 West Chatfield Avenue, Suite 108
Littleton, CO 80127

5.2 Inquiries concerning meter readings, billings, etc., should be addressed to:

(a) To Buyer: Customer Service Manager
UTAH POWER & LIGHT COMPANY
145 West Main Street
P.O. Box 130
Rexburg, ID 83440

MICROFILMED
APR 01 1988

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the first date hereinabove set forth.

SELLER:

HYDROELECTRIC DEVELOPMENT, INC.

By W. L. P. Quinn

Title President

BUYER:

UTAH POWER & LIGHT COMPANY

By W. L. P. Quinn *my*

Senior Vice President

MICROFILMED

APR 01 1988

APPENDIX A

POWER PURCHASE GENERAL TERMS AND CONDITIONS

FOR

HYDROELECTRIC DEVELOPMENT, INC.

A. DEFINITIONS

Whenever used in this Agreement, the following terms shall have the respective meanings set forth below:

1. Buyer's Interconnection Facilities - The facilities and equipment, identified in Appendix H, which will be built and owned by Buyer to connect Buyer's system to Seller's Facility. Seller shall pay to Buyer the costs incurred by Buyer directly related to the installation and operation and maintenance of Buyer's Interconnection Facilities, including the costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs, to the extent such costs are in excess of the corresponding costs which Buyer would have incurred if it had not engaged in interconnected operations with Seller, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Seller shall pay to Buyer the costs for the Buyer's Interconnection Facilities as specified in Appendix H, plus all annually incurred costs for Buyer's Interconnection Facilities as specified in Appendix H.

2. Designated Dispatch Operator - Buyer's system control dispatching operators with whom Seller shall make all operating communications and

MICROFILMED
APR 01 1988

required reports concerning the Facility.

3. Facility - The hydroelectric generation Facility and appurtenant facilities described in Appendix J, which will be designed and constructed by Seller.
4. Name Plate Rating - The full-load continuous rating of the Facility's generator as designated by the manufacturer on the generator name plate.
5. Operation Date - The day commencing at 12:01 a.m. following the day on which Seller's Licensed Architect/Engineer certifies to Buyer in writing that the Facility is fully operational and has successfully completed all Performance Tests as specified in Appendix E. This date shall not precede the Scheduled Operation Date.
6. Performance Tests - The tests of Seller's Interconnection Facility which are described in Appendix E, which tests will be performed jointly by Buyer and Seller.
7. Point of Delivery - The location where Buyer's and Seller's electrical facilities are interconnected, as specified in Appendix I.
8. Prudent Electrical Practices - The practices and methods, as changed from time to time, that are commonly used in the electrical utility industry by companies similar to Buyer to operate electrical equipment lawfully and in a safe, dependable, efficient and economic manner.

RECEIVED
APR 01 1988

including the applicable provisions of the National Electric Safety Code and the National Electric Code.

9. Scheduled Operation Date - The Scheduled Operation Date of the Seller's Facility is April 1987.
10. Seller's Interconnection Facilities - The facilities and equipment identified in Appendix G, that are not owned by Buyer on Seller's side of the Point of Delivery. The facilities and equipment are for the purpose of connecting Seller's Facility to Buyer's system. Seller shall be responsible for the purchase and installation of all Seller's Interconnection Facilities.
11. System Emergency - A condition on Buyer's system or at Seller's Facility which is likely to result in an imminent disruption of service to Buyer's customers, or is imminently likely to endanger life or property, or threatens the integrity of Seller's Facility or Buyer's system.
12. Station Use - Incremental energy, used directly or indirectly, resulting from the generation of electricity by the Facility. Station Use includes, but is not limited to, lighting, heating, pumping, excitation energy, environmental controls, fuel feeding and other consumption of electricity in connection with small power production. Negative Station Use will not be recognized. Increased efficiency or conservation associated with the Facility that results in reduced energy consumption directly benefiting the Seller will not be further compensated as negative Station Use.

APR 01 1988

B. CONSTRUCTION

1. Land Rights

- a. Seller hereby grants to Buyer, for the term of this Agreement, all necessary rights-of-way and easements to install, operate, maintain, replace, and remove Buyer's Interconnection Facilities, as specified in Appendix H, on Seller's property, and to do all other work required pursuant to this Agreement. Seller agrees to execute such other grants, deeds, or documents as Buyer may reasonably require to enable it to record such rights-of-way and easements. For all of Buyer's Interconnection Facilities to be installed on Buyer's side of the Point of Delivery, Buyer shall procure all necessary rights-of-way and easements. For all of Seller's Interconnection Facilities to be installed on Seller's side of the Point of Delivery, Seller shall procure all necessary rights-of-way and easements.

2. Facility and Equipment Design and Construction

- a. Except for the Buyer's Interconnection Facilities identified in Appendix H, Seller shall be responsible for the design, construction, installation, operation, and maintenance of the Facility and all equipment which produces or transmits electrical power (including Seller's Interconnection Facilities). Metering equipment shall be owned and maintained by Buyer in accordance with Appendix D. Seller agrees to meet the requirements established by Buyer in Appendix D for those portions of Seller's Facility and equipment which directly or indirectly affect Buyer.

MICROFILMED
APR 01 1988

b. To aid in the determination of compliance with Buyer's requirements, Seller shall submit the Facility and equipment specifications and drawings to Buyer for review and comment and Buyer shall submit its comments to Seller within twenty-one (21) working days from receipt of those specifications. Any action taken by Seller as a result of Buyer's review and comments will remain within the sole discretion and judgment of Seller and shall be at Seller's sole risk.

c. Buyer's Interconnection Facility will be 25 kV. If Buyer's Interconnection Facility voltage is changed by Buyer to provide for more efficient operation of its system, then Buyer shall be solely responsible for the cost of the modifications to accomplish such voltage change to Buyer's Interconnection Facilities. Except as specified above, Seller, at its own expense, agrees to make modifications to its Facility and Seller's Interconnection Facilities so that Seller's Facility and Seller's Interconnection Facilities remain compatible with Buyer's Interconnection Facilities including, but not limited to, modifications to Seller's equipment to accommodate increased fault duty, additional protective relay equipment, relay setting modifications, etc., consistent with Prudent Electrical Practices. If Seller fails to make any modifications required by this Agreement within a reasonable time after being requested to do so by Buyer, Buyer will make the modifications and bill Seller actual costs plus Buyer's normal overheads. Failure of Seller to make said modifications or to allow Buyer to make said modifications or failure

REPROFILMED
APR 01 1988

of Seller to pay for such modifications, will, at Buyer's discretion, and with Commission approval, terminate this Agreement.

C. OPERATION

1. Point of Delivery - Seller shall deliver the energy to the Point of Delivery described in Appendix I.
2. Operating Communications - Buyer and Seller shall maintain operating (verbal) communications through Buyer's Designated Dispatch Operator such that prior to initial interconnection, and at any time thereafter should Seller become disconnected from Buyer's system, Seller shall not synchronize, connect or reconnect the Facility to Buyer's system unless directly ordered to do so by Buyer's Designated Dispatch Operator. Such order, in Buyer's Designated Dispatch Operator's sole discretion, shall not be unreasonably withheld.
3. Facility Operations and Maintenance and System Emergencies
 - a. Seller shall operate and maintain its Facility according to Prudent Electrical Practices and conduct its operation to ensure that wave forms, voltage flicker, power factor, and inverter techniques comply with the requirements established by Buyer in Appendix D.
 - b. Buyer may enter Seller's premises, at any reasonable time, to inspect Seller's protective relay equipment and read or test the metering equipment, and to disconnect, without notice, Seller's Facility from Buyer's system if, in Buyer's opinion, a hazardous condition exists and such immediate action is necessary to protect

RECEIVED
APR 01 1988

persons, Buyer's system, or other customers' facilities from damage or interference caused by Seller's Facility, or because of a lack of properly operating protective relay equipment.

- c. Buyer shall not be obligated to accept, and Buyer may require Seller to curtail, interrupt or reduce deliveries of energy if Buyer, in its reasonable sole discretion, determines that curtailment, interruption or reduction is necessary due to a System Emergency. Buyer's acceptance of and obligation to pay for energy shall be totally suspended for all periods of time during which there is a System Emergency caused or significantly contributed to by the operation of Seller's Facility.

During a System Emergency which is not caused by or significantly contributed to by the operation of Seller's Facility, Buyer shall continue to pay for only the energy it elects to receive; provided, however, that Seller's Facility was available and capable of delivering energy in accordance with the terms of this Agreement.

- d. Except in case of a System Emergency, Buyer shall give Seller reasonable prior verbal notice of any planned curtailment, interruption or reduction which Buyer shall require Seller to make, which notice shall include, the reason for its occurrence and its estimated duration.
- e. Seller shall, whenever possible, notify Buyer of any Facility outage prior to its occurrence, but in no event later than (2) hours

RECEIVED
APR 01 1988

after the occurrence of an outage.

- f. Seller's scheduled outage for maintenance shall be performed between September 15 and November 15, unless otherwise agreed to by Buyer.

4. Metering Equipment

- a. The metering equipment which will be used to determine the billing hereunder shall be supplied by Buyer, at Seller's expense, as specified in Appendix F. Seller shall provide, at no added cost to Buyer, adequate space for Buyer's metering equipment. Each individual meter shall be sealed in accordance with Buyer's requirements and the seals shall be broken only when the meters are to be inspected and tested by Buyer. Seller shall be given reasonable notice of the time when any inspection and testing shall take place and Seller may have representatives present at the inspection and testing.
- b. Buyer shall inspect and test the metering equipment upon its installation and at least once every two (2) years thereafter to maintain their accuracy of registration in accordance with generally accepted practices and the rules and standards established by the Idaho Public Utility Commission. If requested to do so by Seller, Buyer shall perform a special inspection and test of all metering equipment more frequently than every two (2) years. The expense of such special inspection and test shall be paid by Seller, unless upon being inspected and tested the metering equipment is found to be defective.

RECEIVED
APR 01 1988

register inaccurately by more than two (2) percent fast or slow, in which case Buyer shall pay the expense of the special inspection and test. Seller's expense for the special inspection and testing of the metering equipment shall be paid as specified in Appendix H, Section B.3.

- c. If the measurement made by a meter during a test is in error by more than two (2) percent from the measurement made by the standard meter used in the test, the meter shall be adjusted and an adjustment factor based on the error shall be calculated. This adjustment factor will be applied to and correct all measurements made by the inaccurate meter and the associated billings based on such measurements for:

- 1) The actual period during which the meter rendered inaccurate measurements, if the period can be determined; or if not,
- 2) The period immediately preceding the test of the meter equal to one-half (1/2) the time from the date of the last previous test of the meter; provided, that the period covered by the correction shall not exceed six (6) months from the date of the test.

- c. If a meter fails to register, the meter shall be adjusted or replaced. The energy measurements for billing purposes for the unrecorded period shall be based on a mutually agreed-upon period with similar waterflows.

MICROFILMED
APR 01 1988

Each Party, after giving reasonable notice to the other Party, shall have the right of access to all metering and related records during normal business hours.

D. BILLING

On or before the thirtieth (30th) day following the monthly billing period, Buyer will send a billing statement to Seller itemizing the kilowatt-hours and the applicable rates that are being paid for both fixed and variable energy received from Seller, together with the excess kilovar-hours received by Seller from Buyer and the applicable rate that is being charged, the monthly proportional share of all Buyer's annually incurred costs pursuant to Appendix H and any other expenses incurred that month by Buyer pursuant to this Agreement, if any, and the payment owed to Seller.

E. PAYMENT

Buyer will include payment with the billing statement. If either Party objects to the billing statement, the Party objecting will, within six (6) months after receipt of the billing statement deliver to the other Party a written summary of its objections to the billing statement, which objections shall include the amount by which the Party believes the billing statement is incorrect. All other payments due will be paid pending the resolution of the billing objection. Upon determination by the Parties of the correct amount due from Buyer, or the refund due from Seller, the indebted Party shall promptly pay such amount with interest at the rate then established for late payments by the Idaho Public Utilities Commission. If either Party fails to notify the other Party of an objection within the six (6) month period, the billing statement and payment

RECEIVED
APR 01 1988

shall be deemed to be correct and neither Party shall be entitled to make any claim against the other Party arising from the billing statement.

F. FORCE MAJEURE

1. Neither Party shall be under any obligation or subject to any liability, except as modified by this Agreement for failure to carry out the terms of this Agreement during the time and to the extent that a failure to do so shall be solely due to:

- a. The operation and/or effect on transactions or Facilities covered by this Agreement of rules, regulations, orders, ordinances or statutes issued or enacted by any regulatory Commission, municipality, governmental agency or any legislature of any State or the United States of America having jurisdiction over either or both of the Parties or the subject matters of this Agreement;
- b. A judgment, restraining order or injunction or similar decree or order of any court of competent jurisdiction;
- c. War or riots;
- d. Flood, fire, wind, hail or earthquake;
- e. Aircraft or vehicles;
- f. Act of God;
- g. Sabotage or vandalism;
- h. Strikes or boycotts;
- i. Civil disturbances;
- j. Or any other event beyond the reasonable control of, and without the fault or negligence of, the Party claiming force majeure.

MICROFILMED
APR 01 1966

Each Party expressly reserves, however, the right to appeal and pursue all other legal recourse to contest a governmental or judicial action creating a force majeure event as described in Section F.1(a) and F.1(b) above.

2. Buyer shall have no obligation to make energy payments during the time period Buyer is unable to accept and utilize energy from Seller's Facility due to a force majeure event. Buyer shall have no obligation to make energy payments during the time period Seller is unable to deliver energy to Buyer due to a force majeure event. Seller shall have no liability to Buyer for failure to deliver energy during the time period Seller is unable to deliver energy to Buyer due to a force majeure event, subject to the provisions of Section F.5, hereunder and Appendix C.
3. If either Party, because of a force majeure event, is rendered wholly or partly unable to perform its obligations under this Agreement, that Party shall be excused from whatever performance is affected by the force majeure event, to the extent so affected, provided that:
 - a. The affected Party, within two (2) weeks after the occurrence of the force majeure event, gives the other Party written notice describing the nature of the occurrence and the effect on its ability to perform its obligations under this Agreement;
 - b. The suspension of performance is of no greater scope and of no longer duration than is required by the force majeure event.

REPROFILMED
APR 01 1988

c. No obligations of either Party which arose before the force majeure event causing the suspension of performance shall be excused due to the force majeure event; and

d. The affected Party uses its best efforts to remedy its inability to perform as soon as possible.

4. This Section F shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgement of the Party involved in the dispute, are contrary to its best interests. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party involved.

5. Failure by Seller to remedy its inability to perform due to the force majeure event within two (2) years after the termination of the force majeure event shall constitute termination of this Agreement and the provisions of Appendix C shall apply, unless Seller has used reasonable efforts to remedy the force majeure event and such events continue to be the reason for Seller's inability to perform. The provisions of Appendix C shall not apply if Seller's inability to perform for two (2) years is due to a force majeure event on the Buyer's system.

6. Notwithstanding the foregoing of this Section F, conditions of System Emergency on Buyer's system shall be governed by the provisions of and Section C.3(d).

RECEIVED
APR 01 1988

G. LIABILITY AND INDEMNIFICATION

1. Each Party shall indemnify the other Party, its directors, its officers, agents, and employees against all loss, damage, expense and liability to third persons for injury to or death of any person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation, or maintenance of, or by failure of, any such the Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs that may be incurred by the other Party in successfully enforcing this indemnity clause.

2. Nothing in this Agreement shall create any duty to, any standard of care with reference to, or any liability to any person not a Party to it. Neither Party shall be liable to the other Party for consequential damages.

3. Each Party shall be responsible for protecting its facilities from possible damage by reason of the electrical disturbances or faults caused by the operation, faulty operation, or nonoperation of the other Party's facilities, and such other Party shall not be liable for any such damages so caused.

H. SEVERAL OBLIGATIONS

Except as otherwise provided in this Agreement, the duties, obligations and liabilities of the Seller and Buyer are intended to be several

MICROFILMED
APR 01 1988

or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership, or joint venture between the Parties.

WAIVER

It is expressly understood and agreed that the failure of either Party to insist upon strict performance of any of the terms and conditions hereof, or the failure of either Party to exercise or delay in the exercise of any rights or remedies provided herein or by law shall not release either Party from any or all of the responsibilities or obligations imposed by law or this Agreement and shall not be deemed to be a waiver of any right of either Party to insist upon strict performance hereof, and shall not be deemed as a waiver of any of the rights or remedies as to any performance of this Agreement regardless of which services are performed or received or as to any prior or subsequent default hereunder. The purported oral modification or rescission of this Agreement by either Party shall not operate as a waiver of any of the terms of this Agreement.

J. ASSIGNMENT

Seller may assign its right to payment under this Agreement, for the purpose of securing financing of the Seller's Facility and Buyer agrees to execute any consents or other documents reasonably necessary to effect such assignment; provided that such assignment does not adversely affect Buyer's interests. Either Party may assign all or a portion of its rights or delegate all or a portion of its duties under this Agreement in connection with the sale or merger of a substantial portion of its properties. Subject to the exceptions stated in this Section J, neither Party shall assign its rights nor delegate its duties under this Agreement or any part of such rights or duties without the

MICROFILMED
APR 01 1988

prior written consent of the other Party, which consent shall not be unreasonably withheld, and any such assignment or delegation made without such written consent shall be null and void.

K. CHOICE OF LAWS

This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho and the United States of America.

L. JURISDICTIONAL APPROVALS

This Agreement shall be subject to the approval of the Idaho Public Utilities Commission and to an express finding and supporting order by the Commission that (i) Seller is a qualifying facility as defined in 18 C.F.R. §292.101(b)(1), (ii) that the Commission has found the avoided cost rate of Buyer to be just and reasonable, and (iii) that the acquisition of the energy by Buyer from Seller at costs specified herein for the duration of this Agreement are reasonable, prudent and in the public interest.

comparisons
delivered
based on
The
fired
account
only

MICROFILMED
APR 01 1988

APPENDIX B
SCHEDULE OF ENERGY PURCHASED RATES
FOR
HYDROELECTRIC DEVELOPMENT, INC.

Fixed Energy Rates

<u>Scheduled Commencement of Service</u>	<u>Term of Agreement (Years)</u>							
	<u>4</u>	<u>6</u>	<u>10</u>	<u>15</u>	<u>20</u>	<u>25</u>	<u>30</u>	<u>35</u>
1986-\$/kW-Yr	106	115	133	161	188	215	241	266
-Mills/kWh*	16.13	17.50	20.24	24.50	28.61	32.72	36.68	40.49

The fixed energy rate figure shall not be subject to escalation or change.

Variable Energy Rate

(Mills/kWh)

1986	14.00
------	-------

The variable energy rate figure shall be updated annually commencing on January 1 of each year after the date energy is first delivered by Seller to Buyer to the variable energy rate figure that has been approved by the Idaho Public Utilities Commission for that year. The rate paid will be the average cost of fuel consumed in Buyer's coal fired generating stations determined pursuant to Buyer's normal accounting practices. The adjustment may be up or down and shall apply only to future payments.

*Based on a 75 percent capacity factor.

MICROFILMED
 APR 01 1988

APPENDIX C
ADJUSTMENT OF PAYMENTS
FOR
HYDROELECTRIC DEVELOPMENT, INC.

A. GENERAL PROVISIONS

1. This Appendix C shall apply in the event that a reduction of output is determined by Buyer, when the Facility is abandoned or this Agreement is terminated. The Facility shall be deemed to be abandoned and this Agreement to be terminated if Seller ceases operation of the Facility with the intent that such cessation be permanent. Such intent shall be presumed by either (i) Seller's written notice to Buyer of such intent, or (ii) Seller's operation of the Facility such that no energy above that consumed by Seller on its premises is available at the Point of Delivery to Buyer for three-hundred and sixty (360) consecutive calendar days during any period after the Operation Date, unless Seller is diligently proceeding to remedy the problem causing such failure to generate energy above that consumed by Seller and does so within two (2) years, except as otherwise set forth in this Agreement. After the three-hundred and sixty (360) consecutive calendar days, the provisions of Section B shall apply to the abandonment of the total contracted capacity and Buyer shall invoice Seller for the refund described below plus the payment of the net-present-value of the remaining payments that would have been due to Buyer

MICROFILME
APR 01 1988

pursuant to this Agreement for the line facilities, described in Appendix H, at \$35,000 per year for the remaining term of this Agreement discounted at the rate of interest specified in Section 4 hereunder. The output of a Facility shall be deemed to be reduced and the contracted capacity of this Agreement altered if there is a permanent, material reduction in the yearly average kilowatt-hour output of the Facility with the intent that such reduction be permanent. Such intent shall be presumed by either (i) Seller's written notice to Buyer of intent to make such a reduction, or (ii) Seller's operation of the Facility such that the energy that Seller has contracted to make available to Buyer is materially reduced. The determination of the quantity of reduction shall be made by Buyer and written notice shall be delivered to Seller of such determination. Seller shall have six (6) months to remedy the problem causing such reduction. After six (6) months if the problem causing such reduction has not been resolved except as otherwise set forth in this Agreement, the provisions of Section B shall apply to the reduction of the contracted capacity and the quantity by which the output has been reduced shall be used to calculate the refund and Buyer shall invoice Seller for the refund described below. All refunds to be paid by Seller, pursuant to this Appendix C, shall be retroactive from the date of written notice or final invoice to the Operation Date.

2. The Parties understand and agree that the payment Buyer makes to Seller for the energy generated is based on the value

MICROFILMED
APR 01 1988

to Buyer of Seller's performance during the full term of this Agreement and that in the event Buyer does not receive full performance from Seller by reason of a reduction of output or an abandonment, then:

- a. Buyer shall be deemed damaged by reason thereof;
- b. It would be impracticable or extremely difficult to fix the actual damages to Buyer resulting therefrom;
- c. The refunds and payments as provided in this Appendix C are in the nature of adjustments in power purchase prices and liquidated damages, and not a penalty, and are fair and reasonable;
- d. Such refunds and payments represent a reasonable endeavor by the Parties to estimate a fair compensation for the reasonable losses that result from such termination or reduction; and
- e. Buyer shall not be obligated by this Agreement to enter into a subsequent Power Purchase Agreement with Seller or its successors or assigns, and shall not be obligated by this Agreement to Seller or its successors or assigns to wheel energy generated from Seller's Facility, within the original term of this Agreement.

RECEIVED
APR 01 1988

3.5. In the event that there is a reduction of output, the amount by which the yearly average kilowatt-hour output is reduced shall be used to calculate the refund due Buyer as per Section B.

4. Seller shall be invoiced by Buyer for all refunds and payments due under this Appendix C and Seller shall pay such amounts to Buyer within thirty (30) days after receipt of said invoice. Such payment shall include interest, compounded monthly, from the Operation Date through the date of final invoice at the then-effective statutory rate of interest, as adjusted from time to time, as such rate of interest is defined in Idaho Code 528-22-104(1) and shall constitute full compensation and satisfaction of all damages deemed to have been incurred by Buyer in respect to the termination.

5. If Seller does not make payments pursuant to this Appendix C, Buyer shall have the right to offset any amounts due it against any present or future payments due Seller.

6. If, after the Operation Date, Seller fails to deliver any energy to Buyer for a two (2) year period for any reason whatsoever excluding a force majeure event, Buyer may, at its option, terminate this Agreement and Seller shall pay to Buyer the sums specified in Section B.

RECEIVED
APR 01 1988

B. ADJUSTMENT OF PAYMENT UPON TERMINATION

In the event this Agreement is terminated, pursuant to the above, prior to the expiration of the term of this Agreement, Seller shall pay to Buyer, as a refund, a repayment obligation that includes the applicable interest compounded monthly. Said repayment obligation shall be calculated as follows:

$$RO = (PD_N * (1+i)) + (PD_{N-1} * (1+i)^2) + (PD_{N-2} * (1+i)^3) + \dots + (PD_1 * (1+i)^N)$$

and $PD_x = MG_x * (CR - AR) * 0.001 * PR$

where: RO = Repayment Obligation - Repayment Obligation due Buyer by Seller that includes interest

PD_x = Payment Difference - The payment difference for X month between the Contract Rate and the Actual Rate calculated from that particular month's kilowatt-hours generated (MG_x).

N = Number of Periods - The number of monthly periods for which the refund will be calculated.

i = Interest Rate - The interest rate, expressed as a monthly amount, as stated in Section A.4 of this Appendix.

MG_x = Monthly Generator - The actual kilowatt-hours generated during x month for which Buyer paid the Contract Rate.

CR = Contract Rate - The fixed energy rate, from Appendix B, corresponding to the term of the signed Agreement in mills/kWh

AR = Actual Rate - The fixed energy rate, from Appendix B, corresponding to the actual period of performance in mills/kWh.

0.001 = Conversion factor to get from mills to dollars

APPROXIMATED
APR 01 1988

PR = Percentage of Reduction - The percentage of the contracted capacity that the output of the Facility has been reduced to.

C. Termination Example

1. Total Abandonment

Assuming a thirty-five (35) year Agreement (CR = 40.49 mills/kWh) was terminated at the end of ten (10) years (N = 120 months and AR = 20.24 mills/kWh) due to total abandonment (PR = 100%), and assuming, for simplicity in this example, that the average monthly generation from the Facility had been 200,000 kWh for each month of the ten (10) year period (each actual month's kilowatt-hours that was generated will be used to calculate the correct repayment obligation), then the repayment obligation would be calculated using the above formula as follows:

$$PD_x = 200,000 \times (40.49 - 20.24) \times 0.001 \times 100\% = \$4,050.00$$

then:

$$RO = \$940,973$$

2. Reduction of Output

Assume the same situation as in the previous example, except that instead of total abandonment (PR = 100%), the average 200,000 kWh monthly generation has been reduced to 140,000 kWh (PR = 30%), then the repayment obligation would be calculated using the above formula as follows:

$$PD_x = 200,000 \times (40.49 - 20.24) \times 0.001 \times 30\% = \$1,215.00$$

then:

$$RO = \$282,292$$

APR 01 1988

APPENDIX D

PARALLEL GENERATION INTERCONNECTION REQUIREMENTS

FOR

HYDROELECTRIC DEVELOPMENT, INC.

A. GENERAL REQUIREMENTS

1. All installations made for the purpose of interconnection with Buyer's system shall comply with Buyer's requirements, the National Electrical Code, and the National Electrical Safety Code. Seller's Facility shall be interconnected only after all legal requirements have been met and necessary written approvals have been obtained.
2. Seller shall provide, at its expense, a single accessible, visible, lockable disconnect switch that will separate Seller's Facility from Buyer's system. This switch is to be identified and labelled by Seller as the "Generator Disconnect Switch." This switch may be locked in the open position by Buyer's personnel under the following conditions:
 - a. For the protection of line crews while doing any work on Buyer's lines or equipment that can be affected by Seller's Facility.
 - b. If inspection of Seller's Facility reveals hazardous conditions or a lack of proper maintenance.
 - c. If Seller's Facility produces unacceptable voltage, sine waves, frequencies, or harmonic distortion which interfere with Buyer's customers, or with the operation or integrity of Buyer's system.

RECEIVED
APR 01 1988

3. Seller shall provide a circuit breaker or other equipment, acceptable to Buyer, that will automatically disconnect Seller's Facility from Buyer's system in the event of a problem on either Seller's equipment or Buyer's system. The protective relay equipment, discussed in this Appendix, Section B.3, shall be engineered, designed, and installed such that they will automatically open this circuit breaker when there is a failure of or fault on Seller's equipment, the voltage on Buyer's system is lost, or a fault is occurring on Buyer's system.

4. Interconnection of Seller's Facility shall be made only after inspection and clearance by local authorities where an inspection authority has jurisdiction, and such interconnection shall not reduce the integrity of Buyer's system. In addition, the completed installation is subject to final inspection by Buyer and satisfactory completion of the Performance Test Criteria described in Appendix E before parallel generation will be permitted. Whether related to start-up or steady-state operation, in no case shall Seller's Facility be allowed to produce abnormal voltages, voltage fluctuations, or harmonic distortion that would cause undue interference with Buyer's customer loads or Buyer's equipment. Total harmonic distortion introduced into Buyer's system from Seller's Facility shall not exceed five percent (5%) of the 60 Hertz fundamental. No single harmonic contribution shall exceed three percent (3%) of the 60 Hertz fundamental. These specifications shall apply to both voltage and current waveforms.

5. Seller shall maintain its equipment (generator, protective relay equipment, and other associated equipment) in good working order.

APR 01 1988

5. Seller will be fully responsible for the routine maintenance of the generator and protective relay equipment, and the keeping of records for such maintenance. Said equipment and maintenance records shall be available to Buyer for inspection at all times, upon reasonable advance notice to Seller.

6. The generator name plate voltage should be the same as the nominal voltage supplied by Buyer. If generation occurs at voltages other than the nominal voltages supplied by the Buyer, Seller must supply dedicated generator transformers to make the net capacity of the generator available to Buyer at the nominal voltage supplied by Buyer. The transformer configuration shall be subject to Buyer's review and acceptance. The recommended connection for synchronous generators is grounded Wye/Delta, with the generator connected to the Delta side. The grounded-Wye/grounded-Wye connection is also acceptable for non-synchronous generators provided that this configuration does not permit generator harmonic distortion to cause unacceptable interference with Buyer's customers and/or system.

7. Seller shall provide site location information so that all parallel generation sites may be mapped by Buyer on the appropriate distribution or transmission line maps with size and type of generator noted.

8. The alternating current output of Seller's generator must be compatible with Buyer's system voltage and frequency.

MICROFILMED

APR 01 1988

B. EQUIPMENT REQUIREMENTS FOR INTERCONNECTION

1. METERING EQUIPMENT

- a. Seller shall provide adequate space for Buyer's metering equipment which is specified in Appendix F. The metering equipment will include, but not be limited to, billing meters, transducers, instrument transformers, test switches, and modems.
- b. Seller shall pay all necessary costs of the metering equipment as specified in Appendix C; however, Seller shall have no ownership of said metering equipment.
- c. Seller, at its expense, shall provide and install any meter base(s), that Buyer may require, in series with the meter equipment.
- d. Buyer will install, at Seller's expense, any necessary metering equipment to measure the reactive power and energy flows related to the operation of Seller's Facility. When Seller's Facility is operating, Seller shall maintain at all times a power factor with a margin allowance of plus or minus two and one-half percent ($\pm 2\frac{1}{2}\%$) from a particular target level set between the limits of ninety percent (90%) lagging and ninety percent (90%) leading. Such target level shall be specified from time to time by written notice from Buyer to Seller. Any kilovar-hours supplied by Buyer to Seller outside of the margin allowance determined from said specified target level shall be deemed to be excess kilovar-hours and will be paid for by Seller at the rate of \$0.30 per kilovar-month. This

MICROFILMED
APR 01 1988

rate will be subject to annual adjustment as determined by Buyer and approved by the regulatory authorities having jurisdiction.

insist

- e. Buyer reserves the right and Seller grants permission for the possible future addition of a meter(s) by Buyer, at Buyer's expense, in the generator circuit for the measurement of the generator output for research studies, as may be deemed necessary by Buyer.

