

Affidavit of Publication

County of Power, }
State of Idaho, } SS.

A. M. Quane being first duly sworn
on his oath, states:

That he is the printer of the American Falls Press, a newspaper of general circulation in Power County, Idaho, published weekly at American Falls in said county; that said newspaper has been published in said county uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That the annexed notice or advertisement was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for four successive weekly issues thereof, the date of the first publication being the 8th day of December 1932, the date of the last publication being the 29th day of December 1932.

(Signed) A. M. Quane

Subscribed and sworn to before me this

30th day of December 1932.

E. C. Thinter
Notary public, residing at American Falls, Idaho.

My Commission expires the

14th day of Nov, 1933.

(SEAL).

(Dec. 8-15-22-29)

Notice For Publication.

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE.

Notice is hereby given that at 10 a. m. on the 18th day of January, 1933, at Boise, County of Ada, State of Idaho, before M. E. Hughes, Notary Public, proof will be submitted of the application to beneficial use of 2,000 cubic feet per second of the waters of Snake River in accordance with the terms and conditions of Permit No. 16,635 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are Idaho Power Company, 1220 Idaho Street, Boise, Idaho.

The use to which said water has been applied is for power production.

The amount applied to beneficial use is 2000 cubic feet per second.

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated) is at Idaho Power Company's American Falls Power Station.

The name of the canal or ditch or other works by which said water is conducted to such place of use is American Falls Power Station.

The right to take water from such works is based upon Permit No. 16,635.

The source of supply from which such water is diverted is Snake River.

The date of the priority which said user is prepared to establish is October 15, 1926.

R. W. FARIS,
Commissioner of Reclamation.

16635-

Affidavit of Publication

County of Power, }
State of Idaho, } ss.

O. J. Quane, being first duly sworn

on his oath, states:

That he is Printer of the Ameri-
(Printer, Foreman or Principal Clerk)

can Falls Press, a newspaper of general circulation in Power County, Idaho, published weekly at American Falls in said County, that said newspaper has been published in said county uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for four successive weekly issues thereof, the date of the first publication being the 9th day of June, 1927, the date of the last publication being the 30th day of June, 1927.

O. J. Quane

Subscribed and sworn to before me this 30th day of June, 1927.

W. C. Loughan

Notary Public, residing at American Falls, Idaho.

My Commission expires the 8 day of Dec., 1929.

(SEAL)

COSTS: 47 lines at 10 cents a line for the first insertion and 5 cents a line for each of 3 subsequent insertions, total \$ 11.75.

(June 9-16-23-30)

NOTICE FOR PUBLICATION.

Notice is hereby given that at 10 A. M., on the 18th day of July, 1927, at Boise, County of Ada, State of Idaho, before M. E. Hughes, Notary Public, proof will be submitted of the completion of works for the diversion of 2,000 cubic feet per second of the waters of Snake River, in accordance with the terms and conditions of a certain permit heretofore issued by the Commissioner of Reclamation of the State of Idaho.

1. The name of the person or corporation holding said permit is Idaho Power Company.

2. The postoffice address of such person or principal place of business of such corporation is P. O. Box 910, Boise, County of Ada, State of Idaho.

3. The number of such Permit is 16635, and the date set for the completion of such work is July 18, 1927.

4. Said water is to be used for Power purposes.

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place of intended use, in accordance with the plans accompanying the application for such permit, is more than 9,000 cubic feet per second.

6. The place of intended use of said water is at Idaho Power Company's East Side Plant, more particularly described as follows: S. 80 degrees 38 minutes W. 1401 ft. distant from the N. E. corner of Sec. 31, T. 7 S., R. 31 E. B. M., in the NW 1/4 NE 1/4 of said section.

GEO. N. CARTER,
Commissioner of Reclamation.

16635

Notice for Publication

Notice is hereby given that at 10 A. M., on the 18th day of July, 1927, at Boise, County of Ada, State of Idaho, before M. E. Hughes, Notary Public, proof will be submitted of the completion of works for the diversion of 2000 cubic feet per second of the waters of Snake River in accordance with the terms and conditions of a certain permit heretofore issued by the Commissioner of Reclamation of the State of Idaho.

1. The name of the person or corporation holding said permit is Idaho Power Company

2. The postoffice address of such person or principal place of business of such corporation is P.O. Box 910, Boise, County of Ada, State of Idaho.

3. The number of such Permit is 16635, and the date set for the completion of such work is

July 18, 1927

4. Said water is to be used for Power purposes.

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place of intended use, in accordance with the plans accompanying the application for such permit, is more than 2000 cubic feet per second.

6. The amount of lands for which said water is available is XXXXXX acres, particularly described as follows: XXXXXX

The place of intended use of said water is at Idaho Power Company's East Side Plant, more particularly described as follows: S. 80° 38' W. 1401 ft. distant from the N.E. corner of Sec. 31, T. 7 S., R. 31 E., B.M., in the NW 1/4 of said section.

Geo. N. Carter,
Commissioner of Reclamation.

Handwritten: 200-2082-30-75-31/2
Power Co

Handwritten: 16635

State of Idaho
Department of Water Administration

LICENSE OF WATER RIGHT

License of Water Right No. 16635/01-2046 Priority Oct. 15, 1926 Amount 2,000 cfs

THIS IS TO CERTIFY, that IDAHO POWER COMPANY
of Boise, Idaho, has complied with the terms and conditions of Permit
No. 16635/01-2046 issued pursuant to Application for Permit dated October 15, 1926,
and has submitted proof to the Department of Water Administration on January 18, 1933,
that he has applied water to a beneficial use; an examination by the Department indicates that the
works have a capacity of 9,000 cfs, and that the water has in fact been applied to a
beneficial use; a right to the use of water from the Snake River
tributary of the Columbia River, is hereby confirmed in the following amounts:

Amount 2,000 cfs for power from Jan. 1 to Dec. 31 (both dates inclusive)

Amount _____ for generation from _____ to _____ (both dates inclusive)

Amount _____ for _____ from _____ to _____ (both dates inclusive)

Subject, however, to the condition that no more than 2,000 cfs of water be diverted at
any one time, said waters to be diverted within the _____

SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 30, Twp. 7 S, Rge. 31 E, B. M.

in the county of Power; and that the amount of water so diverted and to which such
right is entitled and confirmed is for the purposes aforesaid and is limited to the amount which can
actually be beneficially used and shall not exceed 1,447,590 acre feet per year ~~XX~~

~~XXXX XXXXXXXXXX~~

Description and location of place of use: American Falls Project

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
7 S	31 E	31		X															

Total number of acres irrigated _____

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands
or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 23 day of

December, 19 71.


