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Department of Water Resources
Southern Region

November 15, 2004

Allen Merritt
Dept. of Water Resources
1341 Fillmore Street Suite 200
Twin Falls, Idaho 83301-3380

Dear Allen,

Thank you for spending the time with us this morning. There are a number of items that need to be considered when determining what volume of water has been proved up on in the filing by Mr. Fultz. It was our understanding that since Mr. Fultz had not used the water described in the water permit report no. 47-7739 that it was subject to loss. We are satisfied that he may have some rights but that it still needs to be determined what volume of water he has a right to. Further it needs to be determined which months of the year does he have a right to the water volume approved of in the final license. We have some questions which will help with determining his rights for which he is fully entitled. Most of these obviously will be determined during your field study but some may add to clarify or provide evidence as to what did or did not take place some 18 years ago.

1. Obviously Mr. Fultz must prove that equipment was actually purchased and installed for power generation he should be able to prove what size of turbine and generator was installed. What inlet and outlet size was on the turbine? What is the make and manufacturer of the turbine? What was the output of the generator? Was it a single phase or three phase generator?

2. What was the use of the power generated? Did it supply heaters during the winter only? Is there an electrical inspector report indicating the installation and specifications on the installation? Is there an Idaho Power interconnection or was this a stand alone project? If it was stand alone, how was the voltage regulated?

3. During what periods was the water put to beneficial use as described in the permit? What was the effect on his electrical bill during the period the water was put to beneficial use? A significant decrease in the electrical bill would show that some power was being generated for heat or personal use for some period during the year when compared to years prior to installation or following de-installation. Minimal change would indicate little or no power being generated and the water right should be adjusted accordingly.

4. If Mr. Fultz builds a new facility is he restricted to limiting the period of use of the water for generating purposes to the winter months, "heating same as power", if in fact those are the only months he has used the water in the past?

5. If a license is issued for some amount of water, how long before Mr. Fultz would need to prove up on that water usage, considering that he has not had a facility in production for approximately the past eight years?

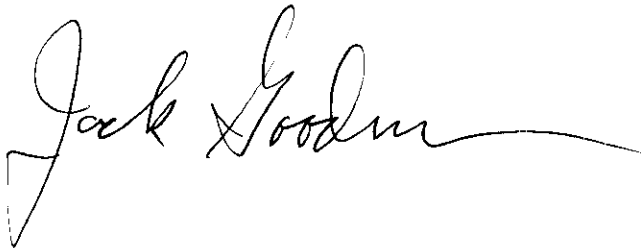
6. It has been our observation that Mr. Fultz had abandoned the use of the facility for the past eight or so years. If Mr. Fultz decides to reconstruct some sort of generating facility is he restricted to the same use of the power for which he was originally designed? "Heating same as power"?

7. Can he expand the uses to include resale to Idaho Power Co. on a net metering basis if he can only prove that he produced power on a limited basis during a limited time throughout the year?

8. There is no indication that Mr. Fultz has installed a permanent measuring device at the project as required by the permit conditions. Does this impact the consideration of forfeiture of the rights considering that the project is non-operational?

9. Considering that the use was abandoned will Mr. Fultz be required to get permission from the Twin Falls Canal Company for the use of their water in order to start up the plant again? This was a requirement for our permit.

Thank you,

A handwritten signature in black ink that reads "Jack Goodman". The signature is written in a cursive style with a long, sweeping horizontal line extending from the end of the name.