2. COMMUNICATIONS EQUIPMENT:

- a. Buyer shall, at Seller's expense, provide and install the sending and receiving equipment at both Buyer's and Seller's ends of the dedicated communication channel(s) as specified in Appendix F. Said channel(s) shall be used for sending the telemetry data and provide for verbal communications between Buyer's Designated Dispatch Operator and Seller's Facility. In addition, protective relay equipment information from Seller's Facility to Buyer's remote substation(s) over a dedicated communication channel may be required by Buyer under certain system configurations.

- b. Seller shall be solely responsible for the acquisition of the number of dedicated communication channel(s) as specified in Appendix F. Said channel(s) shall be to Buyer's specification. Seller shall pay all associated purchase and/or lease costs of said channel(s), and costs of maintenance of all necessary associated equipment both on Seller's and Buyer's end of said channel(s). Special consideration must be given for the possible effects of ground potential

MICROFILMED
APR 01 1988

(GPR) on said channel(s) and Seller shall be fully responsible for the costs of any GPR tests and the required equipment to be installed based on the results of such tests.

- c. For any Facility with installed generation capability of one-thousand (1,000) kilowatts or greater, any change in generation output of more than one-thousand (1,000) kilowatts, or any controllable shutdown of Seller's generator, must be coordinated in a timely manner through verbal communication with the Buyer's Designated Dispatch Operator in accordance with Prudent Electrical Practices.
- d. Prior to initial interconnection, and at any time thereafter should Seller become disconnected from Buyer's system, Seller shall not synchronize, connect or reconnect the Facility to Buyer's system unless directly ordered to do so by Buyer's Designated Dispatch Operator. Such order, in Buyer's Designated Dispatch Operator's sole discretion, shall not be unreasonably withheld.

3. PROTECTIVE RELAY EQUIPMENT

- a. Seller shall be solely responsible for the protection of its generator and all of its associated equipment from transient surges initiated by lightning, switching, automatic reclosing of Buyer's equipment or other system disturbances. Buyer shall not be held responsible, and Seller shall protect itself against the effects on Seller's own equipment of failures and/or faults, phase unbalances, and for faults and/or other disturbances on Buyer's system. It is also the sole responsibility of Seller to provide for the safe and effective

RECEIVED
APR 01 1988

operation of its generator consistent with Prudent Electrical Practices.

b. As a minimum requirement, Seller's Interconnection Facility shall include protective relay equipment designed to automatically disconnect Seller's Facility from Buyer's system under abnormal voltage and/or frequency conditions, other system disturbances, or when Buyer's connection to Seller is interrupted. Buyer may delay automatic reclosing of its equipment for up to two (2) seconds so Seller will be able to get his generator disconnected from Buyer's system. However, additions to said minimum requirement may be necessary for certain system arrangements and installations. Buyer reserves the right to determine the adequacy of Seller's protective relay design, and the right to require additional protective relay equipment and control systems. Required protective relay equipment and recommended settings are as follows:

- 1) Over-frequency relay: 61 Hertz, 10 cycle time delay.
- 2) Under-frequency relay: 59.5 Hertz, 6 cycle time delay.
- 3) Over-voltage relay: 110% of nominal voltage, 0.5 to 5 second time delay.*
- 4) Under-voltage relay: 90% of nominal voltage, 0.5 to 5 second time delay.*

* Buyer will specify the recommended over- and under-voltage relay time delay settings within the range indicated.

MICROFILMED
APR 01 1988

5) Reverse current relay (or power relay): This relay is required for induction machines to prevent the generator from acting as a motor.

6) Phase fault relay(s): This relay(s) is required for synchronous machines to detect phase faults in Buyer's and Seller's systems.

7) Ground fault relay: This relay is required for synchronous machines to detect ground faults in Buyer's and Seller's systems.

c. Seller's Interconnection Facility protective relay design and drawings, or any future modifications to said protective relay design and drawings must be reviewed and accepted by Buyer's Relay Engineering Department prior to installation.

d. Sixty (60) days before the Performance Tests are to be performed, three sets of final design drawings of Seller's Interconnection Facility protective relay design (including single lines, three lines and schematics) and instruction books for all the protective relay equipment used in the design shall be furnished to Buyer's Relay Engineering Department.

e. Buyer reserves the right to require Seller, at Seller's expense, to provide corrections, modifications or additions to the design.

RECEIVED
APR 01 1988

protective relay design in the event of modifications to government or industry regulations and standards, National Electric Code, local codes, increase in fault duty on Buyer's system, or additional Buyer's requirements.

C. ADDITIONAL REQUIREMENTS

1. DC Machines with Synchronous Inverter

No additional requirements.

2. Induction Generators

The generator must be within plus or minus five percent ($\pm 5\%$) of synchronous speed before being connected onto Buyer's system.

3. Synchronous Generators

Synchronous generator installations will require special review by Buyer's Engineering Department(s) due to the complexity of designing appropriate protective relay schemes and controlling the circuit breaker that automatically disconnects the generator from the Buyer's system under all necessary (abnormal) conditions. Seller shall provide either automatic synchronizing or manual synchronizing equipment, supervised by a synchronism check relay. Synchronous generators are generally not available with wind-powered machines.

4. AC Generators with Static Frequency Changer

Static frequency changers shall be of the type that utilize Buyer's frequency to trigger the output frequency to insure frequency compatibility, and to insure no output when Buyer's system is out of

MICROFILMED
APR 01 1988

service. The AC output of the static frequency changer must be compatible with Buyer's voltage and frequency.

D. BUYER'S RIGHT OF REVIEW AND COMMENT

Prior to the commencement of the Performance Test described in Appendix E and prior to implementation of any changes, modifications or upgrades of Seller's Interconnection Facilities by Seller after the Operation Date, Buyer or its designated representative shall have the right, but not the duty, to review and comment, in accordance with Prudent Electrical Practices, on Seller's Interconnection Facilities and other electrical equipment to be installed by Seller at the Facility. Buyer's review and comment, or failure to review and comment on Seller's drawings and specifications for Seller's Interconnection Facilities shall not constitute nor be construed as approval or endorsement or as a warranty of safety, durability, strength, adequacy, or reliability thereof. Any action taken by Seller as a result of Buyer's review and comment will remain within the sole discretion and judgment of Seller and shall be at Seller's sole risk. The acceptance of or incorporation of Buyer's comments shall not relieve Seller from the responsibility for the design, construction, operation and maintenance of the Facility and all Seller's Interconnection Facilities, nor obligate Buyer in any way. In the event that a claim or cause of action arises against Buyer which relates directly or indirectly to Buyer's review of and comment on the drawings and specifications furnished by Seller, Seller hereby agrees to indemnify and hold Buyer, its officers, directors, employees and representatives harmless from any such claims or causes of action.

RECEIVED
APR 01 1988

APPENDIX E
PERFORMANCE TEST CRITERIA FOR SELLER'S INTERCONNECTION FACILITIES
FOR
HYDROELECTRIC DEVELOPMENT, INC.

Buyer's and Seller's qualified relay, communication and metering engineers and technicians will jointly review, perform and witness the following:

- A. Prior to the start of construction, Seller's proposed protection arrangement of Seller's Interconnection Facility shall be submitted to Buyer for Buyer's review and/or acceptance pursuant to Appendix D.
- B. Thirty (30) days prior to completion of Seller's Interconnection Facility, Buyer shall review the final protection arrangement, design drawings, and relay instruction books. The proposed protective relay settings and the transformer high side fuse size shall also be reviewed to insure proper coordination with Buyer's system.
- C. The following is to be done prior to interconnection:
 - 1. Seller shall perform and Buyer shall witness the testing and setting of the protective relays required in Appendix D.

MICROFILMED
APR 01 1988

2. Buyer shall perform and Seller shall witness the testing and calibration of the meter(s) required in Appendix F. The meter(s) shall be in place and the test switch shall be used to input the necessary currents and voltages.

3. Seller shall perform and Buyer shall witness the necessary ratio and polarity tests on the current transformers (CT) and voltage transformers (VT) that will be used for the meter(s) and protective relays. Check that the wiring from the CT's and VT's to their appropriate meter(s) and protective relays is correct.

4. Buyer shall perform and Seller shall witness the operational end-to-end checks of all communication channels required in Appendix F.

5. Seller shall perform and Buyer shall witness individual operation of each of the protective relays and observe the resulting trip of the Seller's automatic disconnect device.

6. For synchronous machines, Seller shall perform and Buyer shall witness the operational tests on the synchronizing equipment between Buyer's system and Seller's Facility. Check that the wiring between the proper VT's and the synchronizing equipment is correct.

D. The following tests are to be done after the Buyer's Designated Dispatch Operator has been notified, the interconnection is complete, and generator is ready to test:

1.5 For synchronous machines, Seller shall make and Buyer shall witness the in-service tests of the synchronizing equipment when generator is up-to-speed and prior to closing the automatic disconnect device. This will determine that the proper voltages have been wired correctly to the synchronizing equipment.

2. Seller shall make and Buyer shall witness the in-service tests of the protective relays with Seller's Facility generating electricity. This will determine that the proper currents and voltages have been wired correctly to the protective relays.

3. Buyer shall make and Seller shall witness the in-service tests of the meter(s) with Seller's Facility generating electricity. This will determine that the proper currents and voltages have been wired correctly to the meter(s).

4. Buyer shall make and Seller shall witness the in-service tests of all communication channels with Seller's Facility generating electricity. This will determine that the property telemetry and other transmitted quantities are being received properly.

Upon completion of items A, B, and C above, Buyer and Seller will sign the attached letter stating that the necessary equipment for interconnection is in place and is operational under test conditions. After the letter has been signed, Buyer's Designated Dispatch Operator will be notified and will give orders that Seller can begin full operation of its Facility under the Power Purchase Agreement.

If Seller does not have the qualified engineers and technicians available to perform the above tests and requests Buyer to perform the tests, Buyer shall not be held liable for any damages caused to Seller's equipment.

MICROFILMED
APR 01 1988

PERFORMANCE TEST ACCEPTANCE
FOR SELLER'S INTERCONNECTION FACILITIES

(Seller's Copy)

Buyer and Seller have reviewed, performed, and witnessed this ____ day of _____, 19____, the satisfactory completion of all of the Performance Test Criteria as stated in Appendix E. The necessary equipment for interconnection is in place and is operational under test conditions. Full operation of Seller's Facility under the Power Purchase Agreement will be permissible upon notification from Buyer's Designated Dispatch Operator.

SELLER:

HYDROELECTRIC DEVELOPMENT, INC.

By _____

Title _____

BUYER:

UTAH POWER & LIGHT COMPANY

By _____

Title _____

MICROFILMED
APR 01 1988

PERFORMANCE TEST ACCEPTANCE
FOR SELLER'S INTERCONNECTION FACILITIES

(Buyer's Copy)

Buyer and Seller have reviewed, performed, and witnessed this ____ day of _____, 19____, the satisfactory completion of all of the Performance Test Criteria as stated in Appendix E. The necessary equipment for interconnection is in place and is operational under test conditions. Full operation of Seller's Facility under the Power Purchase Agreement will be permissible upon notification from Buyer's Designated Dispatch Operator.

SELLER:

HYDROELECTRIC DEVELOPMENT, INC.

By _____

Title _____

BUYER:

UTAH POWER & LIGHT COMPANY

By _____

Title _____

MICROFILMED
APR 01 1988

APPENDIX F

METERING EQUIPMENT, COMMUNICATION EQUIPMENT, AND

COMMUNICATION CHANNELS

FOR

HYDROELECTRIC DEVELOPMENT, INC.

The required metering equipment, communication equipment, and communication channels to be supplied by Buyer and Seller shall consist of the following:

1. Buyer - Electronic programmable multi-function meter (EMM).
2. Buyer - Modem for telephone dial-up of the EMM. This will provide for hourly interrogation of the EMM to obtain the hourly reading of actual energy delivered to Buyer's system on a fifteen (15) minute demand basis.
3. Seller - Communication channel, acceptable to Buyer, between Buyer's Designated Dispatch Operator and the above modem at Seller's Facility which will transmit the EMM data. Seller shall be responsible for the GPR tests and the necessary equipment required as a result of those tests, as specified in Appendix D.
4. Buyer - Watt and var transducers and a remote terminal unit (RTU). This will provide for continuous monitoring of actual power delivered to Buyer's system on a two (2) second interval.
5. Seller - Dedicated communication channel, acceptable to Buyer, between Buyer's Designated Dispatch Operator and the above RTU at Seller's

RECEIVED
APR 01 1988

Facility which will transmit the transducer data. Seller shall be responsible for the GPR tests and the necessary equipment required as a result of those tests, as specified in Appendix D.

6. Buyer - Telephone equipment for two-way verbal communication.
7. Seller - Communication channel, acceptable to Buyer, between Buyer's Designated Dispatch Operator and Seller's Facility which will transmit the verbal data. Seller shall be responsible for the GPR tests and the necessary equipment required as a result of those tests, as specified in Appendix D.
8. Buyer - All necessary current and potential transformers.
9. Buyer - Metering cabinet or panel to mount the above equipment along with miscellaneous parts, conduit, wiring, test switches, etc.
10. Buyer or Seller - Appurtenant facilities

The instantaneous and other telemetered information received by Buyer pursuant to this Appendix F shall be made available to Seller for its use, if requested.

MICROFILMED
APR 01 1988

APPENDIX G

SELLER'S INTERCONNECTION FACILITIES

FOR . .

HYDROELECTRIC DEVELOPMENT, INC.

The Seller's Interconnection Facilities shall consist of the following:

1. Generator Disconnect Switch - A single, accessible, visible, lockable disconnect switch as described in Appendix D.
2. Step-up Transformer - A transformer for matching Seller's Facility voltage to Buyer's system voltage as described in Appendix D.
3. Protective Relays - A protective relay arrangement as described in Appendix D.
4. Circuit Breaker - A circuit breaker to isolate Seller's Facility from Buyer's system as described in Appendix D.
5. 25 kV Distribution Line - A two and one-half (2-1/2) mile three-phase, 25 kV distribution line will be built by a licensed electrical contractor for Seller, to Buyer's specifications, that will connect Buyer's system to Seller's Facilities.

RECEIVED
APR 01 1988

APPENDIX J
DESCRIPTION OF FACILITY
FOR
HYDROELECTRIC DEVELOPMENT, INC.

The Facility shall be the hydroelectric generation facility and appurtenant facilities constructed, owned, operated and maintained by Seller, more specifically described as follows: An existing diversion dam on Dry Creek located in the Northwest 1/4 of Section 31, Township 10 North, Range 26 East, Boise Meridian will be upgraded and the necessary control gates for the penstock will be added. A single steel penstock will be installed and the water from the diversion dam will enter the penstocks and travel approximately 65,000 feet horizontally and drop approximately 1,135 feet vertically to the powerhouse. The powerhouse will be located in the Northwest 1/4 of Section 36, Township 10 North, Range 26 East, Boise Meridian approximately 15 miles north of Howe, Butte County, Idaho and will be constructed of concrete or concrete block. It will contain the impulse turbine and the four-thousand (4,000) kilowatt synchronous generator plus all required and necessary controls, relays, circuit breakers, etc.

APPENDIX K
QUALIFYING FACILITY REPRESENTATION
FOR
HYDROELECTRIC DEVELOPMENT, INC.

The following is a list of the attached documents, which contain the license numbers and other appropriate information, that state that Seller's Facility is a qualifying facility under the Public Utilities Regulatory Policies Act of 1978 (PURPA):

MICROFILMED
APR 01 1988

6. All other facilities owned by Seller, on Seller's side of the Point of Delivery, necessary to make the interconnection complete and functional.

The attached single line, maps, sketches, and design drawings are provided only as a clarification, and are not intended to be comprehensive.

MAKROFILMED
APR 01 1988

SELLER'S FACILITY SINGLE LINE
WILL GO HERE

C10:030g

- G3 -

RECEIVED
APR 01 1988

APPENDIX H
BUYER'S INTERCONNECTION FACILITY
FOR
HYDROELECTRIC DEVELOPMENT, INC.

A. BUYER'S INTERCONNECTION FACILITY

The Buyer's Interconnection Facility shall consist of the following:

1. Line Facilities

- a. Buyer shall upgrade the existing Bernice No. 22, 25 kV distribution line, such that the line will be capable of delivering all of Seller's output to Buyer's Bernice substation. This may include reconductoring the line "hot" (line must remain energized) to maintain service to existing customers. All maintenance and replacement of existing equipment will be performed by the Buyer.

Seller understands that the construction of the above-mentioned upgrade by Buyer is expected to take seven (7) months. It is Seller's intention to have the Facility operational by the Scheduled Operation Date. In any event, Buyer is not obligated to commence construction of the above-mentioned upgrade without written notice from Seller, and Seller agrees to provide the written notice to Buyer, at least seven (7) months before Seller's anticipated Operation Date stating that Seller intends to start construction of the Facility in a timely manner that will allow completion of the Facility by such Operation Date. Seller also agrees to provide

RECEIVED
APR 01 1988

written notice to Buyer, at any time thereafter, of any delay in the anticipated Operation Date. If for any reason Seller intends not to complete construction of the Facility prior to completion of the above-mentioned upgrade or intends not to complete construction of the Facility after completion of the above-mentioned upgrade, Seller will provide written notice to Buyer of such abandonment.

The cost to Seller of the above-mentioned upgrade shall be \$35,000 per year for the term of this Agreement. The payment to Buyer of this amount shall be collected by deducting five (5) mills from the rate being paid by Buyer for each kilowatt-hour produced by Seller. This collection will start initially on the Operation Date, and each subsequent year thereafter on the anniversary of the Operation Date, and will continue thereafter until the \$35,000 has been accumulated for that year, after which time Seller shall receive the full rate being paid by Buyer for each kilowatt-hour produced by Seller for the balance of said year, if any such balance remains; provided, however, that in no event will collection of the \$35,000 payment to Buyer commence on a date later than six (6) months after completion of the above-mentioned upgrade or the Operation Date of Seller's Facility, whichever occurs first, provided Seller has not abandoned the Facility. If Seller does not produce adequate energy such that the collection of the five (5) mills per kilowatt-hour is not sufficient for Buyer to recover the \$35,000 within any year, Buyer may increase the five (5) mill per

FILED
APR 01 1988

kilowatt-hour deduction to an appropriate level to permit such recovery or collect the \$35,000 through any other reasonable means.

- b. Seller will build, own and maintain the two and one-half (2-1/2) mile three-phase extension from Seller's Facility to the Bernice No. 22, 25 kV distribution line. Seller shall contract with a licensed electrical contractor to build the extension according to Buyer's specification.

2. Line Regulators

Three (3) pole-mounted line regulators will be added to Buyer's Bernice No. 21, 25 kV distribution line.

The cost to Seller of the above-mentioned line regulators, including installation, is estimated to be \$25,900 based on installation of the line regulators to be completed on or before the Scheduled Operation Date. This estimated cost will be billed by Buyer and required as payment by Seller prior to the start of construction. Said estimated cost will be adjusted to reflect actual costs of the line regulators, which adjustment will either be refunded to Seller by Buyer or paid to Buyer by Seller. The actual costs will become the basis for the annually incurred costs discussed hereunder.

3. Metering Equipment

The metering equipment shall consist of the following:

- a. One (1) electronic programmable multifunction meter (EMM)

APR 01 1988

- b. Two (2) transducers to continuously monitor the generation
- c. Three (3) 25 kV current transformers
- d. Three (3) 25 kV potential transformers
- e. One (1) metering cabinet or panel with miscellaneous parts, conduit, wiring, test switches, etc.

The cost to Seller of the above-mentioned metering equipment, including installation, is estimated to be \$11,600, based on installation of the metering equipment to be completed on or before the Scheduled Operation Date. This estimated cost will be billed by Buyer and required as payment by Seller prior to the start of construction. Said estimated cost will be adjusted to reflect actual costs of the metering equipment, which adjustment will either be refunded to Seller by Buyer or paid to Buyer by Seller. The actual costs will become the basis for the annually incurred costs discussed hereunder.

4. Communication Equipment

The communication equipment to be used on the communication channels acquired by the Seller, pursuant to Appendix D, shall consist of the following:

- a. Channel #1 - Modem for the EMM
- b. Channel #2 - Remote terminal unit (RTU) for the transducers
- c. Channel #3 - Telephone for verbal communication

The cost to Seller of the above-mentioned communication equipment, including installation, is estimated to be \$5,700, based on installation of the communication equipment to be completed on or before the Scheduled

Operation Date. This estimated cost will be billed by Buyer and required as payment by Seller prior to the start of construction. Said estimated cost will be adjusted to reflect actual costs of the communication equipment, which adjustment will either be refunded to Seller by Buyer or paid to Buyer by Seller. The actual costs will become the basis for the annually incurred costs discussed hereunder.

5. Sensing Device Additions at Buyer's Substation

Three (3) reverse power flow sensing devices will be installed on the regulators at Buyer's Bernice substation and will advance the regulators to the neutral position (no bucking or boosting) and keep them there as long as power is flowing into the regulators from the Bernice No. 22, 25 kV distribution line.

The cost to Seller of the above-mentioned sensing devices, including installation, is estimated to be \$7,000, based on installation of the sensing devices to be completed on or before the Scheduled Operation Date. This estimated cost will be billed by Buyer and required as payment by Seller prior to the start of construction. Said estimated cost will be adjusted to reflect actual costs of the sensing devices, which adjustment will either be refunded to Seller by Buyer or paid to Buyer by Seller.

B. PAYMENT FOR BUYER'S INTERCONNECTION FACILITY

Buyer shall attempt to coordinate the construction of the Buyer's Interconnection Facilities with Seller. Seller shall pay Buyer the

APR 01 1988

above-mentioned estimated costs within thirty (30) days of receipt of bill from Buyer and prior to the start of construction. Any payment for adjustments to actual costs will be made after all charges have been received, processed, and billed. Thereafter, Seller shall pay Buyer monthly, within fifteen (15) days of receipt of bill from Buyer, that month's proportional share of all annually incurred costs of the Buyer's Interconnection Facility, including but not limited to operation and maintenance expenses and Ad Valorem Taxes plus all other expenses incurred by Buyer for that month pursuant to this Agreement.

The annual incurred costs shall be the sum of:

1. Line Regulators

Seller shall be responsible for paying the annually incurred costs on the above-mentioned line regulators. The annually incurred costs shall be the basis, described in Section A.2, multiplied by the sum of the annual percentages for operation and maintenance and Ad Valorem Taxes. The annual percentage may vary from year to year, but at the time of the signing of this contract, the annual percentage for operation and maintenance is 7.28% and the annual percentage for Ad Valorem Taxes is 1.5% for a total annual percentage of 8.78%.

PLUS

2. Metering Equipment

Seller shall be responsible for paying the annually incurred costs on the above-mentioned metering equipment. The annually incurred costs shall be the basis, described in Section A.3, multiplied by the sum of the annual percentages for operation and maintenance and Ad Valorem Taxes.

RECEIVED
APR 01 1988

Valorem Taxes. The annual percentage may vary from year to year, but at the time of the signing of this contract, the annual percentage for operation and maintenance is 7.28% and the annual percentage for Ad Valorem Taxes is 1.5% for a total percentage of 8.78%.

PLUS

3. Communication Equipment

Seller shall be responsible for paying the annually incurred costs on the above-mentioned communication equipment. The annually incurred costs shall be the basis, described in Section A.4, multiplied by the sum of the annual percentages for operation and maintenance and Ad Valorem Taxes. The annual percentage may vary from year to year, but at the time of the signing of this contract, the annual percentage Ad Valorem Taxes is 1.5% for a total percentage of 8.78%.

C. REMOVAL OF BUYER'S INTERCONNECTION FACILITY

Within sixty (60) days of the termination of this Agreement, Buyer shall prepare and forward to Seller an estimate of the remaining value of the Buyer's Interconnection Facility described in this Appendix, less removal costs and costs involved in the transfer of the removed material to Buyer's nearest warehouse. Buyer shall then be invoiced by Seller for the net amount due as estimated by Buyer for the Buyer's Interconnection Facility and Buyer shall pay such amount to Seller within thirty (30) days after receipt of said invoice.

RECEIVED
APR 01 1988

APPENDIX I
POINT OF DELIVERY
FOR . . .
HYDROELECTRIC DEVELOPMENT, INC.

The Point of Delivery is defined as that point where Buyer's 25 kV distribution line attaches to Seller's 25 KV distribution line located in the Southwest 1/4 of Section 19, Township 10 North, Range 26 East, Boise Meridian, Butte County, Idaho.

RECEIVED
APR 01 1988

HOLLAND & HART
ATTORNEYS AT LAW

SUITE 1400
WEST ONE PLAZA
BOISE, IDAHO 83702
MAILING ADDRESS:
P.O. BOX 2527
BOISE, IDAHO 83701

HAND DELIVERED

Karen Gustafson
Idaho Department of Water
Resources
1301 North Orchard Street
Boise, ID 83706

MICROFILMED
DEC 09 1991

HOLLAND & HART

ATTORNEYS AT LAW

DENVER
DENVER TECH CENTER
COLORADO SPRINGS
ASPEN
BILLINGS
BOISE
CHEYENNE
WASHINGTON, D.C.

SUITE 1400
WEST ONE PLAZA
BOISE, IDAHO 83702-7714
MAILING ADDRESS
P.O. BOX 2527
BOISE, IDAHO 83701-2527

TELEPHONE (208) 342-5000
TELECOPIER (208) 343-8869

Dana L. Hofstetter

October 31, 1991

RECEIVED
OCT 31 1991

Department of Water Resources

HAND DELIVERED

Karen Gustafson
Idaho Department of Water
Resources
1301 N. Orchard Street
Boise, ID 83706

Re: Permit Nos. 33-7089, 33-7154 and 33-7181

Dear Ms. Gustafson:

Enclosed are Requests for Extension of Time for permit nos. 33-7154 and 33-7181. These forms were executed by Westinghouse Credit Corporation ("WCC") in accordance with its power of attorney for HDI Associates IV, Limited Partnership ("HDI"). Also enclosed is a check for \$30.00 to cover the filing fee for the forms.

WCC holds a security interest in HDI's water permit nos. 33-7154, 33-7181 and 33-7089. Enclosed are copies of the: (1) Mortgage, Assignment of Lease and Rents, Security Agreement and Fixture Filing, (2) Amendment to Mortgage, and (3) Mortgage Modification Agreement, evidencing WCC's security interest in these water permits and the Dry Creek Hydroelectric Project generally. On pages 10-11 of the Mortgage, Assignment of Lease and Rents, Security Agreement and Fixture Filing HDI granted WCC a power of attorney to execute documents such as the enclosed Requests on behalf of HDI.

On September 18, 1991, Judge Edward J. Lodge of the United States District Court for the District of Idaho entered a Judgment of Foreclosure against HDI (copy enclosed). On October 11, 1991, Judge Lodge entered an Order of Sale on Foreclosure (copy enclosed) directing the U.S. Marshal to sell the Dry Creek Hydroelectric Project at public auction to satisfy WCC's judgment against HDI. The public auction is scheduled for December 17, 1991. Paragraph No. 6 on Page 11 of the enclosed

RECEIVED

DEC 09 1991

Karen Gustafson
October 31, 1991
Page 2

Settlement and Mutual Release Agreement provides for the continued effect of the Mortgage and the power of attorney contained in the Mortgage through the auction date.

WCC respectfully requests that the Idaho Department of Water Resources ("IDWR") provide both WCC and HDI notice of all significant regulatory actions on the Project's three water permits and copies of all correspondence regarding the three water permits until the end of this calendar year. Copies of notices and correspondence should be sent to me on behalf of WCC. Only by receiving copies of notices and correspondence regarding the three permits can WCC continue to ensure that its security interest in the three permits is protected.

Please let me know whether IDWR will be able to comply with our request for notice and copies of correspondence. If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Sincerely,

HOLLAND & HART



Dana L. Hofstetter

DLH/jt
Encls.

MICROFILMED

DEC 09 1991

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)

MORTGAGE, ASSIGNMENT OF LEASE AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING

This MORTGAGE, dated as of March 1, 1988, by HDI ASSOCIATES IV, LIMITED PARTNERSHIP, an Idaho limited partnership ("Mortgagor"), in favor of WESTINGHOUSE CREDIT CORPORATION, a Delaware corporation ("Mortgagee"),

W I T N E S S E T H

Reference is hereby made to that certain Participation Agreement dated as of March 1, 1988 (the "Participation Agreement") among Mortgagee, Mortgagor, HDI Idaho, Inc., an Idaho corporation, and Hydroelectric Development, Inc., a Colorado corporation. Capitalized terms not otherwise defined herein are used as defined in Exhibit A to the Participation Agreement.

GRANT IN TRUST:

Mortgagor, in consideration of the indebtedness herein recited and the trust herein created, and subject to Section 1.4 hereof, hereby irrevocably grants, conveys, transfers, and assigns to Mortgagee, its successors and assigns, in trust forever, with power of sale and right of entry and possession as provided below, all of its present and future estate, right, title and interest in and to the following described property (the "Mortgaged Property"):

(a) That certain real property located in eastern Idaho along Dry Creek approximately fifty five miles north of the town of Arco, and more particularly described in Exhibit A attached hereto (the "Site"), which is the location of a four megawatt hydroelectric facility (the "Facility").

(b) That certain Ground Lease, dated as of March 1, 1988 by and between Mortgagor and Mortgagee (the "Ground Lease").