Director

01-2046

APPLICATION FOR PERMIT **01-2046**

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No. 23479
Permit No. 16635
District No.

1. Name of Applicant: Idaho Power Company.

Postoffice address: Boise; County: Ada; State: Idaho.

I. If applicant is a corporation, give:

- (a) Date and place of incorporation: May 6, 1915; August, Maine.
- (b) Amount of capital stock: \$18,800,000.
- (c) Amount paid in: \$18,774,800.
- (d) Names and addresses of directors: (See Remarks).

II. The financial resources of the applicant are:

- (a) Cash on hand:
- (b) Treasury stock: \$25,200.
- (c) Bonds to be issued:
- (d) Other resources: \$36,271,699.37.

2. Quantity of water claimed: 2000 cubic feet per second.

3. Source of water supply: Snake River which is a tributary of Columbia River.

4. Location of point of diversion: N. 69° 30' W.-1372.3 feet distant from the S. E. corner of Section 30, T. 7 S., R. 31 E., B. M., and is in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, T. 7 S., R. 31 E., B. M., County of Power.

5. Water is to be used for: Power.

6. If for mining, milling, power or manufacturing purposes, give:

at Idaho Power Company's existing East Side Plant,

- (a) Point of use of water: S. 80° 38' W/feet distant from N. E. corner of Section 31 and/or any additions thereto 1401 T. 7 S., R. 31 E., B. M., in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, T. 7 S., R. 31 E., B. M.

(b) Amount of power generated: H. P., under feet head.

(c) Water is to be returned to Snake River, at ~~at~~ point of use. feet distant from the corner of Section, T., R., B. M., in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, T. 7 S., R. 31 E., B. M.

7. Estimated cost of works: \$ See Remarks "A"

8. Kind of works: Dam and gates. See Remarks "A"

9. Height of dam 9 to 14 feet; length of dam at top about 950 feet; length of dam at bottom about 950 feet; material used in dam: concrete and steel.

three-two, each 30 14

10. Size of headgate: Width, one 20 feet; height 8 feet.

11. Ditch: Width at bottom feet; width at water line feet; depth of water feet; dimensions of flume

Diameter of pipe inches; length of conduit miles.

Average grade per mile feet.

12. The time required for the completion of such work is Works are already completed. See Remarks "A".

13. The time required for the complete application of the water to the proposed use is Six (6) additional years.

14. The land to be irrigated is described in the following tabulation: See remarks.

15. (a) Is reservoir to be used? None If so, fill in (b) and (c) below.
 (b) Name of Reservoir and number of Storage Permit:
 (c) Date of filing of Application for Storage Permit and Name of Applicant:

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.

Idaho Power Company Applicant.

By F. F. Johnson, President. Agent.

Date of first receipt at Department of Reclamation: 1.30 P. M., October 15, 1926.

Returned to applicant for correction: November 13, 1926.

Corrected application received: January 12, 1927.

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is 16635.

Recorded in Book 60; Page 16635. Approved January 18, 1927.

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

Bond in the sum of \$ 4000.00 to be filed on or before March 19, 1927.

Work to begin on or before _____ and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before April 18, 1927.

The whole of said work to be completed on or before July 18, 1927

Beneficial use of water appropriated in accordance herewith, to be made on or before January 18, 1933.

Witness my hand this 18th day of January, 1927.

GEO. N. CARTER.
Commissioner of Reclamation.

Remarks:

14.

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
			(d) Names and addresses of directors: Jas. L. Boone, Boise, Idaho; Geo. A. Bremer, Jerome, Ida.; J. W. Cunningham, Boise, Ida.; E. H. Dewey, Nampa, Ida.; C. E. Groesbeck, New York, N.Y.; F. F. Johnson, Boise, Ida.; R. B. King, Boise, Ida.; W. P. Lyon, Caldwell, Ida.; D. F. McGee, New York, N.Y.; J. F. Orr, Boise, Ida.; E. J. Ostrander, Twin Falls, Ida.; W. R. Putnam, Boise, Ida.; Nathan Sommer, Weiser, Ida.; D. W. Standrod, Pocatello, Ida.; Wm. T. Wallace, New York, N.Y.; H. J. Ward, Nyssa, Ore. "A"--This application is supplemental to and in addition to prior rights of appropriation now owned, possessed or claimed by the applicant and supplemental to and in addition to the rights held or claimed by the applicant under Permits Nos. 4168, 14067 and 15201. It is not to be implied nor to be construed as a waiver of any right of the applicant under said prior appropriations, or any of them, nor under said permits, or either of them, nor under any other appropriations or water rights, or any of them, held, owned or claimed by the applicant at American Falls. A portion of the works constructed under said appropriations and said Permits Nos. 4168 and 14067 is to be utilized in the diversion and in the application to beneficial use of the water hereby applied for. This application does not contemplate the construction of any new diversion works, but the diversion of the water applied for through existing diversion works, and partially through existing utilization works and additional works, to-wit: turbines, generators, etc., to be constructed for the use of the water herein applied for, in the power house in which the existing works are constructed.																

PERMIT NO. 16635
CERTIFICATE OF COMPLETION OF WORKS.

TO ALL WHOM IT MAY CONCERN:

This is to certify that Idaho Power Company of Boise, County of Ada, and State of Idaho, the holder of Permit No. 16635, issued upon Application No. 23479, bearing date of priority of October 15, 1926, authorizing the diversion of 2,000 second feet of the waters of Snake River, County of Power, State of Idaho, for power purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 2,000 second feet of the waters of Snake River, or so much thereof as, together with the amounts diverted and conveyed to place of intended use by rights heretofore granted under Permits Nos. 4168 and 14067, shall make a total of 9,000 second feet, ~~of~~ ^{which is} the present capacity of the diversion works of the Company; that the point of diversion of said waters is N. 69°30' W., approximately 1872.3 feet from the southeast corner of Section 30, Township 7 South, Range 31 East of Boise Meridian, being the Company's dam at American Falls; and that the place of intended use of said water is at the Company's existing East Side plant, in the NW¹/₄ of NE¹/₄, Section 31, Township 7 South, Range 31 East of Boise Meridian.

WITNESS My hand this 7th day of October, A. D. 1927.

GEO. N. CARTER,
Commissioner of Reclamation.