FILED
DEC 09 1991

(c) All covenants, agreements, rights, appurtenances, tenements, hereditaments, privileges, franchises and appendages of or relating to the Site and all rights of Mortgagor in and to the Easements (Easements shall mean the easement interests vested in Trustor and described in exhibit A hereto) and any streets, roads or public places, easements or rights of way relating to the Site; and the diversion structure, the penstock and the transmission line associated with the Site and the Facility including, without limitation the following (to the extent that such may be assigned):

(i) United States Department of the Interior Bureau of Land Management Right of Way permit Serial Number I-23042;

(ii) State of Idaho Easement number 5300;

(iii) State of Idaho Temporary Permit number 1917;

(iv) Grant of Easement from Hatch Livestock dated November 6, 1986;

(v) Special Use Easement and Water Distribution and Containment Agreement From Alan J. Amy and Afton Louise Amy dated February 11, 1987;

(vi) Idaho Water Permit numbers 33-7089, 33-7154, and 33-7181; and

(vii) Grant of Easement by Robert Amy and Judy Amy dated February 13, 1987.

(d) All development rights, air rights, water, water rights, water stock, ditches or ditch rights and reservoirs or reservoir rights of Mortgagor relating to the Site, including without limitation Idaho Water Permits Nos. 33-7089, 33-7154 and 33-7181, and any licenses that the Idaho Department of Water Resources 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 Site, including without limitation the Facility (the "Improvements").

(f) All leases, subleases and subtenancies, occupancy agreements, and concessions (including the Ground Lease) affecting any of the Mortgaged Property, the Site or the Improvements (collectively, the "Project Leases"), and all rents, royalties, income and profits arising from the Site, 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 Mortgaged Property into cash or liquidated amounts or claims for the purposes and upon the terms and conditions hereinafter set forth. Mortgagee is hereby authorized to collect and receive the foregoing rents, issues, profits, royalties, production and other payments and proceeds, to give proper receipts and acquittances therefor and to apply the same to the payment of the obligations secured hereby, notwithstanding the fact that the same may not then be due and payable, however, Mortgagor may collect and receive such rents, issues, profits, royalties, production and other payments and proceeds

DEC 09 1991

until an Event of Default occurs pursuant to the terms hereof. The foregoing assignment shall not impose upon Mortgagee any duty to produce rents from the Mortgaged Property, and said assignment shall not cause Mortgagee to be a "mortgagee in possession" for any purpose.

(g) All proceeds and claims arising on account of any damage to or taking of the Site or Improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Site or Improvements.

(h) All chattel paper of Mortgagor now existing or hereafter arising, and all present and future amendments thereto.

(i) All accounts of Mortgagor, now existing or hereafter arising, and all goods repossessed or returned in connection therewith.

(j) All goods, machinery, equipment, fittings and fixtures of Mortgagor 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 Site, Facility and the Improvements.

(k) All general intangibles of Mortgagor, including without limitation all right, title and interest of Mortgagor in, to or arising out of (i) all contracts and agreements with respect to the Facility, including, without limitation, the Power Purchase Agreement, and the Construction Contracts (the "Contracts"), (ii) all patents, copyrights, and deposit accounts now owned or hereafter acquired, (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 or the Site, now existing or hereafter arising, including without limitation, the water permits listed in subsection (d) above, Federal Energy Regulatory Commission (FERC) Preliminary Permit No. 7623, and Final Permit No. 9134 (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 (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 Site or 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 and the Site, and (viii) all goodwill in any way relating to the Site and Improvements.

(l) All documents and instruments of Mortgagor, now owned or hereafter acquired by Mortgagor, 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 of Mortgagor, including without limitation all fuel supplies, raw materials, work in progress and finished goods.

(n) All other property of Mortgagor now or hereafter in the possession, custody or control of Mortgagor.

(o) All receivables and proceeds of the property described in paragraphs (a) through (n) above. For purposes of this Mortgage, 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.

This Mortgage secures the following obligations (the "Obligations"):

All debts, obligations and liabilities of Mortgagor to Mortgagee arising out of or related to the Overall Transaction, including without limitation all obligations of Mortgagor under the Facility and Site Lease, this Mortgage, the Ground Lease and the Participation Agreement and any other Fundamental Agreement to which Mortgagor is a party or by which Mortgagor is bound, and all amendments or extensions or renewals thereof, 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.

ARTICLE I

AGREEMENTS OF MORTGAGOR

To protect the security of this Mortgage, Mortgagor represents, warrants, covenants and agrees as follows:

1.1 Performance of Obligations Secured. Mortgagor covenants and agrees to pay promptly when due all sums due pursuant to the Obligations and to perform each and every agreement and condition of Mortgagor contained in the Obligations.

RECORDED
DEC 09 1991

1.2 Title to Mortgaged Property. The Mortgagor is, and shall hereafter remain, the owner of the Mortgaged Property 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 Mortgagee, (b) the mortgage and security interest created herein, and (c) liens for real estate taxes not yet due and payable and all Permitted Liens.

1.3 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 Mortgaged Property, or any part thereof, or for conveyance in lieu of requisition or condemnation, payable to Mortgagor and assigned to Mortgagee pursuant to this Mortgage, shall be paid and distributed as provided in Section 7(e) of the Facility and Site Lease.

1.4 Security Agreement. This Mortgage 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 Mortgaged Property 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 Mortgaged Property that constitute fixtures and may be subject to a security interest under the Idaho Uniform Commercial Code. To the extent that Mortgagor has any right, title or interest in such property, Mortgagor hereby grants Mortgagee 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 Mortgage constitutes a security agreement and financing statement, and is intended, when recorded, to create a perfected security interest in such property in favor of Mortgagee. Mortgagor agrees to execute and deliver on demand such security agreements, financing statements and other instruments as Mortgagee 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 Mortgage as a security agreement and financing statement, Mortgagee shall be deemed the secured party and Mortgagor shall be deemed the debtor.

This Mortgage has been duly authorized, executed and delivered by the Mortgagor, and constitutes a valid and binding obligation of the Mortgagor. As of the date hereof, the Mortgagee will have a valid and perfected security interest in such of the Mortgaged Property as is subject to perfection recording under the Idaho Uniform Commercial Code, subject to no prior lien other than Permitted Liens, or liens in favor of Mortgagee. The execution, delivery, performance and enforcement of this Mortgage do not and will not contravene, or constitute a default under, any provision of applicable law or regulation or of the Mortgagor's constituent documents or of any agreement, judgment, injunction, order, decree or other instrument binding upon the Mortgagor or result in the creation or imposition of any lien (other than Permitted Liens, or liens in favor of Mortgagee) upon any asset of the Mortgagor. The Mortgagor has not performed any acts which might prevent the

FILED
DEC 09 1991

Mortgagee from enforcing any of the terms and conditions of this Mortgage or which would limit the Mortgagee in any such enforcement.

1.5 Further Sales or Encumbrances. Except as otherwise expressly provided in the Fundamental Agreements, without the prior written consent of Mortgagee being first had and obtained, Mortgagor 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 Mortgaged Property or any interest therein, whether voluntarily or involuntarily, by operation of law or otherwise.

1.6 Protection of Security.

(a) If any action or proceeding is commenced that affects Mortgagee's interest in the Mortgaged Property or any part thereof, including without limitation (i) eminent domain actions or (ii) 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 Mortgagee may, but without obligation to do so and without notice to or demand upon Mortgagor, make such appearances, pay any such costs and take such action as Mortgagee deems reasonably necessary or appropriate to protect Mortgagee's interest, including without limitation payment of reasonable attorneys fees, entry upon the Facility or the Site 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 Mortgagee appears to be prior or superior hereto. Any amounts disbursed by Mortgagee pursuant to this Section 1.6(a) shall be part of the Obligations and secured by this Mortgage and shall bear interest at the Default Rate.

(b) Mortgagor hereby irrevocably appoints Mortgagee as its attorney in fact so to do, but Mortgagee shall not be obligated to and shall incur no liability to Mortgagor or any third party for failure so to do, any act that Mortgagor is obligated by this Mortgage to do, and to exercise such rights, powers, and remedies as Mortgagor might exercise with respect to the Mortgaged Property, including without limitation Mortgagor's rights under any lease related to the Mortgaged Property. Anything to the contrary set forth in this Section 1.6(b) notwithstanding, Mortgagee agrees that it shall not exercise any of the rights or powers granted to or conferred on it pursuant to this Section 1.6(b) except in connection with the exercise by Mortgagee of any of the rights and remedies of Mortgagee contained in Section 20 of the Facility and Site Lease.

(c) Nothing contained in this Mortgage shall be construed to require Mortgagee to incur any expense, make any appearance, or take any other action. Neither this Mortgage nor any action on the part of Mortgagee shall constitute an assumption by Mortgagee of any of the obligations of Mortgagor under any of the contracts or agreements constituting a part of the Mortgaged Property, and Mortgagor shall continue to be liable for all of its obligations thereunder.

RECEIVED
DEC 09 1991

1.7 Mortgagor's and Mortgagee's Covenant Regarding the Ground Lease. Mortgagor agrees to promptly notify Mortgagee in writing of any Default under the Ground Lease as provided in the Ground Lease.

1.8 Anti-merger. There shall be no merger of the leasehold estate created by the Ground Lease with the fee estate in the Site by reason of any of those interests coming into common ownership, unless Mortgagee consents in writing. In the event of the exercise of any power of sale under this Mortgage, Mortgagee shall have the right to sell the leasehold estate and the fee interest of Mortgagor separately or together at the election of Mortgagee.

1.9 Compliance with Leases and Contracts. The Mortgagor is not in default under any terms and conditions of any Easement, Project Lease, Governmental Authorization or Contract necessary, in Mortgagee's discretion, for the operation of the Facility in the manner provided in the Facility and Site Lease, and shall, during the term of this Mortgage, perform all of the obligations of the Mortgagor under any such Easement, Project Lease, Governmental Authorization or Contract within the period that such performance is required. During the term of this Mortgage, Mortgagor shall not commit, suffer or permit any breach of any statute, ordinance, rule or regulation relating to the Easements, the Project Leases, Governmental Authorizations or the Contracts.

The Mortgagor has entered into, and will maintain in full force and effect, all Easements, Project Leases, Governmental Authorizations, Contracts and other agreements, licenses or easements which are necessary for the use, maintenance, construction and operation of the Mortgaged Property. Mortgagor covenants that except as disclosed in writing to Mortgagee, Mortgagor has not assigned its rights under any of such documents except to Mortgagee hereunder. Except as disclosed to Mortgagee in writing, Mortgagor has obtained all necessary consents to the assignment of a security interest in such Governmental Authorizations, Easements, Project Leases and Contracts under this Mortgage. With regard to such consents which have not been obtained, Mortgagor will do all things and execute all such documents as the Mortgagee may request to assign the Mortgagor's rights therein to the Mortgagee and obtain the necessary consents thereto.

1.10 Modification of Lease and Contract. The Mortgagor will not modify or consent to the modification of any provision of, or cancel, terminate or accept the early cancellation or termination, of any such Easement, Project Lease, Governmental Authorization, Contract or other agreement included in the Mortgaged Property without the prior written consent of Mortgagee.

1.11 Leases. The Mortgagor shall not enter into any Project Lease without the prior written consent of the Mortgagee. Each such Project Lease shall be in form and substance satisfactory to the Mortgagee and, without limiting the generality of the foregoing, shall include a provision confirming that the Project Lease is subordinate to the lien of this Mortgage and consenting to the assignment provided for herein of the Project Lease to the Mortgagee. The Mortgagor shall furnish the Mortgagee, upon the request of the

DEC 09 1991

Mortgagee, with copies of each and every Project Lease and any other information relative to each such Project Lease and the tenant thereunder. The Mortgagor will take all action as may be requested by the Mortgagee in furtherance of the rights of the Mortgagee hereunder, including, without limitation, obtaining estoppel certificates and agreements (in form satisfactory to the Mortgagee) from each tenant subordinating the Project Lease to the lien of this Mortgage and consenting to the assignment of the Project Lease provided for herein.

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 the Mortgagor's interest in the Mortgaged Property is on file in any recording office, except such as may have been filed pursuant to this Mortgage or pursuant to the documents evidencing Permitted Liens, or in favor of Mortgagee.

1.13 Notices, Etc. Mortgagor shall deliver to Mortgagee a copy of each demand, notice or document received or given by Mortgagor relating in any way to any Easement, Project Lease or Contract.

1.14 Place of Perfection; Records. The Mortgagor shall give the Mortgagee 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 the Mortgagor execute and deliver such instruments and documents as required to maintain a prior perfected security interest and as requested by the Mortgagee. The Mortgagor will hold and preserve such records and will permit representatives of the Mortgagee at any time during normal business hours to inspect and make abstracts from such records.

1.15 Covenants of the Mortgagor. The Mortgagor 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 Mortgaged Property 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 prior lien (other than a Permitted Lien) on the Mortgaged Property, 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 Mortgagor, any investigation presently pending or threatened against the Mortgagor, or any of the Mortgaged Property, which, if determined adversely, would have a material adverse effect upon the Mortgagor or the Mortgaged Property.

1.17 Further Assurances. The Mortgagor shall do all such things and execute all such documents from time to time hereafter as the Mortgagee may request in order to carry into effect the provisions and intent of this Mortgage and to protect, perfect, and maintain the Mortgagee's interest in and to the Mortgaged Property.

RECEIVED

DEC 09 1991

1.18 Fixture Filing. This Mortgage constitutes a financing statement filed as fixture filing in the Official Records of the County Recorder of the county in which the Mortgaged Property is located with respect to any and all fixtures included within the term "Mortgaged Property" as used herein and with respect to any goods or other personal property that may now be or hereafter become such fixtures.

1.19 Hazardous Wastes. Mortgagor shall not, except in accordance with applicable laws or regulations (A) store or dispose, or allow the storage or disposal, of any hazardous substance on or in the Site or Facility, or (B) transport or arrange for the transportation of any hazardous substance to or from the Site. If Mortgagee reasonably believes that there may be the presence or the possible presence of any hazardous substance on or in the Site or Facility, Mortgagor shall, upon the written request of Mortgagee and at Mortgagor's cost, take any and all actions necessary to reasonably assure Mortgagee that no hazardous substance is stored or disposed on or in the Site or Facility. Mortgagor shall promptly notify Mortgagee in writing of any release or threatened release of any hazardous substance at or from the Site or Facility or of any notice of a release or threatened release of any hazardous substance, or for the costs incurred for the cleanup thereof (including, without limitation by assessment, containment or removal) received by Mortgagor or by any person for whose conduct Mortgagor is or may be responsible from any federal, state or other governmental authority.

ARTICLE II

EVENTS OF DEFAULT

Any "Event of Default" under the Site and Facility Lease shall constitute an event of default ("Event of Default") hereunder (including, if Mortgagor consists of more than one person or entity, the occurrence of any of such events with respect to any one or more of such persons or entities) unless Mortgagee shall declare otherwise in writing.

ARTICLE III

REMEDIES

If any Event of Default shall have occurred hereunder and be continuing Mortgagee shall have all of the rights of a mortgagee under Idaho law, all the rights of a secured party under the Uniform Commercial Code as adopted by Idaho, and the following rights and remedies (to the extent permitted by and subject to compliance with any mandatory requirements of Idaho law then in effect):

3.1 Remedies Under the Agreements. Upon the occurrence of an Event of Default under any of the provisions of the Obligations, Mortgagee shall have any and all of the rights and remedies provided under the Site and

RECORDED
DEC 09 1991

Facility Lease and any other rights and remedies available to Mortgagee under any of the Obligations.

3.2 Judicial Action. Mortgagee may bring an action in any court of competent jurisdiction to foreclose this instrument in connection with the rights and remedies in the Event of Default under Section 3.1 hereof or to enforce any of the covenants and agreements hereof.

3.3 Power of Sale. Upon an Event of Default Mortgagee may sell, lease, or otherwise dispose of any or all of the Mortgaged Property in its then condition or following such preparation or processing as the Mortgagee deems advisable.

3.4 Appointment of Receiver. Mortgagee shall have the right in connection with the rights and remedies in the Event of Default under Section 3.1 hereof, with the irrevocable consent of Mortgagor hereby given and evidenced by the execution of this Mortgage, to obtain appointment of a receiver by any court of competent jurisdiction without further notice to Mortgagor, which receiver shall be authorized and empowered to enter upon and take possession of the Mortgaged Property, including all personal property used upon or in connection with the real property herein conveyed and all accounts encumbered by this Mortgage and containing funds associated with the Mortgaged Property, to let the Mortgaged Property, to receive all the Rents due or to become due to Mortgagor under any lease of the Mortgaged Property, and apply the Rents, after payment of all necessary charges and expenses, to the Obligations. At the option of Mortgagee, the receiver shall accomplish such entry and taking possession of the Mortgaged Property by actual entry and possession or by notice to Mortgagor. The receiver so appointed by a court of competent jurisdiction shall be empowered to issue receiver's certificates for funds advanced by Mortgagee for the purpose of protecting the value of the Mortgaged Property as security for the Obligations. The amounts evidenced by receiver's certificates shall bear interest at the Default Interest Rate and may be added to the cost of redemption if the Mortgaged Property, or any part thereof, is redeemed by any party entitled to do so.

3.5 Proceeds of Sale. The proceeds of any sale made under or by virtue of this Article III, together with all other sums that may be received and held by Mortgagee under this Mortgage, whether under the provisions of this Article III or otherwise, shall be applied first to pay all of the fees, costs, and expenses incurred by Mortgagee in conducting the sale or otherwise foreclosing on the Mortgaged Property, including without limitation reasonable attorneys fees, and then to the Obligations.

3.6 Power of Attorney. Upon the occurrence of any Event of Default, the Mortgagor hereby irrevocably constitutes and appoints the Mortgagee as the Mortgagor's true and lawful attorney, to take any action with respect to the Mortgaged Property to preserve, protect, or realize upon the Mortgagor's interest therein, each at the sole risk, cost and expense of the Mortgagor, but for the sole benefit of the Mortgagee. The rights and powers granted the Mortgagee by the within appointment include, but are not limited to, the right and power to: (i) prosecute, defend, compromise, settle, or

RECEIVED
DEC 09 1991

release any action relating to the Mortgaged Property; (ii) endorse the name of the Mortgagor in favor of the Mortgagee upon any and all checks or other items constituting remittances or proceeds of the Mortgaged Property; (iii) sign and endorse the name of the Mortgagor on, and to receive as secured party, any of the Mortgaged Property; (iv) sign and file or record on behalf of the Mortgagor any financing or other statement in order to perfect or protect the Mortgagee's security interest in the Mortgaged Property; (v) enter into leases or subleases relative to all or a portion of the Mortgaged Property; (vi) enter into any contracts or agreements relative to, and to take all action deemed necessary in connection with, the construction of any improvements on the Mortgaged Property; (vii) exercise the rights of the Mortgagor under any Contract, Lease, Easement or Governmental Authorization; or (viii) manage, operate, maintain, or repair the Mortgaged Property. The Mortgagee shall not be obligated to perform any of such acts or to exercise any of such powers, but if the Mortgagee elects so to perform or exercise, the Mortgagee shall not be accountable for more than it actually receives as a result of such exercise of power, and shall not be responsible to Mortgagor except for the Mortgagee's wilful misconduct and actual bad faith. All powers conferred upon the Mortgagee by this Agreement, being coupled with an interest, shall be irrevocable until terminated by a written instrument executed by a duly authorized officer of the Mortgagee.

3.7 Remedies Cumulative. No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy herein or by law provided, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of Mortgagee to exercise any right or power accruing upon any Event of Default shall impair any right or power or shall be construed to be a waiver of any Event of Default or any acquiescence therein, and every power and remedy given by this Mortgage to Mortgagee may be exercised from time to time as often as may be deemed expedient by Mortgagee. If there exists additional security for the performance of the obligations secured hereby, Mortgagee, at its sole option, and without limiting or affecting any of its rights or remedies hereunder, may exercise any of the rights and remedies to which it may be entitled hereunder either concurrently with whatever rights and remedies it may have in connection with such other security or in such order as it may determine. Any application of any amounts or any portion thereof held by Mortgagee at any time as additional security hereunder, whether pursuant to Section 3.2 hereof or otherwise, to any Obligation secured hereby shall not extend or postpone the due dates of any payments due from Mortgagor to Mortgagee, or change the amounts of any such payments or otherwise be construed to cure or waive any default or notice of default hereunder or invalidate any act done pursuant to any such default or notice.

RECORDED
DEC 09 1991

ARTICLE IV

MISCELLANEOUS

4.1 Severability. In the event any one or more of the provisions contained in this Mortgage shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

4.2 Notices. All notices and other communications required under the terms and provisions of this Mortgage shall be in writing and shall become effective when delivered by hand or received by telex, telecopier, or registered or certified mail, postage prepaid, addressed as follows or to such other address of which all the parties hereto or their respective successors and assigns have been given notice;

Mortgagor: HDI ASSOCIATES IV, LIMITED PARTNERSHIP
c/o: Hydroelectric Development, Inc.
10394 West Chatfield Avenue, Suite 108
Littleton, Colorado 80127

Mortgagee: WESTINGHOUSE CREDIT CORPORATION
One Oxford Centre
Pittsburgh, Pennsylvania 15219
Attention: Vice President of Specialized Finance

4.3 Mortgagor Not Released. Extension of the time for payment or modification of the terms of payment of any sums secured by this Mortgage granted by Mortgagee to any successor in interest of Mortgagor shall not operate to release, in any manner, the liability of the original Mortgagor. Mortgagee 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 Mortgage by reason of any demand made by the original Mortgagor. Without affecting the liability of any person, including Mortgagor, for the payment of any Obligations secured hereby, or the lien of this Mortgage on the remainder of the Mortgaged Property for the full amount of any such Obligation and liability unpaid, Mortgagee is empowered as follows: Mortgagee 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 Mortgaged Property 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 Mortgage or the lien or charge hereof, or (h) reconvey, without any warranty, all or part of the Mortgaged Property.

REPROFILMED

DEC 09 1991

4.4 Inspection. Mortgagee may at any reasonable time or times make or cause to be made entry upon and inspection of the Mortgaged Property or any part thereof in person or by agent.

4.5 Statute of Limitations. The pleading of any statute of limitations as a defense to any and all Obligations secured by this Mortgage is hereby waived to the fullest extent permitted by law.

4.6 Interpretation. Wherever used in this Mortgage, unless the context otherwise indicates a contrary intent, or unless otherwise specifically provided herein, the word "Mortgagor" shall mean and include Mortgagor and any subsequent owner or owners of the Mortgaged Property, and the word "Mortgagee" shall mean and include not only the original Mortgagee hereunder but also any future assignees or transferees which are Lessor under the Site and Facility Lease. In this Mortgage, 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 Mortgage are for convenience only and are not to be used to interpret, define, or limit the provisions hereof.

4.7 Consent; Delegation to Sub-agents. The granting or withholding of consent by Mortgagee to any transaction as required by the terms hereof shall not be deemed a waiver of the right to require consent to future or successive transactions. Wherever a power of attorney is conferred upon Mortgagee hereunder, it is understood and agreed that such power is conferred with full power of substitution, and Mortgagee 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.

4.8 Successors and Assigns. All of the grants, obligations, covenants, agreements, terms, provisions, and conditions herein shall run with the land and shall apply to, bind, and inure to the benefit of, the heirs, administrators, executors, legal representatives, successors, and assigns of Mortgagor and the endorsees, transferees, successors, and assigns of Mortgagee. In the event Mortgagor is composed of more than one party, the obligations, covenants, agreements, and warranties contained herein as well as the obligations arising therefrom are and shall be joint and several as to each such party.

4.9 Conflict with Facility and Site Lease. If there shall occur any conflict between the express provisions of this Mortgage and the express provisions of the Facility and Site Lease, the terms of the Facility and Site Lease shall govern.

4.10 Governing Law. This Mortgage shall be governed by and construed under the laws of the State of Idaho.

FILED
DEC 09 1991

IN WITNESS WHEREOF, the undersigned has executed this Mortgage the day and year first hereinabove written.

Mortgagor:

HDI ASSOCIATES IV, LIMITED PARTNERSHIP,
an Idaho limited partnership

By HDI-IDAHO, INC.
General Partner

By: Donnie R. Pope
Its: Vice President

RECEIVED
DEC 09 1991

Exhibit A
to Mortgage

TRACT I:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT II:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT III:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

MICROFILMED

TRACT IV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT V:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT VI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

MICROFILMED
DEC 09 1991

- TRACT VII: An easement interest created by State of Idaho Easement No. 5300 as granted to HDI, Associates IV, Limited Partnership, as to Tracts VII and IX, by Instrument recorded April 27, 1987, as Instrument No. 184399, records of Custer County, Idaho.
- TRACT VIII: An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.
ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.
- TRACT IX: An easement interest created by State of Idaho Easement No. 5300 as granted to HDI, Associates IV, Limited Partnership, as to Tracts VII and IX, by Instrument recorded April 27, 1987, as Instrument No. 184399, records of Custer County, Idaho.
- TRACT X: An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.
ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.
- TRACT XI: An easement interest created by United States Department of the Interior, Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.
ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

DEC 09 1991

TRACT XII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XIII:

An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

TRACT XIV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

MICROFILMED

DEC 09 1991

TRACT XV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XVI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XVII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

REPROFILMED

DEC 09 1991

TRACT XVIII: An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XIX: An easement interest created by Special Use Easement and Water Distribution and Containment Agreement upon the terms, conditions, and provisions contained therein:

Dated: February 11, 1987

Parties: Alan J. Amy and Afton Louise Amy, husband and wife, Grantors, and HDI Associates IV, Limited Partnership, an Idaho limited partnership, and its successors and assigns forever, Grantee

Recorded: April 27, 1987, as Instrument No. M-19501, records of Butte County, Idaho.

TRACT XX: An interest created by State of Idaho Temporary Permit No. 1917 as granted to HDI, Associates IV, Limited Partnership, a limited partnership, by Instrument recorded April 27, 1987, as Instrument No. M-19499, records of Butte County, Idaho; and an easement interest created by Grant of Easement as granted to HDI Associates IV, Limited Partnership, for a perpetual and exclusive easement over, across, and under Tract XX, by Instrument recorded April 27, 1987, as Instrument No. M-19500, records of Butte County, Idaho.

MICROFILMED
DEC 09 1991

TRACT XXI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXIII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

RECORDED
DEC 09 1991

TRACT XXIV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXVI:

HDI ASSOCIATES IV, Limited Partnership

TRACT XXVII:

HDI ASSOCIATES IV, Limited Partnership

REPROFILMED
DEC 09 1991

TRACT I:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 31: $NE\frac{1}{4}NW\frac{1}{4}$

TRACT II:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 30: $SE\frac{1}{4}SW\frac{1}{4}$; $NE\frac{1}{4}NE\frac{1}{4}$; $S\frac{1}{2}NE\frac{1}{4}$; $W\frac{1}{2}SE\frac{1}{4}$

TRACT III:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 19: $SE\frac{1}{4}SE\frac{1}{4}$

TRACT IV:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 20: $SE\frac{1}{4}NW\frac{1}{4}$; $N\frac{1}{2}SW\frac{1}{4}$; $SW\frac{1}{4}SW\frac{1}{4}$; $SW\frac{1}{4}NE\frac{1}{4}$; $N\frac{1}{2}NE\frac{1}{4}$

TRACT V:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 21: $NW\frac{1}{4}NW\frac{1}{4}$

TRACT VI:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 24: $N\frac{1}{2}NE\frac{1}{4}$; $SE\frac{1}{4}NE\frac{1}{4}$; $NE\frac{1}{4}NW\frac{1}{4}$

TRACT VII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 16: $NE\frac{1}{4}SW\frac{1}{4}$; $S\frac{1}{2}SW\frac{1}{4}$; $N\frac{1}{2}SE\frac{1}{4}$; $SW\frac{1}{4}SE\frac{1}{4}$

TRACT VIII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 15: From a point of beginning on the West line of Section 15, Township 10 North, Range 25 E.B.M. that is 1884.84 feet N. $0^{\circ}16'08''$ W. of the corner that is common to Sections 15, 16, 21 and 22, Township 10 North, Range 26 E.B.M., a line centered in a strip 40 feet wide, described as follows: S. $86^{\circ}08'17''$ E. 1324.13 feet to a point on the East line of the $NW\frac{1}{4}SW\frac{1}{4}$ Section 15, Township 10 North, Range 25 E.B.M., marked Station 433+83.50.

TRACT IX:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 15: $NE\frac{1}{4}SW\frac{1}{4}$; $N\frac{1}{2}SE\frac{1}{4}$

MICROFILMED
DEC 09 1991

TRACT X:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 14: From a point of beginning on the West line of Section 14, Township 10 North, Range 25 E.B.M., that is 4135.7 feet S. $0^{\circ}05'52''$ E. of the corner common to Sections 10, 11, 14, and 15, Township 10 North, Range 25 E.B.M., a line centered in a strip 40 feet wide, described as follows: S. $82^{\circ}58'04''$ E. 1110.16 feet to a point on the North line of the $SW\frac{1}{4}SW\frac{1}{4}$ Section 14, Township 10 North, Range 25 E.B.M., marked Station 382+93.66.

TRACT XI:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 14: $S\frac{1}{2}SW\frac{1}{4}$; $S\frac{1}{2}SE\frac{1}{4}$

TRACT XII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 13: $SW\frac{1}{4}SW\frac{1}{4}$

TRACT XIII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 13: From a point of beginning in the South line of Section 13, Township 10 North, Range 25 E.B.M. that is 2135.39 feet S. $89^{\circ}54'25''$ E. of the corner common to Sections 13, 14, 23, and 24, a line centered in a strip 40 feet wide, described as follows: N. $59^{\circ}36'12''$ W. a distance of 448.47 feet; thence N. $74^{\circ}45'02''$ W. a distance of 443.04 feet to a point on the West line of the $SE\frac{1}{4}SW\frac{1}{4}$ Section 13, Township 10 North, Range 25 E.B.M., marked Station 326+97.64.

TRACT XIV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 19: Lot 2; $SE\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$; $SE\frac{1}{4}NW\frac{1}{4}$

TRACT XV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 29: $N\frac{1}{2}NW\frac{1}{4}$; $NW\frac{1}{4}NE\frac{1}{4}$; $S\frac{1}{2}NE\frac{1}{4}$

TRACT XVI:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 28: $S\frac{1}{2}NW\frac{1}{4}$; $N\frac{1}{2}SE\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$

TRACT XVII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 27: $S\frac{1}{2}SE\frac{1}{4}$; $E\frac{1}{2}SW\frac{1}{4}$; $NW\frac{1}{4}SW\frac{1}{4}$

MICROFILMED
DEC 09 1991

TRACT XVIII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 35: NE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$

TRACT XIX:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: N $\frac{1}{2}$, EXCEPTING THEREFROM: Commencing at the SW corner of the NW $\frac{1}{4}$ of said Section 36, thence due N. 1,500 feet; thence due E. 240 feet; thence due S. 1,500 feet; thence due W. 240 feet to the point of beginning, ALSO EXCEPTING THEREFROM: Commencing at a point on the West line of said Section 36 that is 1500 feet N. of the SW corner of the NW $\frac{1}{4}$ of said Section 36, and running thence N. 100 feet; thence E. 240 feet; thence S. 100 feet; thence W. 240 feet to the point of beginning.

TRACT XX:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: A portion of the N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 36, described as: A strip of land 100.00 feet in width, being 50.00 feet on each side of the following described survey line: Commencing at the W $\frac{1}{2}$ corner of said Section 36, thence E. 50.00 feet to the REAL POINT OF BEGINNING, thence S. 600.00 feet; thence E. 450.00 feet; thence S. 80°30' E. 1,230.00 feet; thence S. 76°30' E. 3,615.00 feet to a point on the East Section line of said Section 36, said point being 985.00 feet N. of the SE corner of said Section 36, said point being the point of terminus of said survey line.

TRACT XXI:

Township 9 North, Range 27 E.B.M., Butte County, Idaho

Section 5: Lots 3 and 4

TRACT XXII:

Township 9 North, Range 27 E.B.M., Butte County, Idaho

Section 6: Lot 1

TRACT XXIII:

Township 10 North, Range 27 E.B.M., Butte County, Idaho

Section 31: S $\frac{1}{2}$ SE $\frac{1}{4}$; SE $\frac{1}{4}$ SW $\frac{1}{4}$; Lot 4

TRACT XXIV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 20: SW $\frac{1}{4}$ SW $\frac{1}{4}$

REFILED
DEC 09 1991

TRACT XXV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 26: $S\frac{1}{2}SW\frac{1}{4}$

TRACT XXVI:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: Commencing at the SW corner of the $NW\frac{1}{4}$ of said Section 36, thence due N. 1,500 feet; thence due E. 240 feet; thence due S. 1,500 feet; thence due W. 240 feet to the point of beginning.

TRACT XXVII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: Commencing at a point on the West line of said Section 36 that is 1500 feet N. of the SW corner of the $NW\frac{1}{4}$ of said Section 36, and running thence N. 100 feet; thence E. 240 feet; thence S. 100 feet; thence W. 240 feet to the point of beginning.

MICROFILMED

DEC 09 1991

STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

On March 4, 1988, before me, the undersigned, a Notary Public in and for said State of California, personally appeared Donna R. Pope, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as Vice president of HDI-Idaho, Inc. on behalf of the HDI-Idaho, Inc., and acknowledged to me that said corporation executed the within instrument pursuant to its by-laws or a resolution of its Board of Directors, said corporation being known to me or proved to me on the basis of satisfactory evidence to be a general partner of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

WITNESS MY HAND AND OFFICIAL SEAL.



Janet Lee Burkley
Notary Public in and for
said County and State

MICROFILMED

DEC 09 1991

Recording Requested By and
When Recorded, Return to:

Orrick, Herrington & Sutcliffe
600 Montgomery Street
San Francisco, California 94111
Attention: Daniel Bedford, Esq.

AMENDMENT TO MORTGAGE,
ASSIGNMENT OF LEASE AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING

The parties to this Amendment to Mortgage, Assignment of Rents, Security Agreement and Fixture Filing made as of this 5th day of April, 1988 ("Amendment to Mortgage") are HDI Associates IV, Limited Partnership, an Idaho limited partnership ("Mortgagor"), and Westinghouse Credit Corporation, a Delaware corporation ("Mortgagee").

W I T N E S S E T H

WHEREAS, the parties hereto have previously entered into that Mortgage, Assignment of Lease and Rents, Security Agreement and Fixture Filing dated as of March 1, 1988, by and between Mortgagor and Mortgagee ("Mortgage"), recorded on March 8, 1988, as Instrument No. 188317 in the Custer County Records and on March 8, 1988 as Instrument No. 20652 in the Butte County Records;

WHEREAS, the parties wish to define more particularly the term of the Mortgage and the amount of Mortgagor's obligations under the Mortgage; and

WHEREAS, the parties desire to correct the reference in the definition of Easements on the fourth line from the top of page two of the Mortgage from "Trustor" to "Mortgagor;"

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

1. The following statement shall be added on page four of the Mortgage under the definition of Obligations and before Article I:

"The term of this Mortgage shall be for a period not greater than 50 years and the

MICROFILMED

DEC 09 1991

Obligations secured by this Mortgage shall be in an original principal amount not greater than six million eight hundred forty thousand dollars (\$6,840,000)."

2. The term "Trustor" on page two, fourth line from the top of the page, shall be deleted and the term "Mortgagor" shall be substituted in its place.

3. Except as amended hereby, all of the terms, conditions and covenants of the Mortgage shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment to Mortgage on this 5th day of April, 1988.

MORTGAGOR

HDI ASSOCIATES IV, LIMITED
PARTNERSHIP, an Idaho limited
partnership

By: HDI-Idaho, Inc.,
an Idaho corporation
Its: General Partner

By: Donnie R. Pope
Its: Vice President

MORTGAGEE

WESTINGHOUSE CREDIT CORPORATION,
a Delaware corporation

By: _____
Its: _____

NOT RECORDED
DEC 09 1991

Obligations secured by this Mortgage shall be in an original principal amount not greater than six million eight hundred forty thousand dollars (\$6,840,000)."

2. The term "Trustor" on page two, fourth line from the top of the page, shall be deleted and the term "Mortgagor" shall be substituted in its place.

3. Except as amended hereby, all of the terms, conditions and covenants of the Mortgage shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment to Mortgage on this 5th day of April, 1988.

MORTGAGOR

HDI ASSOCIATES IV, LIMITED
PARTNERSHIP, an Idaho limited
partnership

By: HDI-Idaho, Inc.,
an Idaho corporation
Its: General Partner

By: _____
Its: _____

MORTGAGEE

WESTINGHOUSE CREDIT CORPORATION,
a Delaware corporation

By: James A. Dwyer
Its: VICE PRESIDENT

MICROFILMED

DEC 09 1991

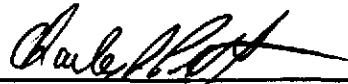
STATE OF Colorado

COUNTY OF Jefferson

)
) ss.
)

On this 5th day of April, 1988 before the undersigned, a Notary Public in and for said State of Colorado, personally appeared Donnie R. Pope, personally known to me or proved to me on the basis of satisfactory evidence to be the Vice President of HDI-Idaho, Inc., an Idaho corporation ("HDI-Idaho"), the corporation known to me or proved to me on the basis of satisfactory evidence to be the general partner of HDI Associates IV, Limited Partnership, an Idaho limited partnership ("HDI"), the limited partnership that executed the within instrument, and acknowledged to me that he executed the within instrument on behalf of HDI-Idaho, and further acknowledged to me that HDI-Idaho executed the within instrument on behalf of HDI, and further acknowledged to me that HDI 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 Colorado

[SEAL]

* * *

RECORDED

DEC 09 1981

STATE OF Pennsylvania)
COUNTY OF Allegheny) ss.

On this 5th day of April, 1988 before me, the undersigned, a Notary Public in and for said State, personally appeared James F. Risolo, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as Vice President on behalf of Westinghouse Credit Corporation and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its Board of Directors.

WITNESS MY HAND AND OFFICIAL SEAL.

Joann B. Klingler
Notary Public in and for said
County and State

[SEAL]

JOANN B. KLINGLER, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
MY COMMISSION EXPIRES MAY 6, 1991
Member, Pennsylvania Association of Notaries

MICROFILMED

DEC 09 1988

Recording Requested by FIRST AMERICAN TITLE

Recorded mail to:

Westinghouse Credit Corporation
One Oxford Centre
Pittsburgh, Pa. 15219
Attn: Robert K. Dannhauser, Esquire

No. 22361

FILED

JUL 10 1989

A.M. 2:57 P.M.
SUNNY COUNTY RECORDER

MORTGAGE MODIFICATION AGREEMENT

This Mortgage Modification Agreement made as of this 28th day of June, 1989, by and between HDI ASSOCIATES IV, LIMITED PARTNERSHIP, an Idaho limited partnership ("Mortgagor") and WESTINGHOUSE CREDIT CORPORATION, a Delaware corporation ("Mortgagee")

W I T N E S S E T H:

WHEREAS, Mortgagor and Mortgagee have entered into a certain Revolving Credit Agreement of even date herewith (the "Credit Agreement"); and

WHEREAS, Mortgagor has delivered to Mortgagee a certain Revolving Credit Note of even date herewith (the "Note"); and

WHEREAS, Mortgagor desires to secure the repayment of all sums due or to become due under the Credit Agreement or the Note and to secure the performance of all of Mortgagor's obligation thereunder with the interests granted to Mortgagee in a certain Mortgage, Assignment of Leases and Rents,

RECORDED
DEC 09 1991

Security Agreement and Fixture Filing dated as of March 1, 1988 by Mortgagor in favor of Mortgagee, (the "Mortgage") recorded in Custer County, Idaho as Instrument No. 188317 and recorded in Butte County, Idaho as Instrument No. 20652.

NOW THEREFORE, intending to be legally bound hereby, the parties hereto agree as follows:

1. Mortgagor, in consideration of the sums made available pursuant to the Credit Agreement, as evidenced by the Note and to secure the repayment of any and all such sums and the performance of Mortgagor's obligations thereunder, Mortgagor hereby irrevocably grants, conveys, transfers, and assigns to Mortgagee, its successors and assigns, in trust forever, with power of sale and right of entry and possession, as provided for in the Mortgage, all of its present and future estate, right, title and interest in and to the "Mortgage Property" as that term is more fully described in the Mortgage.
2. The term "Obligation" as defined in the Mortgage, is hereby amended to include all sums due or to become due and the Credit Agreement, the Note and the due performance by Mortgagor of all of its obligations thereunder.
3. Except as modified hereby, the Mortgage, and all of its terms and conditions, remain in full force and effect.

MICROFILMED

DEC 09 1991

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

MORTGAGOR:

HDI ASSOCIATES IV, LIMITED PARTNERSHIP

By: HDI-Idaho, Inc.
General Partner

By: M. R. P. D.

Title: President

MORTGAGEE:

WESTINGHOUSE CREDIT CORPORATION

By: W. D. D.

Title: Vice President,
In Charge of Mortgage

RECORDED

DEC 09 1991

Consent of Guarantor

The undersigned Guarantor hereby acknowledges that it has reviewed the within Mortgage Modification Agreement and consents to the terms and conditions thereof. Guarantor reaffirms its Guarantee of March 1, 1983 and affirms that it remains in full force and effect and extends to the items modified herein.

GUARANTOR:

HYDROELECTRIC DEVELOPMENT, INC.
a Colorado corporation

By: M. J. P. D.
Title: President

192252

CUSTER COUNTY
REQUEST OF
1st Am. Title Company.

'89 JUL 13 PM 1 44

ETH: D. PECK, CLERK

Barbara DEPUTY
FFS 5 15

DEC 09 1989

STATE OF COLORADO)
COUNTY OF JEFFERSON) SS:

On this, the 30th day of June, 1989, before me, the undersigned officer, personally appeared Michael P. Demar who acknowledged himself/herself to be the (Vice) President of HPT and Taha, Inc. a Colorado corporation, which corporation is the General Partner of HPT Associates IV and that Michael P. Demar as such (Vice) President being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation in its capacity as General Partner by himself/herself as (Vice) President.



IN WITNESS WHEREOF, I hereunder set my hand and official seal.

Donnie R. Pope
Notary Public

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) SS:

On this 30th day of June, 1989, before me Mary Ann Kestner a Notary Public, personally appeared William A. Orr known to me to be the Vice President of Westinghouse Credit Corporation, Delaware corporation that executed the instrument, and acknowledged that such corporation executed the same.

Mary Ann Kestner
Notary Public
Title Officer

Notary Public, Residing at Pittsburgh, PA

NOTARIAL SEAL
Mary Ann Kestner, Notary Public
Pittsburgh, Allegheny County, PA
My Commission Expires May 30, 1989

DEC 09 1989

Larry E. Prince
Debra K. Ellers
HOLLAND & HART
Suite 1400, West One Plaza
Post Office Box 2527
Boise, Idaho 83701
Telephone: (208) 342-5000

U.S. DISTRICT COURT
DISTRICT OF IDAHO
Filed at 3:00 p
OCT 11 1991

CLERK U.S. DISTRICT COURT
Clough

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

WESTINGHOUSE CREDIT CORPORATION,
a Delaware corporation,

Plaintiff,

vs.

HDI ASSOCIATES IV LIMITED
PARTNERSHIP, an Idaho limited
partnership; HDI-IDAHO, INC., an
Idaho corporation; HYDROELECTRIC
DEVELOPMENT, INC., a Colorado
corporation; the UNITED STATES OF
AMERICA, acting through the FARMERS
HOME ADMINISTRATION, UNITED STATES
DEPARTMENT OF AGRICULTURE; DARYL L.)
ANDREASON and BRENDA D. ANDREASON,
husband and wife; and ANY AND ALL
UNKNOWN HEIRS, OR UNKNOWN DEVISEES
OF ANY DECEASED PERSON CLAIMING ANY
INTEREST IN THE PROPERTY WHICH IS
THE SUBJECT OF THIS ACTION AND
REFERRED TO FOR CONVENIENCE AS
DOES I-X,

Defendants.

Case CIV 91-0060 E EJL

ORDER OF SALE
ON FORECLOSURE

WHEREAS, Westinghouse Credit Corporation, on the 18th day of
September, 1991, recovered a judgment of foreclosure against the

FILED
DEC 09 1991

Defendants HDI Associates IV Limited Partnership, HDI-Idaho, Inc. and Hydroelectric Development, Inc., and Defendant United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, and on the 12th day of August, 1991, against Defendants Daryl L. Andreason and Brenda D. Andreason, and other claimants and parties in interest in and to any part of the premises and property described on Exhibit A attached hereto, situated in the Counties of Custer and Butte, State of Idaho.

Which said Judgment of foreclosure was entered in said District Court on the 18th day of September, 1991, a material part of which is in words and figures following:

IT IS ORDERED, ADJUDGED AND DECREED AND THIS DOES ORDER, ADJUDGE AND DECREE that Plaintiff Westinghouse Credit Corporation have judgment:

1. Against HDI Associates in the sum of \$6,640,136.36, plus attorney's fees and costs in the sum of \$42,121.10, for a total judgment of \$6,682,257.46, said amount to accrue interest at the statutory rate at 11.375% from the date judgment is entered.

2. Against HDI Associates, HDI-Idaho and Hydro as follows:

(a) That the aggregate sum set forth above is a valid and enforceable lien on the property and rights described in Exhibit A (the "Mortgaged Property") and that said lien is prior

RECORDED
DEC 09 1991

to the lien or liens or claim or claims of HDI Associates, HDI-Idaho and Hydro in and to the Mortgaged Property.

(b) That all and singular of the Mortgaged Property be sold at public auction by the United States Marshal for the District of Idaho (the "Marshal") in the manner prescribed by law and according to the rules and practices of this Court, and that the Marshal shall execute a deed to the purchaser of the Mortgaged Property at said sale, and the parties herein may become the purchaser at said sale.

(c) That from the proceeds of said sale, the Marshal shall retain his fees, disbursements and commissions for the sale and shall then pay out the remaining proceeds as follows:

(1) First, to Plaintiff WCC the sum necessary to satisfy its judgment against HDI Associates in the amount of \$6,682,257.46, plus interest, or so much thereof as the proceeds will pay.

(2) Second, the surplus, if any, shall be paid by the Marshal to the Clerk of the Court, and the Clerk of the Court shall hold the same subject to further order of the Court.

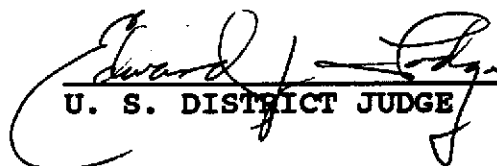
3. That Defendants HDI Associates, HDI-Idaho and Hydro, and any unknown heirs or devisees of the foregoing named parties who may be deceased, and the unknown owners, claimants and parties in interest claiming to all or any part of the Mortgaged Property, and each of them, and all persons claiming or to claim from and under them, or any of them, and all persons having liens

RECORDED
DEC 09 1991

subject to the mortgage and security interest of Plaintiff WCC herein by judgment or decree or otherwise upon the Mortgaged Property, or any part or parcel thereof, and their heirs, personal representatives and all persons claiming to have acquired any estate or interest in or to the Mortgaged Property shall be, and they hereby are, forever barred and foreclosed of and from all right, title, claim and interest in and to the Mortgaged Property and in and to every part or parcel thereof, and that said persons, and each of them, be, and they hereby are, enjoined and restrained from removing or destroying any of the buildings, the improvements or appurtenances, or otherwise damaging the Mortgaged Property prior to the foreclosure sale.

4. That pending the foreclosure sale by the Marshal, Plaintiff WCC shall be, and it hereby is, allowed to take possession of the Mortgaged Property and shall be, and it hereby is, authorized to operate the hydro electric facility located on the real property and easements described in Schedule 1 to Exhibit A annexed hereto.

DATED this 11th day of October, 1991.


U. S. DISTRICT JUDGE

RECORDED
DEC 09 1991

NOW, THEREFORE, you, the U. S. Marshal of the State of Idaho, are commanded and required to proceed to execute said Judgment by selling the premises hereinabove described; to apply the proceeds of such sale to the satisfaction of the Judgment of foreclosure with interest thereon, and costs, together with your fees, and to make and file your return of such sale to the Clerk of the U. S. District Court within sixty (60) days from your receipt hereof, and to do all things according to the terms and requirements of said Judgment of foreclosure and the provisions of the statutes in which such cases are made and provided.

The purchaser or purchasers at the sale shall be entitled to immediate possession of the premises after the sale.

WITNESS the Honorable Edward J. Lodge, Judge of the United States District Court for the District of Idaho, and the seal of said Court to this 11th day of October, 1991.

CLERK

By Carol Vandyke
Deputy

15842

RECORDED
DEC 09 1991

EXHIBIT A

All of HDI Associates IV, Limited Partnership, an Idaho limited partnership ("HDI Associates"), Hydroelectric Development, Inc., a Colorado corporation ("Hydroelectric Development"), and HDI-Idaho, Inc.'s ("HDI-Idaho") (HDI Associates, Hydroelectric Development and HDI-Idaho shall be collectively referred to as the "HDI Entities") right, title, estate and interest in and to the following described property (the "Mortgaged Property"):

1. That certain real property located in eastern Idaho along Dry Creek approximately fifty-five miles north of the town of Arco, and more particularly described in Schedule 1 attached hereto (the "Site"), which is the location of a four megawatt hydroelectric facility for the generation of electrical energy (the "Facility").

2. That certain Ground Lease, dated as of March 1, 1988 by and between HDI Associates and Westinghouse Credit Corporation, a Delaware corporation (the "Ground Lease").

3. All covenants, agreements, rights, appurtenances, tenements, hereditaments, privileges, franchises and appendages of or relating to the Site or the Facility and all right, title, estate and interest of the HDI Entities in and to the Easements (Easements shall mean the easement interests described in Schedule 1 hereto) and any streets, roads or public places, easements or rights of way relating to the Site or the Facility; and the diversion structure, the penstock and the transmission line associated with the Site and the Facility including, without limitation, the following:

(a) United States Department of the Interior Bureau of Land Management Right of Way permit Serial Number I-23042;

(b) State of Idaho Easement number 5300;

(c) State of Idaho Temporary Permit number 1917 and State of Idaho Easement number 5488;

(d) Grant of Easement from Hatch Livestock dated November 6, 1986, Assignment of Grant of Easement dated February 19, 1987, and Amendment to Grant of Easement dated May 6, 1987;

(e) Special Use Easement and Water Distribution and Containment Agreement from Alan J. Amy and Arlon Louise Amy dated February 11, 1987;

RECORDED
DEC 09 1991

(f) Idaho Water Permit numbers 33-7089, 33-7154 and 33-7181;

(g) Grant of Easement by Robert Amy and Judy Amy dated February 13, 1987; and

(h) The Transfer Agreement and Water Service Contract with Dry Creek Development, Incorporated dated January 29, 1987.

4. All development rights, air rights, water, water rights, water right permit applications, water right permits, water right licenses, water stock, ditches or ditch rights and reservoirs or reservoir rights of the HDI Entities relating to the Site or the Facility, including, without limitation, Idaho Water Permit Nos. 33-7089, 33-7154 and 33-7181.

5. All structures, buildings, improvements, appurtenances and fixtures of any kind on the Site, including, without limitation the Facility (the "Improvements").

6. All leases, subleases and subtenancies, occupancy agreements and concessions (including the Ground Lease) affecting any of the Mortgaged Property, the Site or the Improvements (collectively, the "Project Leases"), and all future rents, royalties, income and profits arising from the Site, the Improvements or the Project Leases, including all production payments or other similar payments and all proceeds of the conversion, voluntary or involuntary, of the Mortgaged Property into cash or liquidated amounts or claims.

7. All present and future proceeds and claims arising on account of any damage to or taking of the Site or Improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Site or Improvements.

8. All present and future chattel paper of the HDI Entities relating to the Site or the Facility.

9. All present and future accounts of the HDI Entities and all goods repossessed or returned in connection therewith relating to the Site or the Facility.

10. All present and future goods, machinery, equipment, fittings and fixtures of the HDI Entities relating to the Site or the Facility 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 Site, Facility and the Improvements.

REC 09 1991

11. All general intangibles of the HDI Entities relating to the Site or the Facility, including, without limitation, all rights, title and interest of the HDI Entities in, to or arising out of: (1) all contracts and agreements (excluding rights to sue, if any, the HDI Entities and Michael Demos, Cynthia F.L. Demos, Michael Galloway, Margaret M. Galloway, Hydro Consulting & Managing Services Corporation, Hydro Capital Services, Inc. and Hydro Capital Corporation (the "Consultant Entities")) with respect to the Facility, including, without limitation, the Power Purchase Agreement with Utah Power & Light Company dated May 2, 1986, and the Construction Contracts (the "Contracts"), (2) all patents, copyrights, and deposit accounts, (3) all consents, rights, exemptions, concessions, permits, licenses, authorizations, certificates, orders, franchises, determinations and approvals of any federal, municipal or governmental department, commission, board, bureau, agency or instrumentality with respect to or in connection with the Facility or the Site, including, without limitation, the water permits listed in paragraph 4 above, Federal Energy Regulatory Commission (FERC) Preliminary Permit No. 7623, and Final Permit No. 9134 (the "Governmental Authorizations"), and any other rights necessary to own, operate and use the Facility, now held or hereby acquired, (4) 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 with respect to the Facility (the "Warranty Agreements"), (5) 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; (6) all names under or by which the site or Improvements is operated or known, and all rights to carry on business under any such names or any variant thereof, excepting therefrom the names of the HDI Entities and the Consultant Entities, (7) copies of all books, records and other information in whatever form and however stored, relating to the ownership, use and operation of the Facility and the Site, excluding confidential attorney-client communications and proposals and agreements related to efforts by the HDI Entities or the Consultant Entities to arrange a purchase of the Mortgaged Property after or through the foreclosure sale, and (8) all goodwill in any way relating to the Site and Improvements.

12. All present and future documents and instruments of the HDI Entities relating to the Site or the Facility, including, without limitation, documents of title, all goods repossessed or returned in connection therewith and all other property receivable with respect to any of the foregoing.

DEC 09 1991

DEC 09 1991

TRACT I:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 31: NE $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT II:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 30: SE $\frac{1}{4}$ SW $\frac{1}{4}$; NE $\frac{1}{4}$ NE $\frac{1}{4}$; S $\frac{1}{2}$ NE $\frac{1}{4}$; W $\frac{1}{2}$ SE $\frac{1}{4}$

TRACT III:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 19: SE $\frac{1}{4}$ SE $\frac{1}{4}$

TRACT IV:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 20: SE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ NE $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$

TRACT V:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 21: NW $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT VI:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 24: N $\frac{1}{2}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$ NE $\frac{1}{4}$; NE $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT VII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 16: NE $\frac{1}{4}$ SW $\frac{1}{4}$; S $\frac{1}{2}$ SW $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$; SW $\frac{1}{4}$ SE $\frac{1}{4}$

TRACT VIII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 15: From a point of beginning on the West line of Section 15, Township 10 North, Range 25 E.B.M. that is 1884.84 feet N. 0°16'08" W. of the corner that is common to Sections 15, 16, 21 and 22, Township 10 North, Range 26 E.B.M., a line centered in a strip 40 feet wide, described as follows: S. 86°08'17" E. 1324.13 feet to a point on the East line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15, Township 10 North, Range 25 E.B.M., marked Station 433+63.50.

TRACT IX:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 15: NE $\frac{1}{4}$ SW $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$

MICROFILMED

DEC 09 1995 SCHEDULE 1

TRACT X:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 14: From a point of beginning on the West line of Section 14, Township 10 North, Range 25 E.B.M., that is 4135.7 feet S. $0^{\circ}05'52''$ E. of the corner common to Sections 10, 11, 14, and 15, Township 10 North, Range 25 E.B.M., a line centered in a strip 40 feet wide, described as follows: S. $82^{\circ}58'04''$ E. 1110.16 feet to a point on the North line of the $SW\frac{1}{4}SW\frac{1}{4}$ Section 14, Township 10 North, Range 25 E.B.M., marked Station 382+93.66.

TRACT XI:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 14: $S\frac{1}{2}SW\frac{1}{4}$; $S\frac{1}{2}SE\frac{1}{4}$

TRACT XII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 13: $SW\frac{1}{4}SW\frac{1}{4}$

TRACT XIII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 13: From a point of beginning in the South line of Section 13, Township 10 North, Range 25 E.B.M. that is 2135.39 feet S. $89^{\circ}54'25''$ E. of the corner common to Sections 13, 14, 23, and 24, a line centered in a strip 40 feet wide, described as follows: N. $59^{\circ}36'12''$ W. a distance of 448.47 feet; thence N. $74^{\circ}45'02''$ W. a distance of 443.04 feet to a point on the West line of the $SE\frac{1}{4}SW\frac{1}{4}$ Section 13, Township 10 North, Range 25 E.B.M., marked Station 326+97.64.

TRACT XIV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 19: Lot 2 (sometimes referred to as the $SW\frac{1}{4}SW\frac{1}{4}$); $SE\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$; $SE\frac{1}{4}NW\frac{1}{4}$

TRACT XV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 29: $N\frac{1}{2}NW\frac{1}{4}$; $N\frac{1}{2}NE\frac{1}{4}$; $S\frac{1}{2}NE\frac{1}{4}$

TRACT XVI:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 28: $S\frac{1}{2}NW\frac{1}{4}$; $N\frac{1}{2}SE\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$

TRACT XVII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 27: $S\frac{1}{2}SE\frac{1}{4}$; $E\frac{1}{2}SW\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$

MICROFILMED

DEC 09 1991

TRACT XVIII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 35: NE $\frac{1}{4}$ NE $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$

TRACT XIX:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: N $\frac{1}{2}$, EXCEPTING THEREFROM: Commencing at the SW corner of the NW $\frac{1}{4}$ of said Section 36, thence due N. 1,500 feet; thence due E. 240 feet; thence due S. 1,500 feet; thence due W. 240 feet to the point of beginning, **ALSO EXCEPTING THEREFROM:** Commencing at a point on the West line of said Section 36 that is 1500 feet N. of the SW corner of the NW $\frac{1}{4}$ of said Section 36, and running thence N. 100 feet; thence E. 240 feet; thence S. 100 feet; thence W. 240 feet to the point of beginning.

TRACT XX:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: A portion of the N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 36, described as: A strip of land 100.00 feet in width, being 50.00 feet on each side of the following described survey line: Commencing at the W $\frac{1}{4}$ corner of said Section 36, thence E. 50.00 feet to the REAL POINT OF BEGINNING, thence S. 600.00 feet; thence E. 450.00 feet; thence S. 80°30' E. 1,230.00 feet; thence S. 76°30' E. 3,615.00 feet to a point on the East Section line of said Section 36, said point being 985.00 feet N. of the SE corner of said Section 36, said point being the point of terminus of said survey line.

TRACT XXI:

Township 9 North, Range 27 E.B.M., Butte County, Idaho

Section 5: Lot 3 (sometimes referred to as NW $\frac{1}{4}$ NW $\frac{1}{4}$) and Lot 4 (sometimes referred to as NE $\frac{1}{4}$ NW $\frac{1}{4}$)

TRACT XXII:

Township 9 North, Range 27 E.B.M., Butte County, Idaho

Section 6: Lot 1 (sometimes referred to as NE $\frac{1}{4}$ NE $\frac{1}{4}$)

TRACT XXIII:

Township 10 North, Range 27 E.B.M., Butte County, Idaho

Section 31: S $\frac{1}{2}$ SE $\frac{1}{4}$; SE $\frac{1}{4}$ SW $\frac{1}{4}$; Lot 4 (sometimes referred to as SW $\frac{1}{4}$ SW $\frac{1}{4}$)

TRACT XXIV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 20: SW $\frac{1}{4}$ SW $\frac{1}{4}$

TRACT XXV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 26: S $\frac{1}{2}$ SW $\frac{1}{4}$

TRACT XXVI:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: Commencing at the SW corner of the NW $\frac{1}{4}$ of said Section 36, thence due N. 1,500 feet; thence due E. 240 feet; thence due S. 1,500 feet; thence due W. 240 feet to the point of beginning.

TRACT XXVII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: Commencing at a point on the West line of said Section 36 that is 1500 feet N. of the SW corner of the NW $\frac{1}{4}$ of said Section 36, and running thence N. 100 feet; thence E. 240 feet; thence S. 100 feet; thence W.

TRACT I:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT II:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT III:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT IV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

EC 09 1991

TRACT V:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT VI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT VII:

An easement interest created by State of Idaho Easement No. 5300 as granted to HDI, Associates IV, Limited Partnership, as to Tracts VII and IX, by Instrument recorded April 27, 1987, as Instrument No. 184399, records of Custer County, Idaho.