Proof of completion of works made July 18, 1927.
Certificate issued October 7, 1927.

AMERICAN FALLS POWER PLANT (East Side Plant) owned by Idaho Power Co. and located adjacent to the town of American Falls.

Water Right No.	Water Right and Date	Remarks	Priority Date	Flow in cfs	Subordination Permit License/Decree
A01-10382 Transfer #464 (6-17-1929)	Beneficial Use Claim on 10-23-1996 for 6,000 cfs	(From West Side Plant to East Side Plant) Microfilm file 01-B	7-15-1901	253	Not likely
A01-10383 Transfer #463 (6-17-1929)	Beneficial Use Claim on 10-23-1996 for 2,000 cfs	(From Island Plant to East Side Plant) Microfilm file 01-B	8-01-1901	611	Not likely
01-02017	Permitted on 11-28-1908 Licensed on 2-05-1920		9-03-1908	1,400 ¹	Not found No
01-02032	Permitted on 7-05-1919 Licensed on 7-21-1924		3-08-1919	4,600 ¹	No No
01-02046	Permitted on 1-18-1927 Licensed on 12-23-1971		10-15-1926	2,000 ²	No No
A01-10384	Claimed on 10-23-1996		1-01-1929 ³	136 ²	Probably ^{4,5}
01-07128	Application		10-23-1996	7,850	
Subtotal of non-subordinated assumed water rights (probable amount)				8,8640 cfs ⁶ (9,000 cfs maximum)	
Subtotal (using licensed rights of record)				8,864 cfs	
Total				16,850 cfs ⁷	

¹ For the East Side Plant located in the SW 1/4, SE 1/4, Sec 30, T. 7 S., R. 31 E., B.M. The Report of Engineer states 1200 cfs was used at the time of the field examination. The older Island Plant and the West Side Plant were sold to the United States of America in 1923. See p. 4 & 11 of the June 15, 1923, contract of Idaho Power Co. and the USA (I1r-733) entered into subsequent to the 1921 American Falls storage water rights request. The 1923 agreement changed the water rights in transfers 464 and 463 and in licenses 01-02017 and 01-02032 only to the extent that the agreement provided, in essence, for the prior filling of American Falls Reservoir and "existing storage."

- ² The location for the license is listed as the NW 1/4, NE 1/4, Sec. 31, T. 7 S., R. 31 E., B.M. The license, issued in 1971, indicates the total project capacity is 9,000 cfs. Copy of June 14, 1954, letter in file 01-02032 from IPC secretary, A. C. Inman to U.S. Representative Hamer Budge indicates total water rights are 8,000 cfs. February 26, 1971, letter in file 01-02046 from IPC secretary, James E. Bruce to Department of Water Administration indicates total water rights are 9,000 cfs. Surface water put to beneficial use prior to May 20, 1971, can acquire a water right without an application for a permit.
- ³ An adjudicated claim priority date will be the verified date the diversion started, not the date the new project construction was decided upon or even started as in the preceding (10-15-1926) application for permit and subsequent license.
- ⁴ The state established by a ratified constitutional amendment of Article XV, Section 3, on November 6, 1928, the authority to "regulate and limit the use" of water for power purposes. Regardless of the issue spurring the constitutional amendment, the general pattern of using subordination language on the permits and licenses did not start until 1952. See permit for C.J. Strike (02-02080). Idaho Power Co. may or may not forgo claiming non-subordination privileges in its water right claim particularly if the diversion under the claim did not start until after the November 6, 1928, constitutional amendment.
- ⁵ See footnote 3 for the Minidoka Powerplant table.
- ⁶ Idaho Code 42-203B(5) provides that the State can enter into agreements with holders of water rights for power purposes to define that portion of their water rights that are to be non-subordinated to upstream depletions. Such an agreement with Idaho Power Co. in 1984 for the projects below Milner Dam provided for much lower non-subordinated rights than the total of the original water rights. A similar agreement for the American Falls project and the Minidoka Project with respectively Idaho Power Co. and the Bureau of Reclamation would provide a legal basis for the past allowance of subsequent upstream diversions including ground water diversions.
- ⁷ By telephone on about September 16, 1996, the Idaho Power Co. plant operator states, IPC has three turbines that have a capacity of 5,000 cfs each for a total hydraulic capacity of 15,000 cfs. (The book, *Project Data*, by the Water and Power Resources Services (U.S. Bureau of Reclamation), 1981 edition, states on p. 646 that the capacity is 13,500 cfs.) The increased size is the result of the rebuilding of the power plant in about 1976 near the completion time of the rebuilding of American Falls Dam. Verification of the stated hydraulic capacity has not been made through a review of the FERC license application. A change in the point of diversion is due to be filed for the above two transfers and three licenses.

5

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION



Before Commissioners: John N. Nassikas, Chairman;
William L. Springer, and Don S. Smith.

Idaho Power Company

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Project No. 2736

ORDER ISSUING MAJOR LICENSE (UNCONSTRUCTED) AND
PERMITTING WITHDRAWAL OF INTERVENTION

(Issued March 31, 1975)

On September 25, 1973, Idaho Power Company (Applicant) of Boise, Idaho, filed application for major license under Section 4(e) of the Federal Power Act (Act), 16 U.S.C. *for 50 years* *see p 21* \$797(e), to authorize the construction, operation and maintenance of the proposed American Falls Project No. 2736, which will be located at the U.S. Department of the Interior, Bureau of Reclamation (Reclamation), American Falls Replacement Dam on the Snake River. The application was revised or supplemented on February 1 and 6, March 18, April 16, June 3, July 15 and 31, August 9 and 26, September 30, October 31, and November 15, 1974.

Notice of the application was issued December 5, 1973, with a return date for protests or petitions to intervene of January 28, 1974. As hereinafter discussed, four petitions to intervene were received and granted by the Commission, and the Idaho Public Utilities Commission filed Notice of Intervention under the Commission's Rules of Practice and Procedure, 18 C.F.R. §1.8(a)(1). Notice was published in the Federal Register on December 14, 1973, 38 Fed. Reg. 34496.

The American Falls Powerplant will have a total installed (nameplate) capacity of 92.4 mW. The power plant and appurtenant facilities will be located near the City of American Falls, Power County, Idaho, about 25 miles southwest of Pocatello, Idaho. The project will affect lands and navigable waters of the United States and a Government dam.