TRACT VIII:

An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

TRACT IX:

An easement interest created by State of Idaho Easement No. 5300 as granted to HDI, Associates IV, Limited Partnership, as to Tracts VII and IX, by Instrument recorded April 27, 1987, as Instrument No. 184399, records of Custer County, Idaho.

TRACT X:

An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

DEC 09 199

TRACT XI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XIII:

An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

TRACT XIV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

DEC 09 1991

TRACT XVI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XVII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XVIII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XIX:

An easement interest created by Special Use Easement and Water Distribution and Containment Agreement upon the terms, conditions, and provisions contained therein:

Date: February 11, 1987

Parties: Alan J. Amy and Afton Louise Amy, husband and wife, Grantors, and HDI Associates IV, Limited Partnership, an Idaho limited partnership, and its successors and assigns forever, Grantee

Recorded: April 27, 1987, as Instrument No. M-19501, records of Butte County, Idaho.

TRACT XX:

An interest created by State of Idaho Temporary Permit No. 1917 as granted to HDI, Associates IV, Limited Partnership, a limited partnership, by Instrument recorded April 27, 1987, as Instrument No. M-19499, records of Butte County, Idaho; and an easement interest created by Grant of Easement as granted to HDI Associates IV, Limited Partnership, for a perpetual and exclusive easement over, across, and under Tract XX, by Instrument recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

TRACT XXI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXIII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXIV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

DEC 10 1987

TRACT XXV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Ouster County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Ouster County, Idaho.

TRACT XXVI:

HDI ASSOCIATES IV, Limited Partnership

TRACT XXVII:

HDI ASSOCIATES IV, Limited Partnership

DEC 04 1987

No. 25314
FILED

U. S. DISTRICT COURT
DISTRICT OF IDAHO
Filed at 4:20 P M

SEP 30 1991

SEP 13 1991

Larry E. Prince
Debra K. Ellers
HOLLAND & HART
Suite 1400, West One Place
Post Office Box 2527
Boise, Idaho 83701
Telephone: (208) 342-5000

CLERK, U.S. DISTRICT COURT
By [Signature] Deputy

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

WESTINGHOUSE CREDIT CORPORATION,
a Delaware corporation,

Plaintiff,

vs.

HDI ASSOCIATES IV LIMITED
PARTNERSHIP, an Idaho limited
partnership; HDI-IDAHO, INC., an
Idaho corporation; HYDROELECTRIC
DEVELOPMENT, INC., a Colorado
corporation; the UNITED STATES OF
AMERICA, acting through the FARMERS
HOME ADMINISTRATION, UNITED STATES
DEPARTMENT OF AGRICULTURE; DARYL L.
ANDREASON and BRENDA D. ANDREASON,
husband and wife; and ANY AND ALL
UNKNOWN HEIRS, OR UNKNOWN DEVISEES
OF ANY DECEASED PERSON CLAIMING ANY
INTEREST IN THE PROPERTY WHICH IS
THE SUBJECT OF THIS ACTION AND
REFERRED TO FOR CONVENIENCE AS
DOES I-X,

Defendants.

Case CIV 91-0060 E EKL

JUDGMENT (HDI
ASSOCIATES, HDI-IDAHO
AND HYDROELECTRIC
DEVELOPMENT)

I hereby certify that the enclosed instrument
is a true and correct copy of the original
file in my office.
Dated this 26 day of Sept, 1991
CLERK, U.S. DISTRICT COURT
By [Signature] Deputy.

This matter having come before the Court upon the Stipula-
tion for Judgment by and among Plaintiff Westinghouse Credit

JUDGMENT (HDI ASSOCIATES, HDI-IDAHO AND
HYDROELECTRIC DEVELOPMENT) - 1

DEC 09 1991

Corporation ("WCC") and Defendants HDI Associates IV, Limited Partnership ("HDI Associates"), HDI-Idaho, Inc. ("HDI-Idaho") and Hydroelectric Development, Inc., a Colorado corporation ("Hydro") (HDI Associates, HDI-Idaho and Hydro are collectively referred to in this Judgment as the "HDI Entities"), and good cause appearing therefor, it is

ORDERED, ADJUDGED AND DECREED, AND THIS DOES ORDER, ADJUDGE AND DECREE that Plaintiff Westinghouse Credit Corporation have judgment:

1. Against HDI Associates in the sum of \$6,640,136.36, plus attorney's fees and costs in the sum of \$42,121.10, for a total judgment of \$6,682,257.46, said amount to accrue interest at the statutory rate at 11.375% from the date judgment is entered.

2. Against HDI Associates, HDI-Idaho and Hydro as follows:

(a) That the aggregate sum set forth above is a valid and enforceable lien on the property and rights described in Exhibit A (the "Mortgaged Property") and that said lien is prior to the lien or liens or claim or claims of HDI Associates, HDI-Idaho and Hydro in and to the Mortgaged Property.

(b) That all and singular of the Mortgaged Property be sold at public auction by the United States Marshal for the District of Idaho (the "Marshal") in the manner prescribed by law and according to the rules and practices of this Court, and that the

RECORDED
DEC 09 1991

Marshal shall execute a deed to the purchaser of the Mortgaged Property at said sale, and the parties herein may become the purchaser at said sale.

(c) That from the proceeds of said sale, the Marshal shall retain his fees, disbursements and commissions for the sale and shall then pay out the remaining proceeds as follows:

(1) First, to Plaintiff WCC the sum necessary to satisfy its judgment against HDI Associates in the amount of \$6,682,257.46, plus interest, or so much thereof as the proceeds will pay.

(2) Second, the surplus, if any, shall be paid by the Marshal to the Clerk of the Court, and the Clerk of the Court shall hold the same subject to further order of the Court.

3. That Defendants HDI Associates, HDI-Idaho and Hydro, and any unknown heirs or devisees of the foregoing named parties who may be deceased, and the unknown owners, claimants and parties in interest claiming to all or any part of the Mortgaged Property, and each of them, and all persons claiming or to claim from and under them, or any of them, and all persons having liens subject to the mortgage and security interest of Plaintiff WCC herein by judgment or decree or otherwise upon the Mortgaged Property, or any part or parcel thereof, and their heirs, personal representatives and all persons claiming to have acquired any estate or interest in or to the Mortgaged Property shall be,

NOT RECORDED
DEC 09 1991

and they hereby are, forever barred and foreclosed of and from all right, title, claim and interest in and to the Mortgaged Property and in and to every part or parcel thereof, and that said persons, and each of them, be, and they hereby are, enjoined and restrained from removing or destroying any of the buildings, the improvements or appurtenances, or otherwise damaging the Mortgaged Property prior to the foreclosure sale.

4. That pending the foreclosure sale by the Marshal, Plaintiff WCC shall be, and it hereby is, allowed to take possession of the Mortgaged Property and shall be, and it hereby is, authorized to operate the hydro electric facility located on the real property and easements described in Schedule 1 to Exhibit A annexed hereto.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, AND THIS DOES ORDER, ADJUDGE AND DECREE that Defendants HDI Associates, HDI-Idaho and Hydro have each waived and relinquished any right they may have to redeem the Mortgaged Property after the foreclosure sale, including, without limitation, the statutory right of redemption set forth in Idaho Code § 11-401 and, as a result, Defendants HDI Associates, HDI-Idaho and Hydro shall not have any right whatsoever to redeem the Mortgaged Property after the foreclosure sale.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, AND THIS DOES ORDER, ADJUDGE AND DECREE that Plaintiff WCC, for itself, its

DEC 09 1991

parent corporation and its successors and assigns, has waived any deficiency remaining due on this Judgment in the event the proceeds from the sale of the Mortgaged Property are insufficient to satisfy the amount due hereunder, together with the costs of sale and other proper charges, as shown by the Marshal's return on sale and, as a result, Plaintiff WCC, its parent corporation and/or its successors and assigns shall not be entitled to a deficiency judgment against Defendants HDI Associates, HDI-Idaho and Hydro for the amount of this Judgment remaining unsatisfied after the foreclosure sale.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, AND THIS DOES ORDER, ADJUDGE AND DECREE:

1. The purchaser of the Mortgaged Property at the foreclosure sale shall be immediately let into possession thereof and that any of the parties to this action who may be in possession of the Mortgaged Property or any part thereof, or any person, who, since the commencement of this action, has come into possession of the Mortgaged Property, shall immediately deliver possession thereof to such purchaser.

2. The purchaser of the Mortgaged Property at the foreclosure sale shall be immediately entitled to receive and collect all rents and profits accruing from the date it purchased the Mortgaged Property.

RECORDED
DEC 09 1991

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, AND THIS DOES ORDER, ADJUDGE AND DECREE that Defendants HDI Associates, HDI-Idaho and Hydro's counterclaim against WCC is dismissed with prejudice, and that they shall bear their own costs and attorney's fees.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, AND THIS DOES ORDER, ADJUDGE AND DECREE that Counts IV (Foreclosure on HDI-Idaho and Hydroelectric) and V (Action on Guaranty) of WCC's Verified Complaint is hereby dismissed with prejudice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, AND THIS DOES ORDER, ADJUDGE AND DECREE that Defendants HDI Associates, HDI-Idaho and Hydro shall each, upon Plaintiff WCC's request, execute any and all instruments and documents reasonably necessary to transfer any rights they may have in or to the Mortgaged Property or under any permit, application, license, agreement, instrument or document related to the Mortgaged Property as set forth in the Settlement and Mutual Release Agreement entered into as of September ____, 1991 by, among others, Plaintiff WCC and Defendants HDI Associates, HDI-Idaho and Hydro (the "Settlement and Mutual Release Agreement").

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, AND THIS DOES ORDER, ADJUDGE AND DECREE that jurisdiction of this action is hereby expressly reserved and retained for the purpose of the Court making such further orders as may be necessary in order to

MICROFILMED
DEC 09 1991

carry this Judgment into effect, to enforce the terms and conditions of the Settlement and Mutual Release Agreement, or for the purpose of making such further orders as may be necessary or desirable.

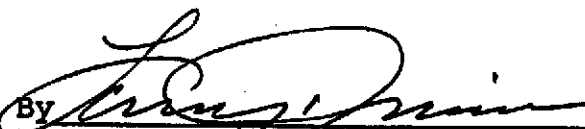
Dated this 18th day of September, 1991.

EDWARD J. LODGE

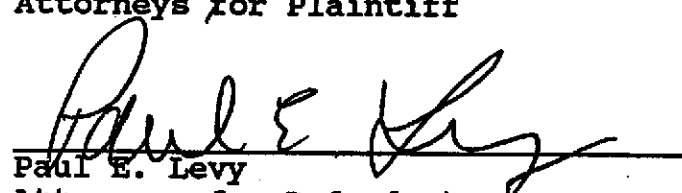
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

HOLLAND & HART

By 

Larry E. Prince, for the firm
Attorneys for Plaintiff


Paul E. Levy

Attorneys for Defendants

15168

MICROFILMED
DEC 09 1991

EXHIBIT A

All of HDI Associates IV, Limited Partnership, an Idaho limited partnership ("HDI Associates"), Hydroelectric Development, Inc., a Colorado corporation ("Hydroelectric Development"), and HDI-Idaho, Inc.'s ("HDI-Idaho") (HDI Associates, Hydroelectric Development and HDI-Idaho shall be collectively referred to as the "HDI Entities") right, title, estate and interest in and to the following described property (the "Mortgaged Property"):

1. That certain real property located in eastern Idaho along Dry Creek approximately fifty-five miles north of the town of Arco, and more particularly described in Schedule 1 attached hereto (the "Site"), which is the location of a four megawatt hydroelectric facility for the generation of electrical energy (the "Facility").

2. That certain Ground Lease, dated as of March 1, 1988 by and between HDI Associates and Westinghouse Credit Corporation, a Delaware corporation (the "Ground Lease").

3. All covenants, agreements, rights, appurtenances, tenements, hereditaments, privileges, franchises and appendages of or relating to the Site or the Facility and all right, title, estate and interest of the HDI Entities in and to the Easements (Easements shall mean the easement interests described in Schedule 1 hereto) and any streets, roads or public places, easements or rights of way relating to the Site or the Facility; and the diversion structure, the penstock and the transmission line associated with the Site and the Facility including, without limitation, the following:

(a) United States Department of the Interior Bureau of Land Management Right of Way permit Serial Number I-23042;

(b) State of Idaho Easement number 5300;

(c) State of Idaho Temporary Permit number 1917 and State of Idaho Easement number 5488;

(d) Grant of Easement from Hatch Livestock dated November 6, 1986, Assignment of Grant of Easement dated February 19, 1987, and Amendment to Grant of Easement dated May 6, 1987;

(e) Special Use Easement and Water Distribution and Containment Agreement from Alan J. Amy and Afton Louise Amy dated February 11, 1987;

(f) Idaho Water Permit numbers 33-7089, 33-7154 and 33-7181;

(g) Grant of Easement by Robert Amy and Judy Amy dated February 13, 1987; and

(h) The Transfer Agreement and Water Service Contract with Dry Creek Development, Incorporated dated January 29, 1987.

4. All development rights, air rights, water, water rights, water right permit applications, water right permits, water right licenses, water stock, ditches or ditch rights and reservoirs or reservoir rights of the HDI Entities relating to the Site or the Facility, including, without limitation, Idaho Water Permit Nos. 33-7089, 33-7154 and 33-7181.

5. All structures, buildings, improvements, appurtenances and fixtures of any kind on the Site, including, without limitation the Facility (the "Improvements").

6. All leases, subleases and subtenancies, occupancy agreements and concessions (including the Ground Lease) affecting any of the Mortgaged Property, the Site or the Improvements (collectively, the "Project Leases"), and all future rents, royalties, income and profits arising from the Site, the Improvements or the Project Leases, including all production payments or other similar payments and all proceeds of the conversion, voluntary or involuntary, of the Mortgaged Property into cash or liquidated amounts or claims.

7. All present and future proceeds and claims arising on account of any damage to or taking of the Site or Improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Site or Improvements.

8. All present and future chattel paper of the HDI Entities relating to the Site or the Facility.

9. All present and future accounts of the HDI Entities and all goods repossessed or returned in connection therewith relating to the Site or the Facility.

10. All present and future goods, machinery, equipment, fittings and fixtures of the HDI Entities relating to the Site or the Facility 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 Site, Facility and the Improvements.

REC'D 00 1987

11. All general intangibles of the HDI Entities relating to the Site or the Facility, including, without limitation, all rights, title and interest of the HDI Entities in, to or arising out of: (1) all contracts and agreements (excluding rights to sue, if any, the HDI Entities and Michael Demos, Cynthia F.L. Demos, Michael Galloway, Margaret M. Galloway, Hydro Consulting & Managing Services Corporation, Hydro Capital Services, Inc. and Hydro Capital Corporation (the "Consultant Entities")) with respect to the Facility, including, without limitation, the Power Purchase Agreement with Utah Power & Light Company dated May 2, 1986, and the Construction Contracts (the "Contracts"), (2) all patents, copyrights, and deposit accounts, (3) all consents, rights, exemptions, concessions, permits, licenses, authorizations, certificates, orders, franchises, determinations and approvals of any federal, municipal or governmental department, commission, board, bureau, agency or instrumentality with respect to or in connection with the Facility or the Site, including, without limitation, the water permits listed in paragraph 4 above, Federal Energy Regulatory Commission (FERC) Preliminary Permit No. 7623, and Final Permit No. 9134 (the "Governmental Authorizations"), and any other rights necessary to own, operate and use the Facility, now held or hereby acquired, (4) 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 with respect to the Facility (the "Warranty Agreements"), (5) 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; (6) all names under or by which the site or Improvements is operated or known, and all rights to carry on business under any such names or any variant thereof, excepting therefrom the names of the HDI Entities and the Consultant Entities, (7) copies of all books, records and other information in whatever form and however stored, relating to the ownership, use and operation of the Facility and the Site, excluding confidential attorney-client communications and proposals and agreements related to efforts by the HDI Entities or the Consultant Entities to arrange a purchase of the Mortgaged Property after or through the foreclosure sale, and (8) all goodwill in any way relating to the Site and Improvements.

12. All present and future documents and instruments of the HDI Entities relating to the Site or the Facility, including, without limitation, documents of title, all goods repossessed or returned in connection therewith and all other property receivable with respect to any of the foregoing.

FILED
DEC 09 1991

13. All inventory of the HDI Entities relating to the Site or the Facility, including, without limitation, all fuel supplies, raw materials, work in progress and finished goods.

14. All present and future other property of the HDI Entities relating to the Site or the Facility in the possession, custody or control of the HDI Entities.

15. All present and future receivables and proceeds of the property, if any, described in paragraphs 1 through 14 above. For purposes of this Exhibit, 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 returned premiums with respect to any insurance relating thereto.

14913

RECEIVED
JUN 09 1991

TRACT I:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 31: NE $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT II:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 30: SE $\frac{1}{4}$ SW $\frac{1}{4}$; NE $\frac{1}{4}$ NE $\frac{1}{4}$; S $\frac{1}{2}$ NE $\frac{1}{4}$; W $\frac{1}{2}$ SE $\frac{1}{4}$

TRACT III:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 19: SE $\frac{1}{4}$ SE $\frac{1}{4}$

TRACT IV:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 20: SE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ NE $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$

TRACT V:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 21: NW $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT VI:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 24: N $\frac{1}{2}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$ NE $\frac{1}{4}$; NE $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT VII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 16: NE $\frac{1}{4}$ SW $\frac{1}{4}$; S $\frac{1}{2}$ SW $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$; SW $\frac{1}{4}$ SE $\frac{1}{4}$

TRACT VIII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 15: From a point of beginning on the West line of Section 15, Township 10 North, Range 25 E.B.M. that is 1884.84 feet N. 0°16'08" W. of the corner that is common to Sections 15, 16, 21 and 22, Township 10 North, Range 26 E.B.M., a line centered in a strip 40 feet wide, described as follows: S. 86°08'17" E. 1324.13 feet to a point on the East line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15, Township 10 North, Range 25 E.B.M., marked Station 433+83.50.

TRACT IX:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 15: NE $\frac{1}{4}$ SW $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$

MICROFILMED

DEC 09 1991

SCHEDULE 1

TRACT X:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 14: From a point of beginning on the West line of Section 14, Township 10 North, Range 25 E.B.M., that is 4135.7 feet S. $0^{\circ}05'52''$ E. of the corner common to Sections 10, 11, 14, and 15, Township 10 North, Range 25 E.B.M., a line centered in a strip 40 feet wide, described as follows: S. $82^{\circ}58'04''$ E. 1110.16 feet to a point on the North line of the $SW\frac{1}{4}SW\frac{1}{4}$ Section 14, Township 10 North, Range 25 E.B.M., marked Station 382+93.66.

TRACT XI:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 14: $S\frac{1}{2}SW\frac{1}{4}$; $S\frac{1}{2}SE\frac{1}{4}$

TRACT XII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 13: $SW\frac{1}{4}SW\frac{1}{4}$

TRACT XIII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 13: From a point of beginning in the South line of Section 13, Township 10 North, Range 25 E.B.M. that is 2135.39 feet S. $89^{\circ}54'25''$ E. of the corner common to Sections 13, 14, 23, and 24, a line centered in a strip 40 feet wide, described as follows: N. $59^{\circ}36'12''$ W. a distance of 448.47 feet; thence N. $74^{\circ}45'02''$ W. a distance of 443.04 feet to a point on the West line of the $SE\frac{1}{4}SW\frac{1}{4}$ Section 13, Township 10 North, Range 25 E.B.M., marked Station 326+97.64.

TRACT XIV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 19: Lot 2 (sometimes referred to as the $SW\frac{1}{4}NW\frac{1}{4}$); $SE\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$; $SE\frac{1}{4}NW\frac{1}{4}$

TRACT XV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 29: $N\frac{1}{2}NW\frac{1}{4}$; $NW\frac{1}{4}NE\frac{1}{4}$; $S\frac{1}{2}NE\frac{1}{4}$

TRACT XVI:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 28: $S\frac{1}{2}NW\frac{1}{4}$; $N\frac{1}{2}SE\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$

TRACT XVII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 27: $S\frac{1}{2}SE\frac{1}{4}$; $E\frac{1}{2}SW\frac{1}{4}$; $NW\frac{1}{4}SW\frac{1}{4}$

MICROFILMED

DEC 09 1991

TRACT XVIII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 35: NE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$

TRACT XIX:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: N $\frac{1}{2}$, EXCEPTING THEREFROM: Commencing at the SW corner of the NW $\frac{1}{4}$ of said Section 36, thence due N. 1,500 feet; thence due E. 240 feet; thence due S. 1,500 feet; thence due W. 240 feet to the point of beginning, ALSO EXCEPTING THEREFROM: Commencing at a point on the West line of said Section 36 that is 1500 feet N. of the SW corner of the NW $\frac{1}{4}$ of said Section 36, and running thence N. 100 feet; thence E. 240 feet; thence S. 100 feet; thence W. 240 feet to the point of beginning.

TRACT XX:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: A portion of the N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 36, described as: A strip of land 100.00 feet in width, being 50.00 feet on each side of the following described survey line: Commencing at the W $\frac{1}{4}$ corner of said Section 36, thence E. 50.00 feet to the REAL POINT OF BEGINNING, thence S. 600.00 feet; thence E. 450.00 feet; thence S. 80°30' E. 1,230.00 feet; thence S. 76°30' E. 3,615.00 feet to a point on the East Section line of said Section 36, said point being 985.00 feet N. of the SE corner of said Section 36, said point being the point of terminus of said survey line.

TRACT XXI:

Township 9 North, Range 27 E.B.M., Butte County, Idaho

Section 5: Lot 3 (sometimes referred to as NW $\frac{1}{4}$ NW $\frac{1}{4}$) and Lot 4 (sometimes referred to as NE $\frac{1}{4}$ NW $\frac{1}{4}$)

TRACT XXII:

Township 9 North, Range 27 E.B.M., Butte County, Idaho

Section 6: Lot 1 (sometimes referred to as NE $\frac{1}{4}$ NE $\frac{1}{4}$)

TRACT XXIII:

Township 10 North, Range 27 E.B.M., Butte County, Idaho

Section 31: S $\frac{1}{2}$ SE $\frac{1}{4}$; SE $\frac{1}{4}$ SW $\frac{1}{4}$; Lot 4 (sometimes referred to as SW $\frac{1}{4}$ SW $\frac{1}{4}$)

TRACT XXIV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 20: SW $\frac{1}{4}$ SW $\frac{1}{4}$

TRACT XXV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 26: S $\frac{1}{2}$ SW $\frac{1}{4}$

TRACT XXVI:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: Commencing at the SW corner of the NW $\frac{1}{4}$ of said Section 36, thence due N. 1,500 feet; thence due E. 240 feet; thence due S. 1,500 feet; thence due W. 240 feet to the point of beginning.

TRACT XXVII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: Commencing at a point on the West line of said Section 36 that is 1500 feet N. of the SW corner of the NW $\frac{1}{4}$ of said Section 36, and running thence N. 100 feet; thence E. 240 feet; thence S. 100 feet; thence W. 240 feet to the point of beginning.

DEC 09 1991

TRACT I:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT II:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT III:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT IV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

EC 09 1987

TRACT V: An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT VI: An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT VII: An easement interest created by State of Idaho Easement No. 5300 as granted to HDI, Associates IV, Limited Partnership, as to Tracts VII and IX, by Instrument recorded April 27, 1987, as Instrument No. 184399, records of Custer County, Idaho.

TRACT VIII: An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

TRACT IX: An easement interest created by State of Idaho Easement No. 5300 as granted to HDI, Associates IV, Limited Partnership, as to Tracts VII and IX, by Instrument recorded April 27, 1987, as Instrument No. 184399, records of Custer County, Idaho.

TRACT X: An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

DEC 09 1991

TRACT XI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XIII:

An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

TRACT XIV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

RECEIVED
DEC 09 1991

TRACT XVI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XVII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XVIII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XIX:

An easement interest created by Special Use Easement and Water Distribution and Containment Agreement upon the terms, conditions, and provisions contained therein:

Dated: February 11, 1987

Parties: Alan J. Amy and Afton Louise Amy, husband and wife, Grantors, and HDI Associates IV, Limited Partnership, an Idaho limited partnership, and its successors and assigns forever, Grantees

Recorded: April 27, 1987, as Instrument No. M-19501, records of Butte County, Idaho.

TRACT XX:

An interest created by State of Idaho Temporary Permit No. 1917 as granted to HDI, Associates IV, Limited Partnership, a limited partnership, by Instrument recorded April 27, 1987, as Instrument No. M-19499, records of Butte County, Idaho; and an easement interest created by Grant of Easement as granted to HDI Associates IV, Limited Partnership, for a perpetual and exclusive easement over, across, and under Tract XX, by Instrument recorded April 27, 1987, as Instrument No. M-19500, records of Butte County,

TRACT XXI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXIII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXIV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

DEC 09 1991

TRACT XXV: An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.
ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXVI: HDI ASSOCIATES IV, Limited Partnership
TRACT XXVII: HDI ASSOCIATES IV, Limited Partnership

RECORDED
DEC 09 1991

SETTLEMENT AND MUTUAL RELEASE AGREEMENT

THIS SETTLEMENT AND MUTUAL RELEASE AGREEMENT (the "Agreement") is made and entered into this 15 day of September, 1991, between and among WESTINGHOUSE CREDIT CORPORATION, a Delaware corporation (hereinafter referred to as "WCC"), HDI ASSOCIATES IV, LIMITED PARTNERSHIP, an Idaho limited partnership ("HDI Associates"), HDI-IDAHO, INC., an Idaho corporation ("HDI-Idaho") and HYDROELECTRIC DEVELOPMENT, INC., a Colorado corporation ("Hydro") (HDI Associates, HDI-Idaho and Hydro are collectively referred to as the "HDI Entities"), MICHAEL DEMOS and CYNTHIA F.L. DEMOS, husband and wife, ("Demos"), MICHAEL GALLOWAY and MARGARET M. GALLOWAY, husband and wife, ("Galloway"), HYDRO CONSULTING & MANAGEMENT SERVICES CORPORATION ("Hydro Consulting"), HYDRO CAPITAL SERVICES, INC. ("Hydro Services"), and HYDRO CAPITAL CORPORATION ("Hydro Capital") (Demos, Galloway, Hydro Consulting, Hydro Services and Hydro Capital are collectively referred to as the "Consultant Entities").

W I T N E S S E T H

1. HDI Associates is the owner of a certain parcel of real property and certain easements located in Custer and Butte Counties, Idaho. A description of this real property and the easements is set forth in Schedule 1 to Exhibit A annexed hereto, which is, by this reference, incorporated herein as if set forth in its entirety (the "Site").

2. WCC is the owner of the Dry Creek hydroelectric project located on the Site. The Dry Creek hydroelectric project is a four (4) MW (gross) megawatt hydroelectric facility for the generation of electric energy located on the Site (the "Facility").

MICROFILMED
DEC 09 1991

3. WCC and the HDI Entities entered into a Participation Agreement dated March 1, 1988 (the "Participation Agreement"). Pursuant to the Participation Agreement:

a. HDI Associates agreed to:

(1) Lease to WCC as tenant the Site (the "Ground Lease"); and

(2) Sell to WCC the Facility.

(3) Secure its obligations to WCC by granting WCC a security interest in all of HDI Associates' assets, including, but not limited to, HDI Associates' remaining interest in the leased property, the Power Purchase Agreement ("Power Purchase Agreement") with Utah Power & Light Company dated May 2, 1986 and the various permits related to the Facility and the Site.

b. WCC agreed to:

(1) Buy the Facility from HDI Associates; and

(2) Enter into a Facility and Site Lease providing for the lease by WCC to HDI Associates of the Facility and the sublease by WCC to HDI Associates of the Site.

c. HDI-Idaho agreed to grant WCC a security interest in its assets and its general partnership interest in HDI Associates.

d. Hydro agreed to guarantee all obligations of HDI Associates and HDI-Idaho to WCC and to grant WCC a security interest in Hydro's limited partnership interest in HDI Associates.

4. On March 1, 1988, WCC entered into a Facility and Site Lease Agreement ("Lease") with HDI Associates, whereby WCC subleased the Site to HDI Associates and leased the Facility to HDI Associates. The initial lease term was for a period of twenty (20) years, subject to earlier termination pursuant to the terms of the Lease, and the basic rent due from HDI Associates to WCC under the Lease was the sum of \$49,166.46 per month for the period from April 10, 1988 to March 10, 1998, and the sum of

MICROFILMED
DEC 09 1991

\$40,333.14 per month for the period April 10, 1998 to March 10, 2008.

5. HDI Associates entered into a Mortgage, Assignment of Lease and Rents, Security Agreement and Fixture Filing, dated as of March 1, 1988, with WCC (the "Mortgage"), whereby HDI Associates granted WCC a security interest and lien on the property described in Exhibit A hereto (the "Mortgaged Property"). Notwithstanding anything herein to the contrary, the term "Mortgaged Property" shall not include the payment made by WCC in settlement of the HDI Entities and the Consultant Entities' claims.

6. HDI Associates and WCC entered into a Rent Reserve Fund Agreement and Cash Collateral Agreement dated March 10, 1988 (the "Rent Reserve Agreement"), pursuant to which HDI Associates, among other things, agreed to provide WCC with cash flow statements and to deposit certain funds into a rent reserve fund and a cash collateral account, maintained at First Security Bank of Utah, the account holder. Pursuant to the Rent Reserve Agreement, amounts payable by Utah Power & Light Company under the Power Purchase Agreement were required to be paid directly to First Security Bank of Utah as the account holder and disbursed pursuant to that agreement.

7. HDI Associates and WCC entered into a Tax Indemnity Agreement dated March 1, 1988, whereby HDI Associates indemnified WCC from certain specified matters having an adverse tax effect on WCC.

8. HDI-Idaho entered into a Pledge and Security Agreement with WCC dated as of March 1, 1988, whereby it granted WCC a security interest in essentially all of its assets, including its general partnership interest in HDI Associates. This property shall be hereinafter referred to as the "HDI-Idaho Collateral." HDI-Idaho granted WCC a security interest in the HDI-Idaho Collateral in order to secure all of the HDI Entities' obligations under the Lease, the Mortgage, the Tax Indemnity Agreement,

DEC 09 1991

the Rent Reserve Agreement, the Hydro Guarantee, the Hydro Pledge and all other instruments, documents and agreements delivered or to be delivered to WCC in connection with the overall transaction.

9. Hydro entered into a Pledge Agreement dated as of March 1, 1988 (the "Hydro Pledge Agreement") with WCC, whereby it granted WCC a security interest in its limited partnership interest in HDI Associates. This interest shall be hereinafter referred to as the "Hydro Collateral." Hydro granted WCC a security interest in the Hydro Collateral in order to secure any and all debts, obligations and liabilities of the HDI Entities under the Lease, the Mortgage, the Tax Indemnification Agreement, the Rent Reserve Agreement, the HDI Pledge Agreement and each and every other instrument, document and agreement delivered pursuant to or in connection with the overall transaction and all amendments or extensions or renewals thereof.

10. In order to induce WCC to enter into the transaction with HDI Associates, Hydro executed a guaranty agreement whereby it absolutely and unconditionally guaranteed HDI Associates and HDI-Idaho's obligations under the Lease, the Mortgage and all other instruments, documents or agreements delivered by HDI Associates or HDI-Idaho in connection with the overall transaction.

11. HDI Associates experienced cash flow difficulties with the Facility and requested WCC to provide it with a revolving credit line not to exceed \$300,000.00. HDI Associates and WCC entered into a Revolving Credit Agreement, dated as of June 28, 1989, whereby WCC granted HDI Associates, subject to the terms and conditions set forth in the Revolving Credit Agreement, a revolving line of credit in an amount not to exceed \$300,000.00. HDI Associates executed a Revolving Note dated June 28, 1989, in the original principal amount of \$300,000.00, plus interest at the rate provided therein and in the Revolving Credit Agreement.

DEC 09 1991

12. HDI Associates entered into a Mortgage Modification Agreement dated as of June 28, 1989, whereby the terms of the Mortgage were modified so as to provide, among other things, that the amounts due under the Revolving Note and the Revolving Credit Agreement were secured by the Mortgaged Property.

13. HDI Associates is in default under the terms of, among other things, and without limitation, the Lease, the Revolving Credit Agreement, the Revolving Note, in that it failed to pay certain amounts due under the Lease and Revolving Note as the same became due and owing, and, among other things, failed to perform its obligations under the Lease regarding reporting requirements (the "Default").

14. WCC subsequently brought an action against the HDI Entities in the United States District Court for the District of Idaho, Case No. CIV 91-0060E EJL (the "Case") to obtain a judgment against HDI Associates for, among other things, the amounts due and owing under the Lease and Revolving Note, foreclosure of the Mortgaged Property and the entry of a deficiency judgment against the HDI Entities.

15. On March 20, 1991, HDI Associates and Hydro filed an Answer, Counterclaim and Demand for Jury Trial against WCC setting forth defenses and counterclaims.

16. WCC has computed the total amount owed to it pursuant to the Lease and Revolving Note as of September 10, 1991, to be the sum of \$6,640,136.36, plus costs and attorneys' fees of \$42,121.10, for a total sum of \$6,682,257.46. WCC and the HDI Entities stipulate and agree that this is the amount due WCC by reason of the Default.

17. The Consultant Entities claim that they have performed services and incurred expenses related to the Facility for which they have not been paid (the "Consultant Claims").

18. WCC has not assigned or otherwise transferred its rights under the documents identified in Subparagraph 2(d) of

this Agreement, or its claims against the HDI Entitled or the Consultant Entities. WCC specifically reserves the right, subject to paragraph 16 below, to assign its rights under the judgment to be entered as part of the settlement.

19. The HDI Entities and the Consultant Entities have not assigned or otherwise transferred their claims against WCC.

The above-described Complaint and Answer and Counterclaim and the allegations contained therein and the Consultant Claims are hereinafter referred to as the "Claims."

20. The parties hereto have now reached an agreement to settle with prejudice their various differences and claims, including, without limitation, those regarding the Lease, Revolving Note, Mortgage and related documents, the foreclosure of the Mortgaged Property above-described, the liability of the various parties under the agreements above-described, the Claims and the entry of a judgment in the Case and wish to document this settlement by entering into this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. Stipulation for Judgment. WCC and the HDI Entities agree to enter into a stipulation for judgment (the "Stipulation for Judgment") providing, among other things, for judgment (the "Judgment") to be entered in WCC's favor in the Case against HDI Associates for: (a) the sum of \$6,682,257.46; (b) foreclosure of WCC liens on the Mortgage Property; (c) directing that the Mortgaged Property be sold by the United States Marshal for WCC's benefit; and (d) dismissing with prejudice the HDI Entities' Counterclaim against WCC. WCC covenants and agrees to use its best efforts to expedite the holding of the foreclosure sale as soon as practical after the Stipulation for Judgment is filed with the Court. The Stipulation for Judgment which WCC and the HDI Entities will enter into and the form of the Judgment to be entered pursuant to the Stipulation for Judgment are annexed

hereto respectively as Exhibits B and C, which, by this reference, are made a part hereof.

2. Release of WCC. In consideration of payment of the sum of \$39,000.00, the receipt and sufficiency of which from WCC is hereby acknowledged, each of the HDI Entities, the Consultant Entities, and any other entity in which Demos or Galloway may have an interest, severally and for themselves, their successors, assigns, heirs, administrators and executors, do hereby covenant not to bring suit regarding and do fully release and forever discharge WCC, its parent company, its directors, officers, employees, agents, counsel, insurers, indemnitors, affiliates, successors, assigns, and all persons acting for or on its behalf, from any and all claims, demands, damages, costs, attorneys' fees, expenses, compensation, actions or rights of action of whatever kind or nature which they now or in the future may have, known or unknown, foreseen or unforeseen, contingent or mature, which the HDI Entities, the Consultant Entities or any other entity in which Demos or Galloway may have an interest, or any of them, may now have or may in the future claim to have including, without limitation, those which arise out of or in any way are connected with, directly or indirectly:

- a. Matters and damages alleged or which could have been alleged by the HDI Entities in the Case;
- b. The Site and the Facility;
- c. The Consultant Claims;
- d. The Participation Agreement, Lease, Ground Lease, Mortgage, Tax Indemnification Agreement, Rent Reserve Agreement, HDI Pledge Agreement, Hydro Pledge Agreement, Revolving Note, Revolving Credit Agreement, Mortgage Modification and any other instruments, documents and agreements in any manner related to the Site or the Facility;

RECORDED
DEC 09 1991

e. WCC's performance under or alleged failure to perform any agreement which is in any manner related to the Site or the Facility; and

f. Negotiations, representations and/or alleged representations of WCC which is in any manner related to the Site or the Facility.

The HDI Entities and Consultant Entities hereby severally acknowledge that by virtue of this agreement, no rights, claims or causes of action will survive against WCC. The HDI Entities and Consultant Entities further severally covenant, in consideration of the mutual promises contained herein, that they have not assigned and will make no assignment of any putative right, claim or cause of action to any third party arising out of the circumstances referenced hereinabove and hereby acknowledge that WCC would suffer irreparable harm by virtue of any such assignment.

3. No Other Parties. Demos and Galloway expressly represent to WCC that, other than Hydro Consulting, Hydro Services and Hydro Capital, they do not have an interest in any entity which may have a claim against WCC which is in any manner related to the Site or the Facility.

4. Release of HDI Entities.

a. In consideration of the HDI Entities' Stipulation for Judgment in the Case, dismissal of their counterclaim with prejudice, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, WCC does hereby covenant not to bring further suit regarding and does hereby presently fully release and forever discharge the HDI Entities, their parent companies, their successors, assigns, heirs, administrators, executors, directors, officers, employees, agents, counsel, insurers, indemnitors and affiliates, and all persons acting for or on their behalf, from any and all claims, demands, damages, costs, attorneys' fees, expenses, compensation,

DEC 09 1991

actions or rights of action of whatever kind or nature which it now or in the future may have, known or unknown, foreseen or unforeseen, contingent or mature which in any manner arise out of, are connected with or related to, directly or indirectly:

(1) The deficiency which will be known after the Mortgaged Property is sold at the foreclosure sale under the terms of the Stipulation for Judgment between WCC and the HDI Entities; and

(2) Any amounts remaining due WCC or which WCC could allege to be due it after the Mortgaged Property is sold at the foreclosure sale which in any manner are related to:

(A) Matters and damages alleged of which could have been alleged by WCC in the Case;

(B) The Site and the Facility;

(C) The Consultant Claims;

(D) The Participation Agreement, Lease, Ground Lease, Mortgage, Tax Indemnification Agreement, Rent Reserve Agreement, HDI Pledge Agreement, Hydro Pledge Agreement, Revolving Note, Revolving Credit Agreement, Mortgage Modification and any other instruments, documents and agreements in any manner related to the Site or the Facility;

(E) The HDI Entities or the Consultant Entities' performance under or alleged failure to perform any agreement which is in any manner related to the Site or the Facility;

(F) Negotiations, representations and/or alleged representations of HDI Entities or the Consultant Entities; and

(G) The Default.

b. WCC also releases and does hereby terminate its security interest in the HDI-Idaho Collateral and the Hydro Collateral. WCC further releases and hereby terminates its security interest in any proceeds, if any, recovered by HDI Associates arising out of its litigation concerning an appeal of the 1988 and 1989 real property taxes (the "Real Property Tax

DEC 08 1991

Claims") on the Site in the Fourth Judicial District, Ada County, Idaho case and Idaho Supreme Court case number 19384. This release and termination of security interest in the proceeds, if any, of the Real Property Tax Claims is conditioned upon, and the HDI Entities and the Consultant Entities each agree: (i) WCC shall not be required to pay any additional amounts whatsoever as the result of the appeal and/or litigation of the Real Property Tax Claims; (ii) WCC shall not be required to provide any witnesses in the litigation of the Real Property Tax Claims; and (iii) the appeal and/or litigation shall not cause the real property tax liability on the Site or the Facility for 1988 and/or 1989 to be increased. The HDI Entities shall each indemnify and hold WCC harmless from and against any loss, damages, claim or expenses, including attorney's fees, resulting from HDI Associates litigation and/or appeal of the Real Property Tax Claims.

c. WCC also releases and does hereby terminate its security interest in the HDI Entities claim, if any, against Richard Stauffer in the approximate amount of \$20,000.00, plus interest, said claim allegedly arises out of payments made by the HDI Entities on a trailer used by Richard Stauffer.

d. WCC, in consideration of the mutual promises contained herein, covenants that it has not assigned any punitive right, claim or cause of action to any third party arising out of the circumstances referred to above, and hereby acknowledges that the HDI Entities would suffer irreparable harm by virtue of any such assignment. WCC expressly reserves the right to, subject to paragraph 16 below, assign its rights under the Judgment.

e. HDI Associates and Richard and Colleen Stauffer, Robert and Pennie Stauffer and D & D Stauffer (the "Stauffers") have entered into an agreement to settle all amounts due the Stauffers for payments and other amounts due the Stauffers through December 31, 1990 by the payment to the Stauffers of

\$7,500.00. In the event HDI Associates pays this amount to the Stauffers, WCC agrees, as consideration for this Agreement, to immediately reimburse HDI Associates for said payment. This reimbursement payment shall be made to the trust account of Paul E. Levy.

5. Release of Consultant Entities. In consideration of the Consultant Entities' release of the Consultant Claims, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, WCC does hereby fully release and forever discharge the Consultant Entities, their successors, assigns, heirs, administrators, executors, directors, officers, employees, agents, counsel, insurers, indemnitors and affiliates, and all persons acting for or on their behalf from any and all claims, demands, damages, costs, attorneys' fees, expenses, compensation, actions or rights of action of whatever kind or nature, known or unknown, foreseen or unforeseen, contingent or mature, which WCC may now have or may in the future claim to have of any kind or nature relating to the Site or the Facility or any instrument, document or agreement which is in any manner related to the Site or the Facility.

6. Termination of Agreements. WCC and the HDI Entities agree that all agreements between and among them relating to the Site and the Facility shall terminate as of 11:59 p.m. on the date that the foreclosure sale or other sale of the Mortgaged Property by the Marshal is held. Such agreements include, but are not limited to, the Participation Agreement, the Lease, the Ground Lease, the Mortgage, the Tax Indemnity Agreement, the Pledge and Security Agreement, the Hydro Guarantee, the Hydro Pledge, the Revolving Credit Agreement, the Revolving Note and the Mortgage Modification. It is the intent of the parties that the HDI Entities and the Consultant Entities shall have no further right, title or interest in or to the Site, the Facility, or any instrument, document, agreement, permit, license or

application which is in any manner related to the Site or the Facility and that WCC shall have no further claims under such agreements which it may enforce against the HDI Entities and the Consultant Entities from and after the date hereof except as provided in the Stipulation for Judgment and the Judgment.

WCC and the HDI Entities further agree that any funds and records held pursuant to the Rent Reserve Agreement shall be released by First Security Bank of Utah, a national association, to WCC in their entirety. The account established pursuant to the Rent Reserve Agreement shall be terminated at WCC's instruction after the foreclosure sale.

7. Execution of Further Documents. Each of the HDI Entities agree that they will execute such releases, assignments, quitclaim deeds and other documents in favor of WCC or its assignee, as may be reasonably requested by WCC or its assignee, regarding the Mortgaged Property. WCC shall use its best efforts to obtain, as part of any such additional assignment, a release of the HDI Entities from any further loss, cost, claim or liability under the assigned agreement. The HDI Entities will each also execute a power of attorney in favor of WCC. This power of attorney shall be effective and used by WCC only from and after the foreclosure sale. The form of the Power of Attorney is attached hereto as Exhibit D.

8. Compromise of Disputed Claims. It is understood and agreed that this Agreement is the compromise of doubtful and disputed claims and the fact that payment is made hereunder is not to be construed as an admission of liability on the part of any party and that all parties deny liability therefor and intend merely to avoid litigation and buy their peace by the execution hereof.

9. Covenant to Execute Documents. The HDI Entities and the Consultant Entities each covenant and agree to, upon WCC's request, execute any and all instruments and documents reasonably

DEC 09 1991

necessary to effect or accommodate this Agreement or to transfer any rights they may have in or to the Mortgaged Property, including, without limitation, the Site, the Facility and any permit, application, license, agreement, instrument or document related to the Site and/or the Facility. WCC covenants and agrees to, upon the request of the HDI Entities or the Consultant Entities, execute such additional instruments and documents as is reasonably necessary to effect or accommodate this Agreement.

10. Notice. Any notices or other communications authorized or required by this Agreement shall be sent in writing and sent postage prepaid by United States first class mail (a) if intended for WCC to:

Westinghouse Credit Corp.
ATTN: Robert Dannhauser
One Oxford Centre
Pittsburgh, PA 15219

With a copy to:

Larry E. Prince
Holland & Hart
P. O. Box 2527
Boise, ID 83701

and (b) if intended for the HDI Entities and/or the Consultant Entities:

HDI Associates
10394 West Chatfield Avenue, Suite 108
Littleton, CO 80127

With a copy to:

Paul E. Levy
877 Main Street, Suite 700
Boise, ID 83702

11. Authority.

(a) This Agreement has been executed by duly authorized officers of the HDI Entities and Consultant Entities. Each of

the HDI Entities and Consultant Entities represent and warrant to WCC that the execution and performance of this Agreement does not require the consent of any other person or entity, that the same does not violate any other contract, statute, regulation or other applicable law, and that, when so executed, this Agreement shall be and remain valid obligations of the parties which are specifically enforceable in accordance with their terms.

(b) This Agreement has been executed by duly a authorized officer of WCC. WCC represents and warrants to the HDI Entities and Consultant Entities that the execution and performance of this Agreement does not require the consent of any other person or entity, that the same does not violate any other contract, statute, regulation or other applicable law, and that, when so executed, this Agreement shall be and remain valid obligations of the parties which are specifically enforceable in accordance with their terms.

12. Voluntary Act of Parties. This Agreement is made and entered into as a free and voluntary act of the parties after consultation with their own legal counsel and in the exercise of their own judgment, belief and knowledge of the nature, extent and duration of the claims and damages hereby released, and is not made or entered into under the influence of or in reliance upon statements or representations of the parties, or any of them, or any attorney, representative, agent or other person acting for, through, or on behalf of any of the parties, other than as expressly set forth in this Agreement.

13. Assumption of Risk. The parties acknowledge that they have completely read this Agreement, have had their counsel explain this Agreement to them and that they fully understand and voluntarily accept the terms of this Agreement. The parties further acknowledge and agree that this Agreement is a general release of all claims as set forth herein, and that they expressly waive and assume the risk of any and all claims or

RECEIVED
DEC 09 1991

damages which exist as of this date between and among the parties, which they do not know of or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would have materially affected their decision to enter into this Agreement. The parties further agree that they have accepted the consideration specified herein as a complete and sufficient settlement of matters involving disputed issues of law and fact, and that they fully accept the risks that the facts or the law may be otherwise than they believe.

14. Indemnity. WCC agrees to indemnify, defend and hold the HDI Entities and the Consultant Entities harmless from and against obligations, if any, incurred solely at the direction of WCC in connection with the operation of the Facility or the Site.

15. Enforcement of Agreement. Notwithstanding the releases contained in paragraphs 2, 4 and 5, the terms and rights provided in this Agreement may be enforced by the parties hereto, even after the entry of the Judgment.

16. Governing Law. This Agreement shall in all respects be governed by, and construed in accordance with, the laws of the State of Idaho.

17. Captions. Any captions applied to the sections of this Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

18. Assignment. WCC may freely assign its rights under the Judgment without first obtaining the consent of any of the HDI Entities or the Consultant Entities, provided that the assignee of the Judgment shall execute a release and covenant not to sue upon the deficiency otherwise due under the Judgment in the form paragraphs 4 and 5 hereof and in the absence of such release and covenant, any such assignment shall be void and without effect.

19. Attorney's Fees. In the event a party to this Agreement takes action to enforce its rights hereunder, the prevailing

RECEIVED
DEC 09 1991

party shall be entitled to recover from the party or parties in default hereunder all damages, costs and expenses incurred by it in connection therewith, including, without limitation, attorney's fees.

20. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument; provided, however, that this Agreement shall not be effective as to any party until fully executed by all parties.

21. Entire Agreement. All prior understandings and agreements between the parties pertaining to the settlement are merged into this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

WCC:

WESTINGHOUSE CREDIT CORPORATION

By
Its

Donald Pater
Vice President

HDI ENTITIES:

HDI ASSOCIATES IV, LIMITED
PARTNERSHIP

By HDI-IDAHO, INC.,
General Partner

By
Its

Michael P. Pater
President

HDI-IDAHO, INC.

By
Its

Michael P. Pater
President

DEC 08 1991

HYDROELECTRIC DEVELOPMENT, INC.

By
Its

Michael P. Demos
President

CONSULTANT ENTITIES:

Michael P. Demos
MICHAEL DEMOS

Cynthia F.L. Demos
CYNTHIA F.L. DEMOS

Michael C. Galloway
MICHAEL GALLOWAY

Margaret M. Galloway
MARGARET M. GALLOWAY

HYDRO CONSULTING & MANAGEMENT
SERVICES CORPORATION

By
Its

Michael P. Demos
President

HYDRO CAPITAL SERVICES, INC.

By
Its

Michael P. Demos
President

HYDRO CAPITAL CORPORATION

By
Its

Michael P. Demos
President

MICROFILMED

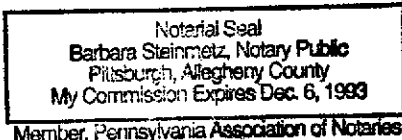
DEC 09 1991

STATE OF Pennsylvania)
: ss.
County of Allegheny)

On this 12th day of September, 1991, before me, the undersigned, notary public, personally appeared DONALD Paton, known or identified to me to be the Vice President of WESTINGHOUSE CREDIT CORPORATION, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Barbara Steinmetz
Notary Public for ~~Idaho~~ Pennsylvania
Residing at: Westinghouse Credit
My Commission Expires: 12/6/93



STATE OF COLORADO,)
: ss.
County of Jefferson)

On this 6th day of September, 1991, before me, the undersigned, notary public, personally appeared Michael P. Demos, known or identified to me to be the President of HDI-IDAHO, INC., which corporation is a general partner of HDI ASSOCIATES IV, LIMITED PARTNERSHIP, an Idaho limited partnership, and acknowledged to me he executed the foregoing instrument on behalf of HDI-Idaho, Inc., as a general partner of HDI Associates IV, Limited Partnership.

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

Dina May
Notary Public for Idaho
Residing at: Kerns National Bank
My Commission Expires: 8/13/95

DEC 09 1991

STATE OF COLORADO,)
: ss.
County of Jefferson)

On this 6th day of September, 1991, before me, the undersigned, notary public, personally appeared Michael P Demos, known or identified to me to be the President of HYDROELECTRIC DEVELOPMENT, INC.; the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same. ✓

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

Dana Moxg
Notary Public for Idaho Colorado
Residing at: Ken Caryl National Bank
My Commission Expires: 8/13/95

STATE OF COLORADO,)
: ss.
County of Jefferson)

On this 6th day of September, 1991, before me, the undersigned, notary public, personally appeared MICHAEL DEMOS and CYNTHIA F.L. DEMOS, husband and wife, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

Dana Moxg
Notary Public for Idaho
Residing at: Ken Caryl National Bank
My Commission Expires: 8/13/95

STATE OF INDIANA,)
County of Marion) : ss.

On this 9th day of September, 1991, before me, the undersigned, notary public, personally appeared MICHAEL GALLOWAY and MARGARET M. GALLOWAY, husband and wife, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

Debbie C. Cooney
Notary Public for ~~Idaho~~ Indiana D.C.
Residing at: 1008 National Bank
My Commission Expires: 2-12-94

STATE OF COLORADO,)
County of Jefferson) : ss.

On this 6th day of September, 1991, before me, the undersigned, notary public, personally appeared Michael P. Demos, known or identified to me to be the President of HYDRO CONSULTING & MANAGEMENT SERVICES CORPORATION, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Dreg Mogg
Notary Public for ~~Idaho~~ Colorado
Residing at: Ken Caryl National Bank
My Commission Expires: 8/13/95

STATE OF COLORADO,)
County of Jefferson) : ss.

On this 6th day of September, 1991, before me, the undersigned, notary public, personally appeared Michael P Demos, known or identified to me to be the President of HYDRO CAPITAL SERVICES, INC., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Drea Moxey
Notary Public for ~~Idaho~~ Colorado
Residing at: Ken Caryl National Bank
My Commission Expires: 8/13/95

STATE OF COLORADO,)
County of Jefferson) : ss.

On this 6th day of September, 1991, before me, the undersigned, notary public, personally appeared Michael P Demos, known or identified to me to be the President of HYDRO CAPITAL CORPORATION, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Drea Moxey
Notary Public for Idaho
Residing at: Ken Caryl National Bank
My Commission Expires: 8/13/95

14633

EXHIBIT A

MORTGAGED PROPERTY

UNRECORDED

DEC 09 1991

EXHIBIT A

All of HDI Associates IV, Limited Partnership, an Idaho limited partnership ("HDI Associates"), Hydroelectric Development, Inc., a Colorado corporation ("Hydroelectric Development"), and HDI-Idaho, Inc.'s ("HDI-Idaho") (HDI Associates, Hydroelectric Development and HDI-Idaho shall be collectively referred to as the "HDI Entities") right, title, estate and interest in and to the following described property (the "Mortgaged Property"):

1. That certain real property located in eastern Idaho along Dry Creek approximately fifty-five miles north of the town of Arco, and more particularly described in Schedule 1 attached hereto (the "Site"), which is the location of a four megawatt hydroelectric facility for the generation of electrical energy (the "Facility").

2. That certain Ground Lease, dated as of March 1, 1988 by and between HDI Associates and Westinghouse Credit Corporation, a Delaware corporation (the "Ground Lease").

3. All covenants, agreements, rights, appurtenances, tenements, hereditaments, privileges, franchises and appendages of or relating to the Site or the Facility and all right, title, estate and interest of the HDI Entities in and to the Easements (Easements shall mean the easement interests described in Schedule 1 hereto) and any streets, roads or public places, easements or rights of way relating to the Site or the Facility; and the diversion structure, the penstock and the transmission line associated with the Site and the Facility including, without limitation, the following:

(a) United States Department of the Interior Bureau of Land Management Right of Way permit Serial Number I-23042;

(b) State of Idaho Easement number 5300;

(c) State of Idaho Temporary Permit number 1917 and State of Idaho Easement number 5488;

(d) Grant of Easement from Hatch Livestock dated November 6, 1986, Assignment of Grant of Easement dated February 19, 1987, and Amendment to Grant of Easement dated May 6, 1987;

(e) Special Use Easement and Water Distribution and Containment Agreement from Alan J. Amy and Afton Louise Amy dated February 11, 1987;

DEC 09 1991

(f) Idaho Water Permit numbers 33-7089, 33-7154 and 33-7181;

(g) Grant of Easement by Robert Amy and Judy Amy dated February 13, 1987; and

(h) The Transfer Agreement and Water Service Contract with Dry Creek Development, Incorporated dated January 29, 1987.

4. All development rights, air rights, water, water rights, water right permit applications, water right permits, water right licenses, water stock, ditches or ditch rights and reservoirs or reservoir rights of the HDI Entities relating to the Site or the Facility, including, without limitation, Idaho Water Permit Nos. 33-7089, 33-7154 and 33-7181.

5. All structures, buildings, improvements, appurtenances and fixtures of any kind on the Site, including, without limitation the Facility (the "Improvements").

6. All leases, subleases and subtenancies, occupancy agreements and concessions (including the Ground Lease) affecting any of the Mortgaged Property, the Site or the Improvements (collectively, the "Project Leases"), and all future rents, royalties, income and profits arising from the Site, the Improvements or the Project Leases, including all production payments or other similar payments and all proceeds of the conversion, voluntary or involuntary, of the Mortgaged Property into cash or liquidated amounts or claims.

7. All present and future proceeds and claims arising on account of any damage to or taking of the Site or Improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Site or Improvements.

8. All present and future chattel paper of the HDI Entities relating to the Site or the Facility.

9. All present and future accounts of the HDI Entities and all goods repossessed or returned in connection therewith relating to the Site or the Facility.

10. All present and future goods, machinery, equipment, fittings and fixtures of the HDI Entities relating to the Site or the Facility 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 Site, Facility and the Improvements.

DEC 09 1991

11. All general intangibles of the HDI Entities relating to the Site or the Facility, including, without limitation, all rights, title and interest of the HDI Entities in, to or arising out of: (1) all contracts and agreements (excluding rights to sue, if any, the HDI Entities and Michael Demos, Cynthia F.L. Demos, Michael Galloway, Margaret M. Galloway, Hydro Consulting & Managing Services Corporation, Hydro Capital Services, Inc. and Hydro Capital Corporation (the "Consultant Entities")) with respect to the Facility, including, without limitation, the Power Purchase Agreement with Utah Power & Light Company dated May 2, 1986, and the Construction Contracts (the "Contracts"), (2) all patents, copyrights, and deposit accounts, (3) all consents, rights, exemptions, concessions, permits, licenses, authorizations, certificates, orders, franchises, determinations and approvals of any federal, municipal or governmental department, commission, board, bureau, agency or instrumentality with respect to or in connection with the Facility or the Site, including, without limitation, the water permits listed in paragraph 4 above, Federal Energy Regulatory Commission (FERC) Preliminary Permit No. 7623, and Final Permit No. 9134 (the "Governmental Authorizations"), and any other rights necessary to own, operate and use the Facility, now held or hereby acquired, (4) 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 with respect to the Facility (the "Warranty Agreements"), (5) 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; (6) all names under or by which the site or Improvements is operated or known, and all rights to carry on business under any such names or any variant thereof, excepting therefrom the names of the HDI Entities and the Consultant Entities, (7) copies of all books, records and other information in whatever form and however stored, relating to the ownership, use and operation of the Facility and the Site, excluding confidential attorney-client communications and proposals and agreements related to efforts by the HDI Entities or the Consultant Entities to arrange a purchase of the Mortgaged Property after or through the foreclosure sale, and (8) all goodwill in any way relating to the Site and Improvements.

12. All present and future documents and instruments of the HDI Entities relating to the Site or the Facility, including, without limitation, documents of title, all goods repossessed or returned in connection therewith and all other property receivable with respect to any of the foregoing.

09 1991

13. All inventory of the HDI Entities relating to the Site or the Facility, including, without limitation, all fuel supplies, raw materials, work in progress and finished goods.

14. All present and future other property of the HDI Entities relating to the Site or the Facility in the possession, custody or control of the HDI Entities.

15. All present and future receivables and proceeds of the property, if any, described in paragraphs 1 through 14 above. For purposes of this Exhibit, 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 returned premiums with respect to any insurance relating thereto.

14913

MICROFILMED
DEC 09 1991

TRACT I:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 31: NE $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT II:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 30: SE $\frac{1}{4}$ SW $\frac{1}{4}$; NE $\frac{1}{4}$ NE $\frac{1}{4}$; S $\frac{1}{4}$ NE $\frac{1}{4}$; W $\frac{1}{4}$ SE $\frac{1}{4}$

TRACT III:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 19: SE $\frac{1}{4}$ SE $\frac{1}{4}$

TRACT IV:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 20: SE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{4}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ NE $\frac{1}{4}$; N $\frac{1}{4}$ NE $\frac{1}{4}$

TRACT V:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 21: NW $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT VI:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 24: N $\frac{1}{4}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$ NE $\frac{1}{4}$; NE $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT VII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 16: NE $\frac{1}{4}$ SW $\frac{1}{4}$; S $\frac{1}{4}$ SW $\frac{1}{4}$; N $\frac{1}{4}$ SE $\frac{1}{4}$; SW $\frac{1}{4}$ SE $\frac{1}{4}$

TRACT VIII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 15: From a point of beginning on the West line of Section 15, Township 10 North, Range 25 E.B.M. that is 1884.84 feet N. 0°16'08" W. of the corner that is common to Sections 15, 16, 21 and 22, Township 10 North, Range 26 E.B.M., a line centered in a strip 40 feet wide, described as follows: S. 86°08'17" E. 1324.13 feet to a point on the East line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15, Township 10 North, Range 25 E.B.M., marked Station 433+83.50.