The project will consist of (1) three 18-foot steel-lined penstocks extending approximately 240 feet downstream to the centerline of project turbines from a connection with similar penstocks and intake works to be constructed as part of the Government dam; (2) reinforced concrete powerhouse containing

three adjustable-blade turbines each rated 42,000 hp at 88-foot net head connected to three vertical-shaft, semi-outdoor type generators each rated 34.2 mVA (30.8 mW at 0.9 p.f.), a 175-ton gantry crane, and other related electrical and mechanical equipment; (3) switchyard upstream from the powerhouse containing one three-phase transformer rated approximately 125 mVA, 13.8/138 kV, with circuit breakers and disconnect switches; (4) 138-kV steel-pole transmission line extending approximately 2,100 feet along the right bank and across the Snake River to the 138-kV switchyard of the existing American Falls development of the Applicant; (5) tailrace; (6) recreational facilities consisting of a public parking area, three small landscaped parks with picnic tables, a potable water supply and sanitary facilities, a public access area on the west bank of the Snake River to accommodate bank fishing, and boat launching facilities; and (7) appurtenant facilities. The power will be used for public utility purposes.

The Honorable Cecil D. Andrus, Governor of the State of Idaho, petitioned to intervene in support of the application on January 28, 1974, stating that the water and power needs of all of Idaho's citizens would be best satisfied by the early issuance of a license. We granted intervention by order dated February 8, 1974.

The American Fall Reservoir District's (District) petition in support of application was filed January 25, 1974. Its stated interest was in the expeditious granting of a license.

The Idaho Fish and Game Commission (IFG) filed its petition on January 28, 1974, in order to be heard and report recommendations regarding the effect Project No. 2736 may have upon fish and wildlife resources. On September 3, 1974, IFG made motion to withdraw its intervention, as it was of the opinion that the July 2, 1974, agreement between itself and District, herein noted, provides satisfactory mitigation of potential adverse fisheries impact from the project. We herein grant IFG's motion.

The Idaho Public Utilities Commission (IPUC) filed its Notice of Intervention on January 10, 1974. By letter dated August 16, 1974, IPUC stated its unqualified support for the project, urging us to expeditiously issue the license herein. By our order dated February 20, 1974, we granted the petitions to intervene filed by the District and IFG.

On June 12, 1974, we allowed an intervention on the timely filed petition of the Shoshone-Bannock Tribes (Tribes) of the Fort Hall Indian Reservation, Idaho. The Tribes

alleged that there are tribal lands within the boundary of Project No. 2736, and that they are entitled to receive a reasonable annual charge for the use thereof under §10(e) of the Act. Applicant filed an answer on March 1, 1974, and stated that no tribal lands are encompassed within project boundaries.

We invited Interior to comment on the petition by the Tribes by letter dated February 21, 1974. By letter dated May 21, 1974, the Associate Solicitor for the Division of Indian Affairs stated his opinion that the operation of the American Falls Replacement Dam and Reservoir "affects the Fort Hall Indian Reservation."

We granted intervention to Tribes solely because of its status as a spaceholder in the Reservoir above American Falls Dam and as a landowner in the general area of Project No. 2736. In so doing, we specifically said that annual charges should be exacted only if Indian tribal lands are within the boundaries of the hydroelectric project subject to our jurisdiction. See 16 U.S.C. §§796(2); 797(e); 803(e). The proposed hydroelectric project includes only clearly defined areas downstream of the Replacement Dam, and does not include the dam or the reservoir. Our records further indicate that no tribal lands are included within the boundaries of the proposed hydroelectric project and, thus, no basis exists for assessing annual charges for such use.

Additionally, we note that Applicant has no control over the water releases at the Replacement Dam, nor can it affect Tribes' storage rights in the reservoir. In short, it is our opinion that Project No. 2736 will not affect tribal lands by its operation under the terms of the license issued herein.

By letter dated November 15, 1974, Applicant transmitted a copy of the Water Quality Certification issued by the State of Idaho pursuant to Section 401 of the Federal Water Pollution Control Act Amendments of 1972 (Amendments of 1972), 33 U.S.C. §1341. The Certification dated November 13, 1974, was issued upon certain conditions provided for herein to insure maintenance of water quality in the Snake River. By letter dated November 26, 1974, the Commission's Secretary transmitted the certification to the U.S. Environmental Protection Agency (EPA) pursuant to EPA's Regulations, 40 C.F.R. §123.11(b)(1974).

On the matter of water quality, two further permits are involved in the licensing of this project. By letter dated October 31, 1974, Applicant transmitted a National Pollutant Discharge Elimination System (NPDES) discharge permit under Section 402 of the Amendments of 1972, 33 U.S.C. §1342, by EPA

Region X, for the City of American Falls' municipal treatment plant's discharge into the Snake River. Under Article 4 of the license Applicant will submit "as-built" drawings of the project, which will show any major structures in the project area, including the above-mentioned treatment plant and the location of the discharge into the Snake River.

By letter dated February 11, 1975, Applicant transmitted a NPDES discharge permit issued by EPA Region X for a wastewater discharge from the project works. The permit became effective on March 6, 1975. Pursuant to Article 4 of the license, Applicant will also submit "as-built" information on this wastewater discharge into the Snake River.

This is not the only application for license for an American Falls project to have been before this Commission. There currently exists at American Falls a 27.5mW power facility owned by Idaho Power Company which was a part of application for major license in Project No. 2258, filed February 13, 1959. By letter dated December 16, 1969, the United States Department of the Interior (Interior) requested that we hold in abeyance the issuance of the license in Project No. 2258 until the problems arising out of the contemplated replacement of the American Falls Dam had been resolved. As such problems have been disposed of pursuant to the Act of December 28, 1973, we issued a license for the American Falls Project No. 2258 on March 31, 1975.

The existing American Falls Dam was constructed by Reclamation in 1927 as part of the Minidoka Reclamation Project. Within a short time an alkali/aggregate reaction took place in the dam, leading to abnormalities, cracking, and general deterioration over the years. At present, Reclamation has reduced the storage in the reservoir behind the dam to approximately 2/3 capacity for safety purposes.

The Act of December 28, 1973, 87 Stat. 704, in pertinent part authorizes the Secretary of the Interior (Secretary) to enter into agreements with the American Falls Reservoir District (District) authorizing the District to finance and construct a Replacement Dam at American Falls, title to which will pass to Reclamation upon its substantial completion. The Act of December 28, 1973, deems the Replacement Dam to be a Government dam, as defined in Section 3(10) of the Federal Power Act. 16 U.S.C. §796(10).