TRACT IX:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 15: NE $\frac{1}{4}$ SW $\frac{1}{4}$; N $\frac{1}{4}$ SE $\frac{1}{4}$

MICROFILMED
SCHEDULE
DEC 09 1991

TRACT X:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 14: From a point of beginning on the West line of Section 14, Township 10 North, Range 25 E.B.M., that is 4135.7 feet S. $0^{\circ}05'52''$ E. of the corner common to Sections 10, 11, 14, and 15, Township 10 North, Range 25 E.B.M., a line centered in a strip 40 feet wide, described as follows: S. $82^{\circ}58'04''$ E. 1110.16 feet to a point on the North line of the $SW\frac{1}{4}SW\frac{1}{4}$ Section 14, Township 10 North, Range 25 E.B.M., marked Station 382+93.66.

TRACT XI:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 14: $SW\frac{1}{4}SW\frac{1}{4}$; $SW\frac{1}{4}SE\frac{1}{4}$

TRACT XII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 13: $SW\frac{1}{4}SW\frac{1}{4}$

TRACT XIII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 13: From a point of beginning in the South line of Section 13, Township 10 North, Range 25 E.B.M. that is 2135.39 feet S. $89^{\circ}54'25''$ E. of the corner common to Sections 13, 14, 23, and 24, a line centered in a strip 40 feet wide, described as follows: N. $59^{\circ}36'12''$ W. a distance of 448.47 feet; thence N. $74^{\circ}45'02''$ W. a distance of 443.04 feet to a point on the West line of the $SE\frac{1}{4}SW\frac{1}{4}$ Section 13, Township 10 North, Range 25 E.B.M., marked Station 326+97.64.

TRACT XIV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 19: Lot 2 (sometimes referred to as the $SW\frac{1}{4}NW\frac{1}{4}$); $SE\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$; $SE\frac{1}{4}NW\frac{1}{4}$

TRACT XV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 29: $N\frac{1}{2}NW\frac{1}{4}$; $NW\frac{1}{4}NE\frac{1}{4}$; $S\frac{1}{2}NE\frac{1}{4}$

TRACT XVI:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 28: $SW\frac{1}{4}NW\frac{1}{4}$; $N\frac{1}{2}SE\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$

TRACT XVII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 27: $S\frac{1}{2}SE\frac{1}{4}$; $E\frac{1}{2}SW\frac{1}{4}$; $NW\frac{1}{4}SW\frac{1}{4}$

MICROFILMED

DEC 09 1991

TRACT XVIII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 35: NE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$

TRACT XIX:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: N $\frac{1}{2}$, EXCEPTING THEREFROM: Commencing at the SW corner of the NW $\frac{1}{4}$ of said Section 36, thence due N. 1,500 feet; thence due E. 240 feet; thence due S. 1,500 feet; thence due W. 240 feet to the point of beginning, ALSO EXCEPTING THEREFROM: Commencing at a point on the West line of said Section 36 that is 1500 feet N. of the SW corner of the NW $\frac{1}{4}$ of said Section 36, and running thence N. 100 feet; thence E. 240 feet; thence S. 100 feet; thence W. 240 feet to the point of beginning.

TRACT XX:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: A portion of the N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 36; described as: A strip of land 100.00 feet in width, being 50.00 feet on each side of the following described survey line: Commencing at the W $\frac{1}{2}$ corner of said Section 36, thence E. 50.00 feet to the REAL POINT OF BEGINNING, thence S. 600.00 feet; thence E. 450.00 feet; thence S. 80°30' E. 1,230.00 feet; thence S. 76°30' E. 3,615.00 feet to a point on the East Section line of said Section 36, said point being 985.00 feet N. of the SE corner of said Section 36, said point being the point of terminus of said survey line.

TRACT XXI:

Township 9 North, Range 27 E.B.M., Butte County, Idaho

Section 5: Lot 3 (sometimes referred to as NW $\frac{1}{4}$ NW $\frac{1}{4}$) and Lot 4 (sometimes referred to as NE $\frac{1}{4}$ NW $\frac{1}{4}$)

TRACT XXII:

Township 9 North, Range 27 E.B.M., Butte County, Idaho

Section 6: Lot 1 (sometimes referred to as NE $\frac{1}{4}$ NE $\frac{1}{4}$)

TRACT XXIII:

Township 10 North, Range 27 E.B.M., Butte County, Idaho

Section 31: S $\frac{1}{2}$ SE $\frac{1}{4}$; SE $\frac{1}{4}$ SW $\frac{1}{4}$; Lot 4 (sometimes referred to as SW $\frac{1}{4}$ SW $\frac{1}{4}$)

TRACT XXIV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 20: SW $\frac{1}{4}$ SW $\frac{1}{4}$

TRACT XXV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 26: S $\frac{1}{2}$ SW $\frac{1}{4}$

TRACT XXVI:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: Commencing at the SW corner of the NW $\frac{1}{4}$ of said Section 36, thence due N. 1,500 feet; thence due E. 240 feet; thence due S. 1,500 feet; thence due W. 240 feet to the point of beginning.

TRACT XXVII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: Commencing at a point on the West line of said Section 36 that is 1500 feet N. of the SW corner of the NW $\frac{1}{4}$ of said Section 36, and running thence N. 100 feet; thence E. 240 feet; thence S. 100 feet; thence W. 240 feet to the point of beginning.

TRACT I:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT II:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT III:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT IV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

DEC 09 1991

- TRACT V:** An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.
ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.
- TRACT VI:** An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.
ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.
- TRACT VII:** An easement interest created by State of Idaho Easement No. 5300 as granted to HDI, Associates IV, Limited Partnership, as to Tracts VII and IX, by Instrument recorded April 27, 1987, as Instrument No. 184399, records of Custer County, Idaho.
- TRACT VIII:** An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.
ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.
- TRACT IX:** An easement interest created by State of Idaho Easement No. 5300 as granted to HDI, Associates IV, Limited Partnership, as to Tracts VII and IX, by Instrument recorded April 27, 1987, as Instrument No. 184399, records of Custer County, Idaho.
- TRACT X:** An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.
ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

RECORDED
DEC 9 1991

TRACT XI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XIII:

An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

TRACT XIV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

MICROFILMED
DEC 09 1987

TRACT XVI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XVII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XVIII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XIX:

An easement interest created by Special Use Easement and Water Distribution and Containment Agreement upon the terms, conditions, and provisions contained therein:

Dated: February 11, 1987

Parties: Alan J. Amy and Afton Louise Amy, husband and wife, Grantors, and HDI Associates IV, Limited Partnership, an Idaho limited partnership, and its successors and assigns forever, Grantee

Recorded: April 27, 1987, as Instrument No. M-19501, records of Butte County, Idaho.

TRACT XX:

An interest created by State of Idaho Temporary Permit No. 1917 as granted to HDI, Associates IV, Limited Partnership, a limited partnership, by Instrument recorded April 27, 1987, as Instrument No. M-19499, records of Butte County, Idaho; and an easement interest created by Grant of Easement as granted to HDI Associates IV, Limited Partnership, for a perpetual and exclusive easement over, across, and under Tract XX, by Instrument recorded April 27, 1987, as Instrument No. M-19500, records of Butte County, Idaho.

DEC 09 1987

TRACT XXI: An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXII: An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXIII: An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXIV: An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

DEC 09 1987

TRACT XXV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXVI: HDI ASSOCIATES IV, Limited Partnership

TRACT XXVII: HDI ASSOCIATES IV, Limited Partnership

DEC 09 1981

Larry E. Prince
Debra K. Ellers
HOLLAND & HART
Suite 1400, West One Plaza
Post Office Box 2527
Boise, Idaho 83701
Telephone: (208) 342-5000

FILED
U.S. DISTRICT COURT
SEP 17 A 9 25
DISTRICT OF IDAHO
CAMERON S. BURKE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

WESTINGHOUSE CREDIT CORPORATION,
a Delaware corporation,

Plaintiff,

vs.

HDI ASSOCIATES IV LIMITED
PARTNERSHIP, an Idaho limited
partnership; HDI-IDAHO, INC., an
Idaho corporation; HYDROELECTRIC
DEVELOPMENT, INC., a Colorado
corporation; the UNITED STATES OF
AMERICA, acting through the FARMERS
HOME ADMINISTRATION, UNITED STATES
DEPARTMENT OF AGRICULTURE; DARYL L.
ANDREASON and BRENDA D. ANDREASON,
husband and wife; and ANY AND ALL
UNKNOWN HEIRS, OR UNKNOWN DEVISEES
OF ANY DECEASED PERSON CLAIMING ANY
INTEREST IN THE PROPERTY WHICH IS
THE SUBJECT OF THIS ACTION AND
REFERRED TO FOR CONVENIENCE AS
DOES I-X,

Defendants.

Case CIV 91-0060 E EJJ

STIPULATION FOR
JUDGMENT

COME NOW Plaintiff Westinghouse Credit Corporation ("WCC"),
by and through its counsel, Holland & Hart, and Defendants HDI

DEC 09 1991

Associates IV, Limited Partnership, ("HDI Associates"), HDI-Idaho, Inc. ("HDI-Idaho"), and Hydroelectric Development, Inc. ("Hydro"), by and through their counsel of record, Paul E. Levy, and hereby stipulate and agree as follows:

1. The total amount owed to Plaintiff WCC pursuant to the Facility and Site Lease Agreement between WCC and HDI Associates dated as of March 1, 1988 and the Revolving Note executed by HDI Associates in favor of WCC is the sum of \$6,640,136.36, as of September 10, 1991, plus attorneys' fees and costs of \$42,121.10, for a total of \$6,682,257.46. Judgment in said amount, \$6,682,257.46, shall be entered against Defendant HDI Associates IV Limited Partnership and interest on the judgment shall accrue at the statutory rate of 11.375% from the date judgment is entered.

2. Plaintiff WCC shall have judgment further as follows:

a. That the sum of \$6,682,257.46 be declared as a valid and enforceable lien on the property and rights described in Exhibit A (the "Mortgaged Property"), and that said lien be declared prior to the lien or liens or claim or claims of the Defendants in this action.

b. That all and singular of the Mortgaged Property be sold at public auction by the U. S. Marshal of the District of Idaho (the "Marshal"), in the manner prescribed by law and according to the rules and practices of this Court, and that the Marshal shall execute a deed to the purchaser of the Mortgaged

RECORDED
DEC 09 1991

Property at said sale, and that parties herein may become the purchaser at said sale.

c. That from the proceeds of said sale, the Marshal shall retain his fees, disbursements and commissions for the sale and shall then pay out the remaining proceeds as follows:

(1) First, to Plaintiff WCC the sum necessary to satisfy the judgment, or so much thereof as the proceeds will pay.

(2) Second, the surplus, if any, shall be paid by said Marshal to the Clerk of the Court, there to be held by the Clerk of the Court and subject to further order of the Court.

d. That Defendants HDI Associates, HDI-Idaho and Hydro, and any unknown heirs or devisees of the foregoing named parties who may be deceased, and the unknown owners, claimants and parties in interest claiming to all or any part of the Mortgaged Property, and each of them, and all persons claiming or to claim from and under them, or any of them, and all persons having liens subject to the mortgage and security interest of Plaintiff herein by judgment or decree or otherwise upon the Mortgaged Property, or any part or parcel thereof, and their heirs, personal representatives and all persons claiming to have acquired any estate or interest in or to the Mortgaged Property shall be forever barred and foreclosed of and from all right, title, claim and interest in and to the Mortgaged Property and in and to every part or parcel thereof, and that said persons, and

DEC 09 1991

each of them, be, and they hereby are, enjoined and restrained from removing or destroying any of the buildings, the improvements or appurtenances, or otherwise damaging the Mortgaged Property prior to said sale.

e. That pending the foreclosure sale by the Marshal, Plaintiff WCC shall be allowed to take possession of the Mortgaged Property and shall be authorized to operate the hydro electric facility located on the real property and easements described in Schedule 1 to Exhibit A annexed hereto.

3. Defendants HDI Associates, HDI-Idaho and Hydro hereby waive and relinquish any right they may have to redeem the Mortgaged Property after the foreclosure sale, including, without limitation, the statutory right of redemption set forth in Idaho Code § 11-401.

4. In the event the proceeds from the sale of the Mortgaged Property shall be insufficient to satisfy the amount due herein, together with the costs of sale and other proper charges, as shown by the Marshal's Return on Sale, then Plaintiff WCC, for itself, its parent corporation and its successors and assigns, does hereby waive any such deficiency and shall not be entitled to a deficiency judgment against Defendants HDI Associates, HDI-Idaho and Hydro for the amount of judgment entered herein remaining unsatisfied.

5. The purchaser of the Mortgaged Property at such sale shall be immediately let into possession thereof and that any of

RECORDED
DEC 09 1991

the parties to this action who may be in possession of the Mortgaged Property or any part thereof, or any person, who, since the commencement of this action, has come into possession of the Mortgaged Property, shall immediately deliver possession thereof to such purchaser.

6. The purchaser of the Mortgaged Property at such sale shall be immediately entitled to receive and collect all rents and profits accruing from the date it purchased the Mortgaged Property.

7. Defendants HDI Associates IV Limited Partnership, HDI-Idaho and Hydro agree to dismiss their Counterclaim against WCC with prejudice, and to bear their own costs and attorneys' fees. WCC agrees to dismiss with prejudice Counts Four (Foreclosure on HDI-Idaho and Hydro Collateral) and Five (Action on Guaranty) of its verified complaint.

8. Defendants HDI Associates IV Limited Partnership, HDI-Idaho and Hydro each agree to, upon Plaintiff WCC's request, execute any and all instruments and documents reasonably necessary to transfer any rights they may have in or to the Mortgaged Property or under any permit, application, license, agreement, instrument or document related to the Mortgaged Property as set forth in the Settlement and Mutual Release Agreement.

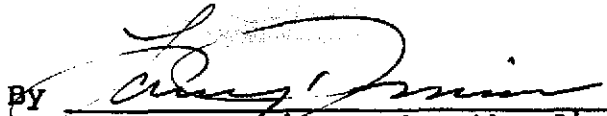
9. The parties agree that the Court shall retain jurisdiction of this action for the purpose of making such further orders

RECEIVED
DEC 09 1991

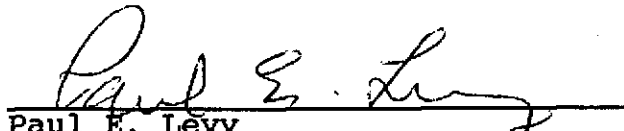
as may be necessary in order to carry this Stipulation for Judgment into effect, to enforce the terms and conditions of the Settlement and Mutual Release Agreement entered into by, among others, Plaintiff WCC and Defendants HDI Associates, HDI-Idaho and Hydro as of September 15th, ^{CBP fl} 1991, or for the purpose of making such further orders as may be necessary or desirable.

DATED this 16th day of September, 1991.

HOLLAND & HART

By 
Larry E. Prince, for the firm
Attorneys for Plaintiff

DATED this 16 day of September, 1991.


Paul E. Levy
Attorneys for Defendants HDI Associates
IV, Limited Partnership, HDI-Idaho, Inc.
and Hydroelectric Development, Inc.

14598

RECORDED
DEC 09 1991

EXHIBIT A

All of HDI Associates IV, Limited Partnership, an Idaho limited partnership ("HDI Associates"), Hydroelectric Development, Inc., a Colorado corporation ("Hydroelectric Development"), and HDI-Idaho, Inc.'s ("HDI-Idaho") (HDI Associates, Hydroelectric Development and HDI-Idaho shall be collectively referred to as the "HDI Entities") right, title, estate and interest in and to the following described property (the "Mortgaged Property"):

1. That certain real property located in eastern Idaho along Dry Creek approximately fifty-five miles north of the town of Arco, and more particularly described in Schedule 1 attached hereto (the "Site"), which is the location of a four megawatt hydroelectric facility for the generation of electrical energy (the "Facility").

2. That certain Ground Lease, dated as of March 1, 1988 by and between HDI Associates and Westinghouse Credit Corporation, a Delaware corporation (the "Ground Lease").

3. All covenants, agreements, rights, appurtenances, tenements, hereditaments, privileges, franchises and appendages of or relating to the Site or the Facility and all right, title, estate and interest of the HDI Entities in and to the Easements (Easements shall mean the easement interests described in Schedule 1 hereto) and any streets, roads or public places, easements or rights of way relating to the Site or the Facility; and the diversion structure, the penstock and the transmission line associated with the Site and the Facility including, without limitation, the following:

(a) United States Department of the Interior Bureau of Land Management Right of Way permit Serial Number I-23042;

(b) State of Idaho Easement number 5300;

(c) State of Idaho Temporary Permit number 1917 and State of Idaho Easement number 5488;

(d) Grant of Easement from Hatch Livestock dated November 6, 1986, Assignment of Grant of Easement dated February 19, 1987, and Amendment to Grant of Easement dated May 6, 1987;

(e) Special Use Easement and Water Distribution and Containment Agreement from Alan J. Amy and Afton Lepp Amy dated February 11, 1987;

RECEIVED
DEC 09 1991

(f) Idaho Water Permit numbers 33-7089, 33-7154 and 33-7181;

(g) Grant of Easement by Robert Amy and Judy Amy dated February 13, 1987; and

(h) The Transfer Agreement and Water Service Contract with Dry Creek Development, Incorporated dated January 29, 1987.

4. All development rights, air rights, water, water rights, water right permit applications, water right permits, water right licenses, water stock, ditches or ditch rights and reservoirs or reservoir rights of the HDI Entities relating to the Site or the Facility, including, without limitation, Idaho Water Permit Nos. 33-7089, 33-7154 and 33-7181.

5. All structures, buildings, improvements, appurtenances and fixtures of any kind on the Site, including, without limitation the Facility (the "Improvements").

6. All leases, subleases and subtenancies, occupancy agreements and concessions (including the Ground Lease) affecting any of the Mortgaged Property, the Site or the Improvements (collectively, the "Project Leases"), and all future rents, royalties, income and profits arising from the Site, the Improvements or the Project Leases, including all production payments or other similar payments and all proceeds of the conversion, voluntary or involuntary, of the Mortgaged Property into cash or liquidated amounts or claims.

7. All present and future proceeds and claims arising on account of any damage to or taking of the Site or Improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Site or Improvements.

8. All present and future chattel paper of the HDI Entities relating to the Site or the Facility.

9. All present and future accounts of the HDI Entities and all goods repossessed or returned in connection therewith relating to the Site or the Facility.

10. All present and future goods, machinery, equipment, fittings and fixtures of the HDI Entities relating to the Site or the Facility 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 Site, Facility and the Improvements.

94

11. All general intangibles of the HDI Entities relating to the Site or the Facility, including, without limitation, all rights, title and interest of the HDI Entities in, to or arising out of: (1) all contracts and agreements (excluding rights to sue, if any, the HDI Entities and Michael Demos, Cynthia F.L. Demos, Michael Galloway, Margaret M. Galloway, Hydro Consulting & Managing Services Corporation, Hydro Capital Services, Inc. and Hydro Capital Corporation (the "Consultant Entities")) with respect to the Facility, including, without limitation, the Power Purchase Agreement with Utah Power & Light Company dated May 2, 1986, and the Construction Contracts (the "Contracts"), (2) all patents, copyrights, and deposit accounts, (3) all consents, rights, exemptions, concessions, permits, licenses, authorizations, certificates, orders, franchises, determinations and approvals of any federal, municipal or governmental department, commission, board, bureau, agency or instrumentality with respect to or in connection with the Facility or the Site, including, without limitation, the water permits listed in paragraph 4 above, Federal Energy Regulatory Commission (FERC) Preliminary Permit No. 7623, and Final Permit No. 9134 (the "Governmental Authorizations"), and any other rights necessary to own, operate and use the Facility, now held or hereby acquired, (4) 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 with respect to the Facility (the "Warranty Agreements"), (5) 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; (6) all names under or by which the site or Improvements is operated or known, and all rights to carry on business under any such names or any variant thereof, excepting therefrom the names of the HDI Entities and the Consultant Entities, (7) copies of all books, records and other information in whatever form and however stored, relating to the ownership, use and operation of the Facility and the Site, excluding confidential attorney-client communications and proposals and agreements related to efforts by the HDI Entities or the Consultant Entities to arrange a purchase of the Mortgaged Property after or through the foreclosure sale, and (8) all goodwill in any way relating to the Site and Improvements.

12. All present and future documents and instruments of the HDI Entities relating to the Site or the Facility, including, without limitation, documents of title, all goods repossessed or returned in connection therewith and all other property receivable with respect to any of the foregoing.

RECEIVED
DEC 09 1991

13. All inventory of the HDI Entities relating to the Site or the Facility, including, without limitation, all fuel supplies, raw materials, work in progress and finished goods.

14. All present and future other property of the HDI Entities relating to the Site or the Facility in the possession, custody or control of the HDI Entities.

15. All present and future receivables and proceeds of the property, if any, described in paragraphs 1 through 14 above. For purposes of this Exhibit, 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 returned premiums with respect to any insurance relating thereto.

14913

MICROFILMED
DEC 09 1991

TRACT I:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 31: NE $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT II:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 30: SE $\frac{1}{4}$ SW $\frac{1}{4}$; NE $\frac{1}{4}$ NE $\frac{1}{4}$; S $\frac{1}{2}$ NE $\frac{1}{4}$; W $\frac{1}{2}$ SE $\frac{1}{4}$

TRACT III:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 19: SE $\frac{1}{4}$ SE $\frac{1}{4}$

TRACT IV:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 20: SE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ NE $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$

TRACT V:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 21: NW $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT VI:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 24: N $\frac{1}{2}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$ NE $\frac{1}{4}$; NE $\frac{1}{4}$ NW $\frac{1}{4}$

TRACT VII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 16: NE $\frac{1}{4}$ SW $\frac{1}{4}$; S $\frac{1}{2}$ SW $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$; SW $\frac{1}{4}$ SE $\frac{1}{4}$

TRACT VIII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 15: From a point of beginning on the West line of Section 15, Township 10 North, Range 25 E.B.M. that is 1884.84 feet N. 0°16'08" W. of the corner that is common to Sections 15, 16, 21 and 22, Township 10 North, Range 26 E.B.M., a line centered in a strip 40 feet wide, described as follows: S. 86°08'17" E. 1324.13 feet to a point on the East line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15, Township 10 North, Range 25 E.B.M., marked Station 433+83.50.

TRACT IX:

Township 10 North, Range 25 E.B.M., Custer County, Idaho
Section 15: NE $\frac{1}{4}$ SW $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$

SCHEDULED DEC 0-9 200

TRACT X:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 14: From a point of beginning on the West line of Section 14, Township 10 North, Range 25 E.B.M., that is 4135.7 feet S. $0^{\circ}05'52''$ E. of the corner common to Sections 10, 11, 14, and 15, Township 10 North, Range 25 E.B.M., a line centered in a strip 40 feet wide, described as follows: S. $82^{\circ}58'04''$ E. 1110.16 feet to a point on the North line of the $SW\frac{1}{4}SW\frac{1}{4}$ Section 14, Township 10 North, Range 25 E.B.M., marked Station 382+93.66.

TRACT XI:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 14: $S\frac{1}{2}SW\frac{1}{4}$; $S\frac{1}{2}SE\frac{1}{4}$

TRACT XII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 13: $SW\frac{1}{4}SW\frac{1}{4}$

TRACT XIII:

Township 10 North, Range 25 E.B.M., Custer County, Idaho

Section 13: From a point of beginning in the South line of Section 13, Township 10 North, Range 25 E.B.M. that is 2135.39 feet S. $89^{\circ}54'25''$ E. of the corner common to Sections 13, 14, 23, and 24, a line centered in a strip 40 feet wide, described as follows: N. $59^{\circ}36'12''$ W. a distance of 448.47 feet; thence N. $74^{\circ}45'02''$ W. a distance of 443.04 feet to a point on the West line of the $SE\frac{1}{4}SW\frac{1}{4}$ Section 13, Township 10 North, Range 25 E.B.M., marked Station 326+97.64.

TRACT XIV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 19: Lot 2 (sometimes referred to as the $SW\frac{1}{4}NW\frac{1}{4}$); $SE\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$; $SE\frac{1}{4}NW\frac{1}{4}$

TRACT XV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 29: $N\frac{1}{2}NW\frac{1}{4}$; $NW\frac{1}{4}NE\frac{1}{4}$; $S\frac{1}{2}NE\frac{1}{4}$

TRACT XVI:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 28: $S\frac{1}{2}NW\frac{1}{4}$; $N\frac{1}{2}SE\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$

TRACT XVII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 27: $S\frac{1}{2}SE\frac{1}{4}$; $E\frac{1}{2}SW\frac{1}{4}$; $NW\frac{1}{4}SW\frac{1}{4}$

MICROFILMED
DEC 09 1991

TRACT XVIII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 35: NE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$

TRACT XIX:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: N $\frac{1}{2}$, EXCEPTING THEREFROM: Commencing at the SW corner of the NW $\frac{1}{4}$ of said Section 36, thence due N. 1,500 feet; thence due E. 240 feet; thence due S. 1,500 feet; thence due W. 240 feet to the point of beginning, ALSO EXCEPTING THEREFROM: Commencing at a point on the West line of said Section 36 that is 1500 feet N. of the SW corner of the NW $\frac{1}{4}$ of said Section 36, and running thence N. 100 feet; thence E. 240 feet; thence S. 100 feet; thence W. 240 feet to the point of beginning.

TRACT XX:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: A portion of the N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 36, described as: A strip of land 100.00 feet in width, being 50.00 feet on each side of the following described survey line: Commencing at the W $\frac{1}{2}$ corner of said Section 36, thence E. 50.00 feet to the REAL POINT OF BEGINNING, thence S. 600.00 feet; thence E. 450.00 feet; thence S. 80°30' E. 1,230.00 feet; thence S. 76°30' E. 3,615.00 feet to a point on the East Section line of said Section 36, said point being 985.00 feet N. of the SE corner of said Section 36, said point being the point of terminus of said survey line.

TRACT XXI:

Township 9 North, Range 27 E.B.M., Butte County, Idaho

Section 5: Lot 3 (sometimes referred to as NW $\frac{1}{4}$ NW $\frac{1}{4}$) and Lot 4 (sometimes referred to as NE $\frac{1}{4}$ NW $\frac{1}{4}$)

TRACT XXII:

Township 9 North, Range 27 E.B.M., Butte County, Idaho

Section 6: Lot 1 (sometimes referred to as NE $\frac{1}{4}$ NE $\frac{1}{4}$)

TRACT XXIII:

Township 10 North, Range 27 E.B.M., Butte County, Idaho

Section 31: S $\frac{1}{2}$ SE $\frac{1}{4}$; SE $\frac{1}{4}$ SW $\frac{1}{4}$; Lot 4 (sometimes referred to as SW $\frac{1}{4}$ SW $\frac{1}{4}$)

TRACT XXIV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 20: SW $\frac{1}{4}$ SW $\frac{1}{4}$

TRACT XXV:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 26: S $\frac{1}{2}$ SW $\frac{1}{4}$

TRACT XXVI:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: Commencing at the SW corner of the NW $\frac{1}{4}$ of said Section 36, thence due N. 1,500 feet; thence due E. 240 feet; thence due S. 1,500 feet; thence due W. 240 feet to the point of beginning.

TRACT XXVII:

Township 10 North, Range 26 E.B.M., Butte County, Idaho

Section 36: Commencing at a point on the West line of said Section 36 that is 1500 feet N. of the SW corner of the NW $\frac{1}{4}$ of said Section 36, and running thence N. 100 feet; thence E. 240 feet; thence S. 100 feet; thence W. 240 feet to the point of beginning.

REPROFILMED
DEC 19 1989

TRACT I:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT II:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT III:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT IV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

DEC 09 1991

TRACT V:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT VI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT VII:

An easement interest created by State of Idaho Easement No. 5300 as granted to HDI, Associates IV, Limited Partnership, as to Tracts VII and IX, by Instrument recorded April 27, 1987, as Instrument No. 184399, records of Custer County, Idaho.

TRACT VIII:

An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

TRACT IX:

An easement interest created by State of Idaho Easement No. 5300 as granted to HDI, Associates IV, Limited Partnership, as to Tracts VII and IX, by Instrument recorded April 27, 1987, as Instrument No. 184399, records of Custer County, Idaho.

TRACT X:

An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

FILED
JUN 10 1989

TRACT XI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XIII:

An easement interest created by Grant of Easement as granted to Hydroelectric Development, Inc., a Colorado corporation, and its successors and assigns, for a perpetual and exclusive easement over, across, and under Tracts X, VIII, and XIII, having a width of forty (40) feet, by Instrument recorded April 27, 1987, as Instrument No. 184400, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, an Idaho limited partnership, by Assignment of Grant of Easement recorded April 27, 1987, as Instrument No. 184401, records of Custer County, Idaho.

TRACT XIV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

FILED
DEC 09 1991

TRACT XVI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XVII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XVIII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XIX:

An easement interest created by Special Use Easement and Water Distribution and Containment Agreement upon the terms, conditions, and provisions contained therein:

Dated: February 11, 1987

Parties: Alan J. Amy and Afton Louise Amy, husband and wife, Grantors, and HDI Associates IV, Limited Partnership, an Idaho limited partnership, and its successors and assigns forever, Grantee

Recorded: April 27, 1987, as Instrument No. M-19501, records of Butte County, Idaho.

TRACT XX:

An interest created by State of Idaho Temporary Permit No. 1917 as granted to HDI, Associates IV, Limited Partnership, a limited partnership, by Instrument recorded April 27, 1987, as Instrument No. M-19499, records of Butte County, Idaho; and an easement interest created by Grant of Easement as granted to HDI Associates IV, Limited Partnership, for a perpetual and exclusive easement over, across, and under Tract XX, by Instrument recorded April 27, 1987, as Instrument No. M-19500, records of Butte County,

RECORDED
JUL 10 1991

TRACT XXI:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXIII:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXIV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

FILED
DEC 09 1991

TRACT XXV:

An easement interest created by United States Department of the Interior Bureau of Land Management Right-Of-Way Grant as granted to Hydroelectric Development, Inc., to construct, operate, maintain and terminate a hydroelectric diversion, pipeline and 25 KV powerline on public lands by Instrument recorded April 27, 1987, as Instrument No. M-19498, records of Butte County, Idaho, and recorded April 27, 1987, as Instrument No. 184396, records of Custer County, Idaho.

ASSIGNED TO HDI Associates IV, Limited Partnership, by Assignment of Right-Of-Way Grant recorded June 26, 1987, as Instrument No. M-19788, records of Butte County, Idaho; and recorded April 27, 1987, as Instrument No. 184397, records of Custer County, Idaho.