Pursuant to the 1973 Act the District, as constructing agency, may execute contracts with an appropriate non-Federal entity for use of the falling water leaving the dam for power

generation, which contract shall provide for a monetary return to the District to defray the cost of construction of the Replacement Dam. District may also contract with a non-Federal entity to coordinate construction of the hydroelectric facilities and the Replacement Dam, such facilities being the subject of this order.

Reclamation developed a Draft Environmental Impact Statement (DEIS) on the American Falls Dam Replacement Program to accompany the legislative process which led to the enactment of the Act of December 28, 1973. The DEIS was made available to the Council on Environmental Quality (CEQ) and a wide range of agencies, organizations, and individuals on May 17, 1973. Pursuant to §2.81 and §4.41 of the Commissions Rules, 18 C.F.R. §2.81 and §4.41, Applicant submitted its Exhibit W (environmental report). Reclamation and Commission Staff coordinated their independent analyses of the environmental impacts of the Replacement Dam Program, considered and reviewed comments received on the DEIS, and developed a Final Environmental Impact Statement (FEIS), designated as INT FES 74-60, which was made available to CEQ and the public on November 13, 1974. As Reclamation and Staff agreed that the major impacts of the Program would be attributable to the Replacement Dam itself, Reclamation served as lead agency for the FEIS, as suggested in CEQ's guidelines, 40 C.F.R. §1500.7(b) (1974). Staff contributed assistance with respect to this Commission's area of jurisdiction and expertise.

On the basis of the information in the FEIS and other data on file with the Commission, we believe that the beneficial effects to be derived from Project No. 2736 outweigh the adverse effects upon the environment. We discuss hereinafter the relevant environmental impacts which we have considered pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. §4432 (2)(c).

Construction of the Replacement Dam and power plant will result in the loss of a 14-acre forebay located between the existing powerhouse and dam. This area provides an important and substantial fishery for rainbow trout entering the forebay from the upstream reservoir. In 1971 alone the fishery provided fishermen with about 37,500 recreation hours and a take of 13,700 fish. The forebay fishery is a prime element in the lives of many local citizens, serving as a source of food, a recreation opportunity, and a social gathering place.

The area of the tailwater at the existing powerhouse provides a good sport fishery also. Without adequate oxygenation of water passing through the proposed penstocks, these fish would continue downstream in search of sufficient DO levels.

Through an agreement dated July 2, 1974, the District will provide the Idaho Fish and Game Commission (IFG) with \$875,000 as mitigation for the loss of the forebay and the associated fishery. Of that sum, \$575,000 will be for construction and \$300,000 for operation and maintenance of facilities provided. Through the above agreement, IFG will provide for some or all of the following facilities:

- a. Three 400' x 12' x 3' concrete raceways at the American Falls Hatchery owned and operated by IFG.
- b. Acquisition, construction, and impoundment of an off-stream fishing area.
- c. A fishing access bridge across the Snake River below American Falls Dam.
- d. Improved access to the river below the project area and upstream of Lake Walcott.

While we recognize that the loss of the forebay will have a deleterious effect upon fishery resources, we believe that the agreement and the conditions required herein will substantially mitigate this loss.

During the summer months, diversion through the powerhouse of all or nearly all of the water passing the dam would result in a decrease in the quality of water in the Snake River downstream. During these warmer months, dissolved oxygen concentration in the storage reservoir would often fall below acceptable levels for fish. Under current operations, releases through the dam into the forebay result in extensive agitation and reoxygenation of the water prior to passage downstream. Elimination of the forebay and forebay releases of water would result in the direct passage of water from the reservoir through the proposed penstocks and turbines to the river downstream with little or no opportunity for improving oxygen conditions. When oxygen levels are low (3 to 4 mg/liter or lower) in the reservoir, water released into the river downstream via the powerhouse would not meet Idaho water quality standards for dissolved oxygen content (6 mg/liter or 90% saturation, whichever is greater). By letter dated July 1, 1974, the Idaho Department of Environmental and Community Services requested approval by

EPA of a variance to State water quality standards in the stretch of the Snake River between American Falls and downstream Lake Walcott whereby the 90% saturation requirement would be waived.

In order to meet Idaho's water quality standards for oxygen, the District will construct, maintain, and operate an oxygen injection system directly into the dam penstocks. As a part of this system the District will also construct, maintain, and operate a water quality monitoring system downstream of the dam and powerhouse. In addition, the District will test two other oxygen injection systems: (1) an injection by coarse bubble diffusers upstream of the penstocks, and (2) upstream injection by fine bubble diffusers. Based on the test results, either of the above alternate systems may replace the direct penstock injection systems or serve as a backup or supplementary system if needed. Whatever the system or systems employed, the oxygen injection rate will be controlled through the oxygen monitoring system to satisfy State water quality requirements and to ensure efficient system operation. We believe that any potential water quality problem attributable to the Replacement Dam Program would be adequately provided for by this system. By Article 46 we are requiring Applicant to cooperate in the installation, maintenance and operation of the system, and to assure that procedures exist so that Reclamation and the Idaho Department of Health and Welfare (IDHW) will be immediately notified if water quality drops below the approved State standard so that appropriate action may be taken to restore water quality.

Nearly all of the fish moving downstream from the reservoir after construction of the new dam and powerhouse will pass through the turbines. The mortality rate of these fish will be higher than it is for fish under the present situation. Estimates provided by the Applicant predict that smaller fish (12 inches or less) will experience approximately 5 to 10 percent mortality. Larger fish will encounter, however, a somewhat higher mortality rate on passage through the turbines. More than likely turbine mortality rates will be directly related to fish size, although absolute values cannot be determined without testing under actual conditions.

As the Applicant does not propose mitigation for fish losses resulting from turbine mortality, and since the impact could be substantial, we are requiring the Applicant to file for Commission approval plans for a 3-year turbine mortality study to commence after the new dam and powerhouse have been constructed and are fully operational. The Applicant will prepare the research plan in cooperation with appropriate State and Federal fishery agencies. We believe that by this approach we can best address the potential concerns which are not at this time adequately quantifiable.

During construction of the project works, turbidity from suspended solids will increase in the Snake River downstream. In addition to rendering the river less appealing from an aesthetic point of view, the suspended solids will tend to settle out and interfere with and reduce the production of food-chain aquatic organisms. Both impacts should be short-term and minor in nature.

Construction activities will require a maximum force of approximately 500 workers during the peak construction period lasting about two years. Some of these workers will come from the local area; the rest will move to this area and remain only temporarily. It would be expected that a portion of the workers' payrolls would be spent in surrounding towns and cities. The population increase will also be accompanied by needs for temporary housing, temporary increase on the existing educational facilities, additional water supplies, and increased load on the City of American Falls' (City) sewage treatment facilities and other services. Completion of construction activities will also result in a period of social and economic readjustment for the community.

The City has a 400,000-gallon-per-day secondary sewage treatment plant which discharges into the Snake River downstream from the existing power plant. This facility has an adequate capacity to handle the temporary increased load due to the influx of construction workers. Flows in the river downstream from the sewage outfall may be of poorer quality during construction due to possible reduced releases from the reservoir. However, reduced flows in the river are not expected at times critical to the fishery resources downstream. As herein noted, this plant has received a \$402 permit under the Amendments of 1972, 33 U.S.C. §1342.

Several alternatives to the Replacement Dam Program were considered: leave the existing dam without change; replace the existing dam without a powerhouse; repair the existing dam; enlarge the dam and the reservoir; and develop storage at other sites. These were considered as alternatives to the program which Congress approved by its Act of December 28, 1973. We have also considered power source alternatives to the proposed project: exotic, other hydroelectric, nuclear, gas turbines, combined cycle, coal-fired steam, and geothermal.

Our review of the alternative sources of power production convinces us that they are less attractive than the proposed project. The adverse environmental impacts of such alternatives would include noise, visual impacts, emissions, and increased

heat rejection. In addition, the operation of alternative thermal power sources would deplete even further the Nation's critically short fossil-fuel supplies.

At the same time that we attempt to make the most efficient use of our non-depleting hydroelectric resources consistent with environmental protection, it is our opinion that electrical energy conservation practices are desirable and should be promoted vigorously. Though conservation cannot eliminate growth in energy demand and the need to expand electric generating capacity, such a program could effect a significant reduction in the need for new generating capacity over the next decade.

By letters dated May 17, 1974, the Secretary of the Commission requested comments pursuant to Section 4(e) of the Act and other relevant statutes from appropriate Federal, State and local agencies on the application for license. The comments received are discussed below.

The U.S. Department of the Interior (Interior) in letters dated September 5 and October 17, 1974, commented on the application and other supplemental information. Interior said that the license application provided that all falling water from the Replacement Dam would be used for hydroelectric generation purposes. Applicant's response dated September 25, 1974, acknowledged that under certain conditions it would not receive all falling water. We note that if the water quality monitoring program provided for in Article 46 herein shows substandard dissolved oxygen levels, Reclamation will be informed of the condition so that the powerplant may be bypassed. If Applicant defaults in any of its falling water payments, the powerplant will be bypassed. Further, Applicant will not receive releases when interruptions occur for inspections, maintenance, repair and emergency conditions at the Replacement Dam. In short, the United States is not obligated to operate the Replacement Dam in a manner to have water in the Replacement Dam at elevations for power generation or to operate to increase head for power generation. The Applicant noted still further that load and machinery capacities as well as the amount and timing of water releases for irrigation, flood control and other purposes would be limiting factors to the amount of water Applicant receives for hydroelectric generation.

Interior expressed concern that the application did not adequately recognize the major adverse environmental impacts of the proposed project: (1) the destruction of the existing forebay and its associated fishery without adequate mitigation;

(2) the degradation of water quality in the reach from American Falls Dam to Lake Walcott and its effect on the tailrace fishery, and (3) the fish mortality resulting from passage through the new turbines. These were also the chief concerns of the Idaho Wildlife Federation in its letter dated January 22, 1974.

Interior recommended that Applicant revise its exhibits to indicate (1) means to measure fish losses, (2) assignment of mitigation responsibility, and (3) the plan for mitigation. Additionally, inclusion of the standard stream gaging articles in any issued license was requested.

We concur with the specific recommendations above. By Article 40 we are requiring Applicant to continue consultation and cooperation with appropriate environmental agencies for the protection and development of the natural resources of the project area. By Article 45 Applicant shall submit for our approval a plan for a 3-year research study of fish mortality through the turbines, and at termination of the study recommend changes to alleviate the mortality problem. By Article 46 we require of Applicant consultation and cooperation with Reclamation and District in the installation, maintenance and operation of a dissolved oxygen and temperature monitoring system in the Snake River downstream from the project tailrace. Article 10 is the requested stream gaging article.

In addition, these requests have been partially satisfied through an agreement between District and Applicant dated August 21, 1973, setting forth that environmental costs related to the Replacement Dam and power plant are District's and a July 2, 1974, agreement between District and Idaho Fish and Game Commission, which establishes a mitigation plan and funding therefor. We are thus satisfied that sufficient measures have been taken to protect the resources involved.

Interior further recommended that recreation site No. 5, consisting of an existing gravel boat ramp, parking area, and access road, be included within the project boundary. Applicant's revised Exhibit R, filed July 15, 1974, which is approved in part by the terms of this license, includes this site within the project boundary. By Article 42 we are requiring Applicant to comply with Interior's recommendation that public access be provided from the new powerhouse access road, under the railroad bridge, to the west river bank.

Interior also recommended that a scenic overlook should be constructed above the Replacement Dam near the right abutment, to be operated and maintained by Reclamation. While we agree

that the recommendation may have merit, we do not believe that such a development outside the project should be the Applicant's responsibility and are not, therefore, requiring its development.

Interior noted that the area of the project may be of some historical significance. By Article 44 we require Applicant to coordinate with appropriate agencies to develop plans and procedures to protect and enhance historical values within the project boundary, including the Old Island Powerhouse.

Under Section 7 of the Act of December 28, 1973, \$400,000 is authorized for construction of specific facilities for public recreation and fish and wildlife enhancement. Interior noted that Applicant's Exhibit R said that some of these funds would be available for enhancement in the tailrace area, whereas Interior's position is that the public funds will not be available for Applicant's use. We agree with the latter interpretation of the Act of December 28, 1973, and have specifically deleted all references to such funds in the Exhibit R we approve hereinafter.

Interior also recommended that the following articles requested for the existing Project No. 2258 be included in the license for Project No. 2736:

- (a) The Project shall be operated in such manner as will not conflict with the future depletion in flow of the waters of Snake River and its tributaries, or prevent or interfere with the future upstream diversion and use of such water above the backwater created by the project for the irrigation of lands and other beneficial consumptive uses in the Snake River watershed.
- (b) The Licensee shall not make any claims under the authority of this license against the United States or other parties claiming through the United States for any damages resulting from any future reduction in the flow of the waters of the Snake River and its tributaries for the irrigation of lands or other beneficial purposes.