TRACT XXVI:

HDI ASSOCIATES IV, Limited Partnership

TRACT XXVII:

HDI ASSOCIATES IV, Limited Partnership

MICROFILMED

DEC 09 1991

HYDROELECTRIC DEVELOPMENT INC.

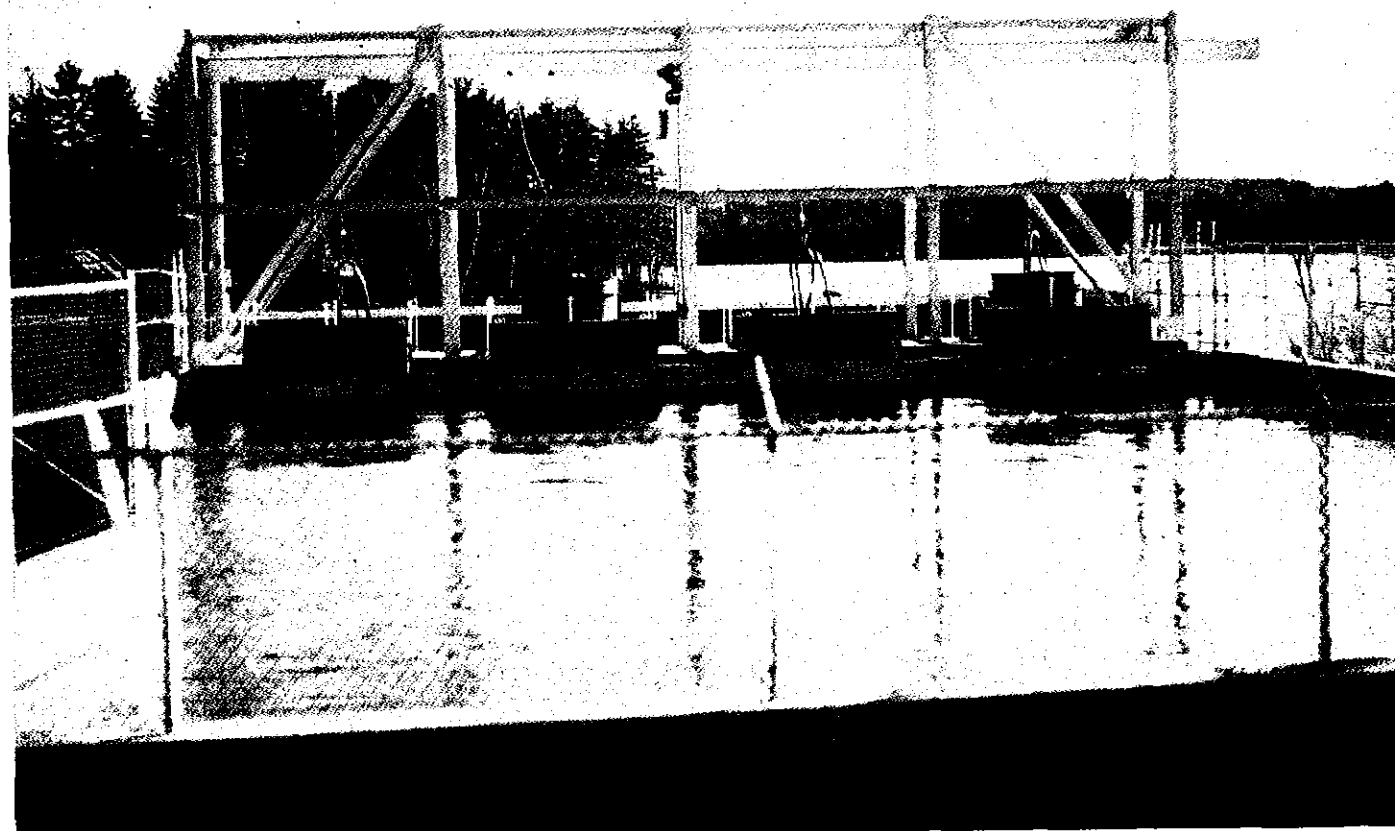


STATEMENT OF QUALIFICATIONS

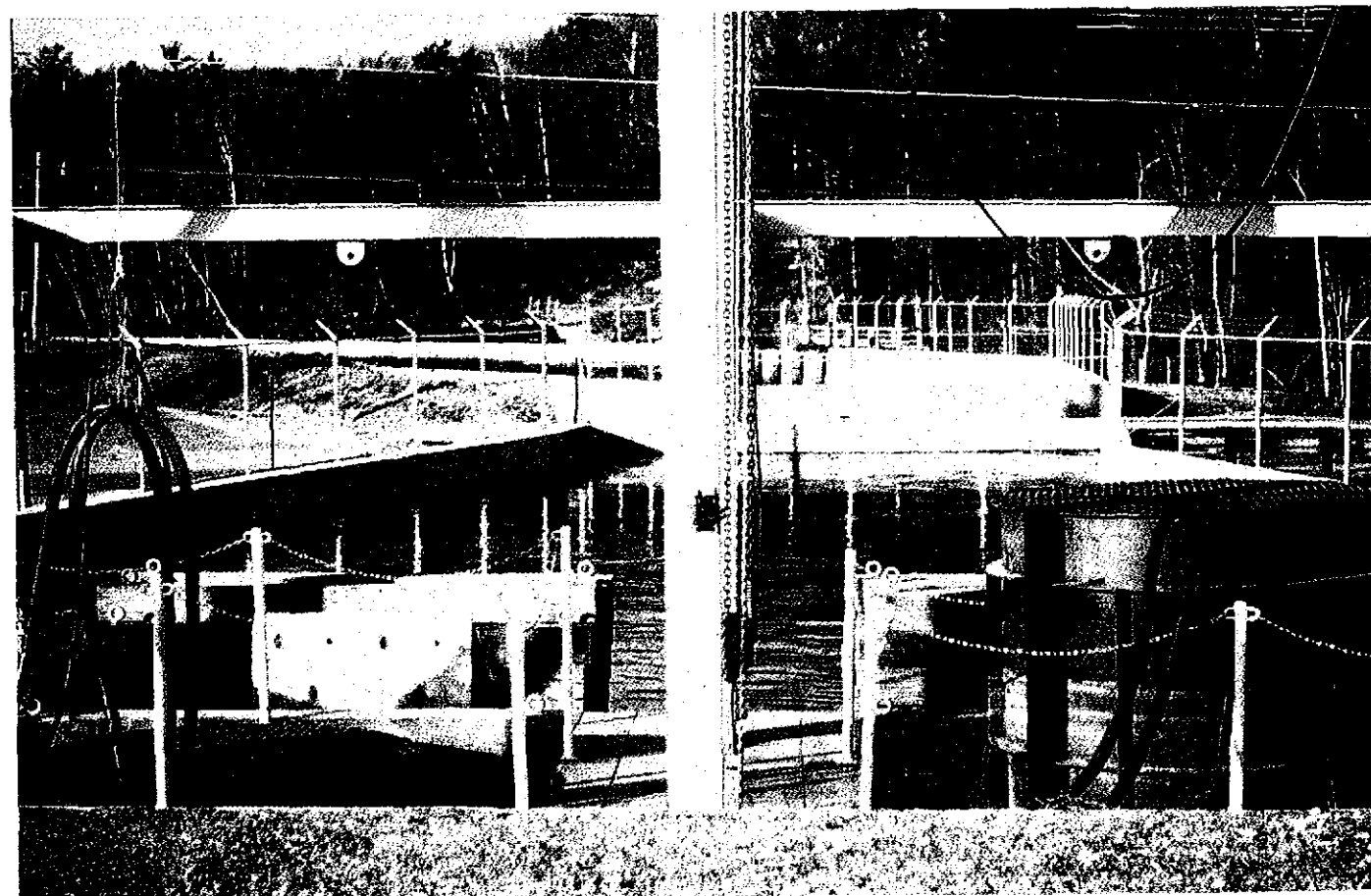
1986

APPROVED

[Signature]



Lochmere Forebay



Lochmere Powerhouse and Cylinder Gates

Front Cover: 1 MW Lochmere Project - Tilton, N.H.

BACKGROUND OF HYDROELECTRIC DEVELOPMENT, INC. ("HDI")

HDI was incorporated in Colorado in April, 1981. The corporation was initially capitalized with \$400,000 and had eleven shareholders. The initial Board of Directors consisted of Michael Demos, who also serves as President, John Gray, and Robert Kane. John Gray, who until recently served as Chairman of the Board of Omark Industries in Portland, Oregon, is the majority shareholder of HDI. The Board of Directors has increased to five since HDI's original election of Directors. The additional Board members are Mark Parsinen and David M. Kirr.

Don Pope was hired as Corporate Counsel for HDI in November 1981. Last year his title changed to include Vice President, Secretary and General Counsel. Rick Peterson was hired as Controller for the corporation in the fall of 1984 and is responsible for project financial analysis, financial statements and preparing the corporate tax returns.

DESCRIPTION OF HYDROELECTRIC DEVELOPMENT, INC.'S PRINCIPALS

Major principals of the firm include:

Michael P. Demos President
Hydroelectric Development, Inc.
10394 W. Chatfield Avenue
Suite 108
Littleton, Colorado 80127
(303)973-0951

John D. Gray Director
Hydroelectric Development, Inc.
Chairman of the Board of Omark
Industries, Inc., 1961 - 1983.
Chairman of the Alternate Energy
Commission of the State of
Oregon, formed in 1980.

Robert J. Kane Director
Hydroelectric Development, Inc.
Senior Vice President, Finance &
Administration of Omark
Industries, 1973 - 1986.

David Kirr

Board of Directors

Hydroelectric Development, Inc.
President, Kirr-Marbach,
Columbus, Indiana.

The above-named principals with the exception of Mr. Demos are not actively involved with the day-to-day management of the company, but are involved as members of the Board of Directors and as investors of HDI. HDI currently employs a staff of three people in its Denver office (a description of key employees' backgrounds follows).

HDI has relied upon what it believes to be first-rate consulting resources for the development of its first three sites. HDI has engaged the services of the accounting firm of Arthur Andersen & Co., Denver, Colorado, for tax advice; the law firm of Luce, Forward, Hamilton & Scripps, San Diego, California for utility contract advice. Engineering and design for HDI's first projects was purchased from the firms of CH2M Hill, an international engineering firm, Rivers Engineering Corporation and Dufresne and Henry, Inc.

HDI's expertise is concentrated in the financing and

regulatory aspects of hydroelectric development. A brief description of the company's management, key personnel and historical involvement with small scale hydroelectric projects follows:

MICHAEL P. DEMOS, President, is 37 years old and is one of the original shareholders in HDI. Mr. Demos has extensive background in finance, taxation, accounting and business development and management. His background includes the following:

- 1971 B.S., Finance, Indiana University
- 1975 M.B.A., Stanford University
- 1977 C.P.A., Colorado
- Fifteen years experience in finance

Business Manager and Financial Analyst for Irwin Miller Family (Chairman, majority stockholder, Cummins Engine Company, Columbus, Indiana) - responsible for cash management and debt (cash assets totaled \$15 million); Management Analyst, Stanford University - devised and implemented

management information system for performance evaluation and control of \$53 million in trust assets managed by others; Staff Accountant, Arthur Andersen & Co., (Audit Division), Denver, Colorado; Senior Financial Analyst, United Bank of Denver - responsible for structuring and evaluating and making loan recommendations; Senior Financial Planner, Asset Management Group, Denver, Colorado - utilized broad finance, accounting and tax background to counsel executives of major corporations in investments, tax and estate planning.

- Five years experience in hydroelectric development. Has given seminars on organization of capital for small scale hydroelectric projects recognizing effect on tax considerations, regulatory constraints, and project scale; Hands-on experience involved with every aspect of organization, development and construction, including negotiating utility contracts and financing arrangements of the company's projects.

DONNIE R. POPE, Corporate Counsel is 32 years old. Mr. Pope has extensive background in small scale hydroelectric development, with a specialization in legal and regulatory aspects. His background includes the following:

- 1975 B.A., Government, Campbell University
- 1977 M.A., American Politics, Statistical Polling,
American University
- 1980 J.D., Franklin Pierce Law Center
- Six years experience in the public sector

Legislative Assistant to U.S. Senator Robert Morgan - responsible for helping develop policy on Public Works Committee legislation, National Energy Act, Clean Air Act Amendments; Hydroelectric Program Manager, New Hampshire Governor's Council on Energy - assisted in preparation of hydroelectric financing legislation (see below).

- Seven years experience in legal issues of small scale hydro. Senior Student Research Assistant, Energy Law Institute, Concord, New Hampshire; principal author of "Legal and Institutional Obstacles and Incentives to the Development of Small Scale Hydroelectric Development in Georgia, A Case Study Analysis of Hydroelectric Development in High Falls State Park" and "Legal and Institutional Obstacles and Incentives to the Development of Hydroelectric Power in North

Carolina and Virginia; "Hydroelectric Program Manager, New Hampshire Governor's Council on Energy - responsible for implementation of the State's leasing of dams and bid evaluation; legal, liaison and technical assistance to private and municipal developers for the State; Corporate Counsel, HDI - responsible for contracts, legal and regulatory liaison with outside counsel and regulatory agencies; major contributor in drafting and negotiating one of the first "negotiated" contracts with Southern California Edison Company on HDI's first project.

CHARLES (RICK) PETERSON, CPA/Controller, is 31 years old and has seven years of extensive experience in the tax planning and auditing fields. His background includes the following:

- 1978 B.S.B.A., University of Florida
- 1980, Member of American Institute of CPA's
- 1980, Member of Colorado Society of CPA's

PROJECTS DEVELOPED BY HDI

COTTONWOOD CANYON RANCH

HDI's first project was a 948 kw hydroelectric project located near Bishop, California. HDI successfully managed to bring about the development of the project in spite of the backdrop of high interest rates and declining oil prices. In the process of the development of the project, HDI was the first to sign a "levelized" or "floor rate" contract for a hydroelectric project with Southern California Edison Company. This "levelized" contract has since become the standard of the industry for utility contracts.

The project became fully operational in September, 1984, and has operated approximately 10% in excess of its original estimates of efficiency and kwh output. HDI retains a 14% partnership interest in the project.

HDI ASSOCIATES I

In 1984, HDI successfully developed two New Hampshire projects owned in partnership (HDI Associates I) by HDI-New Hampshire, a wholly owned subsidiary of HDI and HDI Funding,

a sub S corporation comprised of outside investors. The construction loan and long-term debt financing in the amount of \$2,200,000 were provided by BayBank, Boston.

LOCHMERE DAM HYDROELECTRIC PROJECT

In July of 1983, HDI signed agreements with the Town of Belmont, New Hampshire and a private individual to acquire the development rights to the Lochmere Dam. HDI subsequently executed a long-term power purchase contract with Public Service Company of New Hampshire at a rate of \$.09/kwh. HDI managed all phases of the project from its inception to on-line status and protecting investors' interests through the 1985 drought, the "shakedown" of equipment and a lawsuit involving the general contractor. The project in early 1986 has been achieving approximately 10% greater power production than originally projected as a function of being able to pass more water through the turbines, adjusted for site conditions. With the decline in interest rates and the realization of "normal" precipitation in the coming years, the partnerships net cash flow should exceed the original projections significantly.

HOPKINTON

HDI entered into a Lease Agreement with the Town of Hopkinton, New Hampshire in June, 1983 for the development of the Hopkinton Dam for hydroelectric purposes. The project has a rated capacity of 250 kw and involved the purchase and installation of Leroy-Somer (France) equipment, construction of a small powerhouse and repair of the existing Hopkinton Dam.

While the overall construction of the project went smoothly and the equipment is operating, we are continuing to experience a lower than guaranteed output from the project based upon equipment efficiencies and intake design flows. We still hold the equipment performance bond for the equipment and have been assured by the equipment manufacturer that the equipment will be modified so as to perform in excess of the guaranteed efficiency.

Recent communications from the manufacturer indicate that plans are to effect changes in the equipment next summer which is later than originally anticipated. Therefore, we are presently evaluating our options including the possibility of calling the bond and replacing the substandard

performing equipment with the proceeds of the bond. A status report of the Leroy-Somer equipment will be provided in our 1986 First Quarter Report and in our update of HDI Associates I investors.

PROJECTS UNDER DEVELOPMENT

HDI has a number of projects either under contract or for which offers to acquire the development rights are presently outstanding. Below is a discussion of the individual projects and their present status in the order of their completeness.

HDI ASSOCIATES II - HYDROELECTRIC DEVELOPMENT, INC. - NEW YORK

TALCVILLE HYDROELECTRIC PROJECT

HDI has executed a Purchase and Sale Agreement for the development of the Talcville Hydroelectric Project. The Talcville project is located in the Town of Edwards, in upstate New York. The project will have a rated capacity of approximately 1 MW and is expected to generate a minimum of 5,120,000 kwh annually. This project is presently under development by HDI, with an equipment contract in place and a turnkey construction contract for the completion of the facility. HDI raised \$400,000 in interim equity capital to insure project completion and has received a bank commitment from Rhode Island Hospital Trust National Bank of Providence, Rhode Island for \$1,800,000 for the project debt. HDI has

prepared a private placement memorandum document for the long-term project equity in early 1986 which will take out the short-term interim equity and fund the balance of project costs. The investment summary and cash flow pro formas are presently available for the long-term equity portion.

HDI plans to start construction of the Talcville Project in the late spring of 1986, with a completion date of September, 1986.

HDI negotiated the Purchase and Sale Agreement, equipment contract, turnkey construction contract, property tax agreement and the loan commitment from Rhode Island Hospital Trust National Bank.

HDI ASSOCIATES III

UPPER AND LOWER ROBERTSON DAMS

HDI was successful in negotiating for the purchase of two Paper Service Mills, Inc. dams located in Winchester, New Hampshire in 1984. The Upper Robertson Dam is a breached dam which we have determined is marginal at this time. We are looking at alternative equipment for this site which may

bring the project cost down and make the project viable or we may sell it to one of several identified equipment manufacturers.

The Lower Robertson Dam is scheduled for construction in 1986 and is to be financed jointly with the Ashuelot Paper Company Dam mentioned below. The project will involve some dam reconstruction and the construction of a powerhouse and tailrace. The rated capacity of the project is expected to be 840 kw with an average annual output of 3,200,000 kwh. We have executed a power purchase contract requiring Public Service Company of New Hampshire to purchase all of the output from the facility at a price of approximately \$.1431/kwh.

HDI established HDI-Hinsdale, Inc., a New Hampshire sub S corporation, as the corporate development entity to provide the development capital for identifying New Hampshire projects. As a result of HDI's efforts, the Upper and Lower Robertson Dams have been pursued as valid projects. HDI entered into a Shareholder/Management Agreement. All of the elements necessary for the development of the projects are complete or manageable to this point. Obtaining a satisfactory debt commitment appears to be the only remaining

constraint for the development of these projects. The issuance of the exemption is expected in February or early March 1986.

ASHUELOT PAPER COMPANY DAM - ASHUELOT RIVER PARTNERS

In January 1986, HDI entered into a joint venture with the Sherman Clay Group, owners of the Ashuelot Paper Company Dam, located in Winchester, New Hampshire through a development entity called Ashuelot River partners. HDI entered into a Consultant Services Agreement with Ashuelot River Partners to coordinate the development stage of the project. Once the project is financed the individual investors in Ashuelot River Partners will be bought out and HDI will own all of the development rights to the project. HDI also negotiated a long-term lease for the dam and all project lands necessary to build, own and operate the facility.

Debt and equity financing will be undertaken in 1986 in conjunction with the development and financing of the Lower Robertson Dam mentioned above.

The Ashuelot Paper Company Dam will have a rated

capacity of approximately 870 kw and generate 3,300,000 kwh per year. HDI has a signed power purchase agreement for the project with Public Service Company of New Hampshire at a thirty (30) year fixed rate of \$.1431/kwh.

HDI expects to commence construction of this project in the spring of 1986 with a November 20, 1986 on-line date.

HDI ASSOCIATES IV - HDI-IDAHO, INC.

On December 23, 1985, HDI entered into an agreement with two private individuals residing in Idaho for the development of the Dry Creek Hydroelectric Project located near Howe, Idaho. Pursuant to the agreement, HDI has acquired all development rights in the Dry Creek project. The Federal Energy Regulatory Commission ("FERC") Exemption from licensing was noticed by the FERC on December 12, 1985 and is expected to be issued in January 1986.

The project is located at an irrigation canal and will divert water through a 40" diameter penstock to the powerhouse. The project is expected to have an installed capacity of approximately 4 MW and generate in excess of 16,000,000 kwh per year. A signed power purchase contract is

to be assigned to HDI. The project is estimated to cost approximately \$6,000,000 to construct. HDI may have a private placement offering available in May of 1986 for equity investors in this project.

VERMONT

BALL MOUNTAIN DAM HYDROELECTRIC PROJECT

In March, 1984, HDI entered into a Consultant Services Agreement with five Vermont Towns for the development of the Ball Mountain Dam Project. Under our Agreement, HDI is to undertake all necessary activities to allow the Town to build, own and operate a hydroelectric project at Ball Mountain. HDI's consideration for providing these services is \$1.2 million.

To date, HDI has hired engineering services to prepare and file a FERC license application and undertake project design and equipment selection. There is a competing license application filed for the development of the project; however, since the license application filed on behalf of the Towns has been accepted by the FERC and the Towns qualify for a municipal preference in the licensing process, we expect

the Towns to receive a license in early 1986. Once the license is issued, the remaining requirements for HDI to complete under our Agreement include: final engineering and design; equipment ordering; and, arranging for the revenue bonds to be sold for the project. If all goes according to our present schedule, HDI should receive 90% of our contract fee in late 1986 or early 1987 (10% is held as retainage until the project is certified as complete).

COLORADO PROJECTS

One significant area of concern for all of HDI's Colorado projects is the present unwillingness of Colorado utilities to enter into a viable long-term power purchase contract and the Colorado Public Utilities Commission's hesitance to order the utilities to enter into such contracts. While standard offer contracts have been made available, HDI has found them unacceptable to date as feasible contracts to finance the projects identified in Colorado. We plan to expend greater efforts in 1986 to awaken the Colorado Public Utilities Commission as to the present shortcomings in their analysis, proceedings and orders concerning standard offers.

SAN MIGUEL HYDROELECTRIC PROJECT

HDI is pursuing a hydroelectric project as consultant to the Town of Telluride for the development of the San Miguel Hydroelectric Project. Our consultant fee under the Agreement calls for HDI to be paid a lump sum fee out of the revenue bond financing for the project. This approach was chosen over private financing due to the FERC's "hybrid" decisions. The FERC limits development to municipal financing where involved are municipal applicants which seek to use the municipal preference in order to gain a priority in the licensing process.

The San Miguel Project is a 4 MW project with a projected cost of \$5,000,000. If the FERC license application is reinstated and issued in 1986 as is currently expected, the project should be on-line in late 1987 to early 1988, with HDI receiving its consultant fee at project financing in late 1986.

GRANBY DAM HYDROELECTRIC PROJECT

HDI entered into a Consultant Agreement in 1982 with the Town of Granby, Colorado. The original Consultant Agreement

expired, however, HDI has a new proposed Agreement before the Town and based upon the latest meeting with the Town Council, it is expected that HDI will enter into a new Consultant Agreement with the Town in early 1986. Our best guess is that a FERC license will be issued for the project late summer to early fall 1986.

GEOGRAPHIC DIVERSIFICATION OF HDI PROJECTS

As is obvious from the above description of projects, HDI has attempted to diversify geographically. The corporate purpose in doing so is twofold. First, by having projects in various geographic regions, HDI is able to minimize the overall corporate exposure to the drought risk. For example, 1985 was a severe drought year in New England while during the same time period California and New York had an average precipitation year and Colorado experienced above average precipitation.

The second reason geographic diversification decreases risk to HDI is the lack of dependency on one utility's financial strength for our financing purposes. Diversification into several utility franchise areas reduces the risk that in the event one utility were to experience severe financial difficulties and a short-term loss of revenues to HDI from any particular project, HDI's overall cash flow situation should never become critical as a result of such utility crisis.

HDI is continuously looking at viable projects wherever located, however, it is a corporate objective to insure

geographic diversification to protect HDI and its investors.

REFERENCES

PROJECT DEBT

Jacque Fiechter
BayBank of Boston, N.A.
175 Federal Street
Boston, Massachusetts 02110
(617)482-1040

Phil Schlernitzauer
Rhode Island Hospital Trust National Bank
One Hospital Trust Plaza
Providence, Rhode Island 02903-2449
(401)278-8000

ENGINEERING

James Earles
CH2M Hill
Sacramento Regional Office
555 Capitol Mall
Sacramento, California 95814
(916)441-3955

James Katsekas
Rivers Engineering Corporation
217 Rockingham Road
Route 28
Londonderry, New Hampshire 03053
(603)432-3284

Morris Root
Dufresne & Henry, Inc.
Precision Park
North Springfield, Vermont 05150
(802)886-2261

LEGAL

James Hood, Esquire
McLane, Graf, Raulerson & Middleton
40 Start Street
Manchester, New Hampshire 03105
(603)625-6464

Larry Slason, Esquire
Salmon & Nostrand

Centinell Arcade
Suite 300
Bellows Falls, Vermont 05101
(802)463-4507

Gary Wood, Esquire
155 Central Street
Woodsville, New Hampshire 03785
(603)747-3093

Charlie Micoleau, Esquire
Curtis, Thaxter, Lipex, Stevens, Broder & Micoleau
One Canal Plaza
Portland, Maine 04112
(207)775-2361

LEGAL FOR PRIVATE PLACEMENT

Bernie Altoff, Esquire
Satterlee & Stephens
277 Park Avenue
New York, New York 10172
(212)826-6200

David Culpepper, Esquire
Miller, Nash, Wiener, Hager & Carlsen
111 S.W. Fifth Avenue
Portland, Oregon 97204
(503)224-5858

FINANCIAL ADVISOR

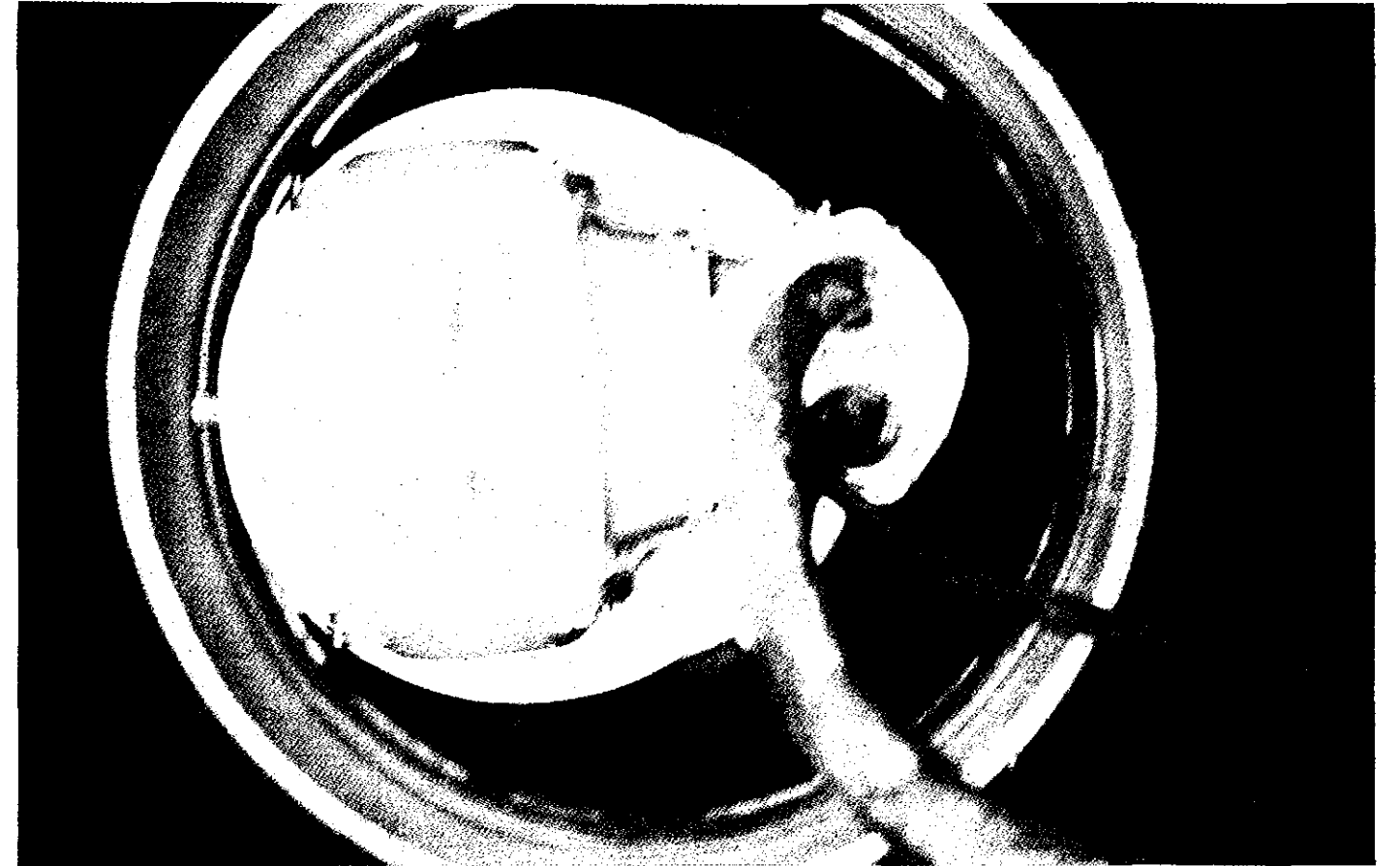
Michael Galloway
Meridian Wealth Management
292 N. Meridian Street
Suite 111
Indianapolis, Indiana 46260
(212)826-6200

MUNICIPAL

Dave Caron
Town of Belmont
P. O. Box 67
Belmont, New Hampshire 03220
(603)267-8145

Vern Knowlton, Chief Engineer
New Hampshire Water Resources Board
37 Pleasant Street
Concord, New Hampshire 03301
(603)271-3406

Jack Prewitt
Hopkinton Town Hall
Hopkinton, New Hampshire 03301
(603)746-3170



Lochmere — Flygt Turbine/Generator



256 KW Hopkinton, N.H. Hydroelectric Project

Hopkinton Dam and Powerhouse



Hopkinton Tailrace