Even though the Applicant would agree to insertion of the provision contemplated by Interior in (a) above, we consider it unnecessary from a practical standpoint and do not require its inclusion. The use of falling water releases for power generation is so thoroughly under the control of Reclamation

in its releases for irrigation and other purposes of the Minidoka Project that the Applicant would have no opportunity to operate the project in a manner to conflict with future depletion or diversion of the water of the Snake River. The use of the resource is a non-depleting one and under the Act of December 28, 1973, and related contracts, the operation of the hydroelectric facility shall not impair the efficiency of the Replacement Dam Program to serve the other purposes of the Minidoka Project.

While the Applicant did not address (b) above in its comments, we note that the recommendation is similar to Section 4.7 of the unexecuted Falling Water contract. Section 4.7 provides that:

No liability shall accrue against the United States or any of its officers, agents, or employees, or against the Constructing Agency, for damage, direct or indirect, arising by reason of shortages in the quantity of water available through the Existing Dam or Replacement Dam or interruptions in water releases resulting from drought, inaccuracy in distribution, hostile diversion, prior or superior claims, accident to or failure of the Existing Dam or the Replacement Dam, whether or not attributable to negligence of the officers, agents or employees of the United States or the Constructing Agency, or other causes of whatsoever kind.

However, to adequately protect the Government from liability for water shortage or interruption, and in the absence of an executed agreement among the parties to that effect, Article 35 includes Interior's recommendations subject to the clarification that the license, as such, shall not be interpreted as affording greater rights to Licensee than it might otherwise have. See, Utah Power & Light Company, Project No. 2420, 41 F.P.C. 175 (1969).

Interior commented that the 138-kV transmission line from the powerplant to the switchyard traverses directly over a congested recreational area, and suggested that the line be relocated or modified to insure that it does not present a hazard. By Article 38 we require Applicant to complete, within one year, a study addressing the need for alternative alignment or clearance for the transmission line. By Article 39 we require Applicant in the design, construction and maintenance of the project works, including transmission lines, to follow the Commission's Guidelines relating to protection of certain values in the design and location of rights-of-way and transmission facilities, 18 C.F.R. §2.13 (1974).

Applicant in Exhibits C, D, and E of its application stated that a June 15, 1923, contract (Contract) between Applicant and Reclamation, entitled a "Contract...Relative to Power Rights at American Falls, Idaho.", will continue in effect without change. Interior commented that it is anticipated that some changes would be made to said contract.

We note that Article 36 of the Contract provides that its execution shall not be construed as waiving any authority, jurisdiction or control which this Commission may have over Applicant at American Falls, nor could it, of course. Likewise, we would expect that any changes negotiated to the Contract will not be inconsistent with terms of this order or any applicable administrative or statutory requirements.

The U.S. Army, Corps of Engineers (Corps) by letter dated July 18, 1974, reported that the project is not in conflict with any existing or proposed Corps projects, and that the plans of project structures are satisfactory from the standpoint of navigation interest. According to the Corps, the project will have no adverse effect on flood control on the Snake River.

The Corps recommended that any license issued should require the Applicant to consult prior to construction with the Corps' District Engineer Walla Walla District, concerning Department of Army permit requirements. We have adopted that recommendation in Article 37.

By letter dated July 26, 1974, the U.S. Environmental Protection Agency (EPA), requested that certain conditions relating to water quality be incorporated into the license. EPA recommended that the Applicant provide and operate facilities approved by the Idaho Department of Health and Welfare (IDHW) and EPA for reoxygenation of waters released from the project to meet established water quality standards, to monitor the quality of project releases, and to notify Reclamation when water quality falls below standard so that the project will be bypassed until such time as water quality standards are met.

Applicant responded by letter dated September 25, 1974, that EPA's recommendations are provided for in the overall contractual scheme discussed heretofore. In addition, the §401 certification requested by EPA and Article 46 responds to EPA's concerns. While we recognize that the chief responsibility for reoxygenation of the water passed downstream is that of the District's under the proposed contracts, we are requiring of Applicant that it consult and coordinate with interested parties and agencies to insure adequate water quality in the Snake River.

We have provided in Article 46 a framework for consultation and cooperation to insure maintenance of water quality at the project. Particulars such as those required under the \$401 permit can be addressed within this format. Good faith consultation with interested agencies may reveal that more stringent requirements are desirable. In such a case, Article 46 provides a mechanism by which the natural resources involved will be protected.

The U.S. Department of Agriculture-Forest Service reported by letters dated July 25 and August 29, 1974, that this project would not affect National Forest land or resources, nor would it conflict with any project of which the Service is aware which should be or has been constructed by the United States.

The Department of Transportation-United States Coast Guard reported by letters dated July 23 and September 9, 1974, that it has no comments to offer nor any objection to the application.

Department of Commerce-National Marine Fisheries Service commented by letter dated June 28, 1974, that the project would have no direct effects on marine, estuarine, anadromous or inland commercial fisheries.

By letters dated May 31 and August 13, 1974, the U.S. Department of Health, Education and Welfare (HEW) said that it would be glad to comment on any draft environmental impact statement that the Commission might develop for this project. As we previously noted, Staff contributed to Reclamation's Final Environmental Statement on the American Falls Dam Replacement and Powerplant, which was made available to CEQ and the public on November 13, 1974, designated as INT-FES 74-60. */ Entities from whom comments were requested on that draft included HEW, but it did not choose to comment thereon.

The Chairman of the Pacific Northwest River Basins Commission reported by letter dated July 23, 1974, that the licensing of the project would be consistent with that Commission's approved comprehensive Columbia-North Pacific Framework Plan and that no significant historical or cultural assets are known to be involved in any environmental impacts.

*/ Reclamation had previously developed and circulated a draft statement on the proposed legislation which became the Act of December 28, 1973.

The Idaho Department of Water Resources stated in letters dated July 18 and August 23, 1974, that inclusion of the project plant as part of the American Falls Dam Replacement Program is consistent with the objectives of the State Water Plan, and that it is in the public interest to support construction of the proposed power plant.

In a letter dated May 31, 1974, the Idaho Parks and Recreation Department (IPRD) stated that it supported any proposal which would result in early replacement of the dam. This support was qualified pending Idaho Fish and Game Commission (IFG) accepting a plan to mitigate the loss of the forebay fishery and approval of the project's impact on water quality by IDHW. As developed herein, we believe that their concerns have been satisfied. By further letter dated September 5, 1974, IPRD expressed its satisfaction that the public interest for recreation at the project is being fulfilled.

The Advisory Council on Historic Preservation suggested in a letter dated June 21, 1974, that the Environmental Impact Statement give evidence of contact with the Idaho Historic Preservation Officer and contain a copy of his comments on the effects of the project on historical, cultural, archaeological and architectural resources. Reclamation's Final Environmental Statement adopts both of these recommendations.

We have also received comments dated June 27, 1974, from the Idaho State Preservation Officer. He suggested that the 1902 power plant building would be an excellent interpretive center for Reclamation and noted that American Falls itself has long been of historic interest as a fur trade and Oregon Trail landmark.

We have consulted the National Register of Historical Places through February 4, 1975, and find no listed sites that would be affected by the project. By Article 44, however, we require Applicant to coordinate with Reclamation and the State Historic Preservation Officer for the future protection and enhancement of any historic resources within the project boundary.

The Idaho Department of Agriculture recommended by letter dated August 13, 1974, that the Exhibit R be approved and expressed the desire to see the entire rebuilding project implemented as soon as possible. With certain deletions noted herein we are approving the Exhibit R.

In a letter dated July 23, 1974, the State of Idaho, Division of Budget, Policy Planning and Coordination offered no comment on the application.

We believe that the licensing of American Falls Project No. 2736 best meets the standard of §10(a) of the Act, 16 U.S.C. §803(a). That section requires that a project approved shall "be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of waterpower development, and for other beneficial public uses, including recreational purposes...."

Utilization of added head from the Replacement Dam through additional units will increase power capacity of the existing site from 27.5 mW to 92.4 mW. This increase reflects a fuller development of the waterpower potential of the project than previously attained. Releases from storage for irrigation purposes will also occur at times of Applicant's greatest need to serve the area's electric loads, principal of which are pumping loads of irrigators. Better use will be made of recreational attributes of the area. Adequate mitigation measures have been provided for any adverse effects of the overall project, particularly in terms of the loss of the forebay fishery, potential turbine fish mortality, and water quality concerns.

The value of increased generation and its contribution to system reliability is great. Applicant is a member of the Western Systems Coordinating Council (WSCC), in addition to having its own interconnected system. In these times of increasing need for reliable power, the addition of this potential is necessary. Of course, the energy source is of a non-depleting nature, which contributes to its efficacy in terms of conservation of natural resources.

Further, we have evaluated the cost and benefits of this project in comparison with those of alternative thermal generating sources, which would require the utilization of supplies from diminishing sources of fossil fuels. We are persuaded, as indicated previously, that no better alternative exists to the licensing of this project, and that the action we take today best serves the public interest.

Our records show that Applicant is financially qualified to undertake the development of this project. We conclude that the project structures as proposed in the application would be safe and adequate if constructed in accordance with sound engineering practice.

Among the several contracts contemplated under the Act of December 28, 1973, is the unexecuted Falling Water Contract between the District and the Applicant, subject to the approval of the Secretary of the Interior to insure that the contract will not impair the efficiency of the dam to serve the other purposes of the Federal Minidoka project. In essence, the proposed Falling Water Contract provides for the Applicant to retire District bonds in the amount of \$19,550,000 plus interest as payment for the use of "falling water" to help defray the cost of the Replacement Dam. Additional construction costs of over \$19 million are proposed to be borne by spaceholders in the reservoir and, in certain instances, by the Government.

Apart from this obligation, it is also proposed that Applicant will also make supplemental falling water payments in the event that any of the spaceholders are in default of payment of their obligations. Applicant would assume under the contract the obligation to pay 33% of the operation and maintenance costs of the Replacement Dam. The proposed contract would provide for the use of standard Commission accounting procedures, and would terminate upon expiration of this license.

The proposed Falling Water contract also contemplates the possibility that the District may be required to issue Interim Notes in order to meet the construction schedule for the Replacement Dam and Reservoir. In such an event, the Applicant under the proposed contract would execute a guaranty agreement to the purchasers of such Interim Notes, upon approval by the appropriate regulatory agencies, among others. This licensing order shall not be construed as giving any approval required of the Commission under the Act, including Section 204 (16 U.S.C. §824c(a)), for such an issuance.

Pursuant to Section 10(e) of the Federal Power Act, 16 U.S.C. §803(e), we are required to fix a reasonable annual charge for the use of a Government dam, subject to readjustment by the Commission at the end of twenty years after the project is available for service and at periods of not less than ten years thereafter upon notice and opportunity for hearing. The Applicant's obligation to pay for falling water in accordance with the terms of the proposed Falling Water Contract is in essence payment for benefits received from the Government's American Falls Replacement Dam. At 1974 costs, the forty annual payments of principal and interest spread over fifty years of the license would require an estimated annual payment of \$1,506,765 for falling water. In addition, the Applicant's payment of one-third of the annual operation and maintenance expenses of the Replacement Dam is estimated to average \$10,000 annually and is in the nature of further annual charges. In light of the substantial nature of the proposed payments to be made by the Applicant toward the construction, maintenance and operation of the Replacement Dam we believe Applicant would in essence be paying an annual charge for the use of a Government dam within the meaning of Section 10(e) of the Act. However, we will defer our determination of reasonable annual charges until we can review, in light of any revised costs, the financial obligations assumed by the Applicant. Copies

of executed contracts and other documents relating to such financial obligations are to be promptly filed with the Commission under Article 36 of this license.

We believe that the record relative to the instant application has been fully developed and considered by this Commission. The facts have been fully developed in Reclamation's DEIS and comments thereon, as set out in the Final Environmental Impact Statement, public staff meetings, pleadings and other data on file with the Commission. Therefore, we do not believe that a trial-type hearing will contribute any new and relevant information and conclude that it is not in the public interest to hold such a hearing in this proceeding.

We conclude on the basis of the record before us that a power license should be issued to the Applicant for a term of fifty years effective on the first day of the month in which this order is issued.

Applicant filed several exhibits as part of its application. Exhibit J, General Map of the Project Area, and Exhibit K, Detail Maps of the Project Area, substantially conform to the Regulations and are approved as part of this license for Project No. 2736, subject to the provisions of Article 4, whereby Applicant will submit "as-built" Exhibits upon completion of construction or at such time as the Commission may require.

Of the 11 sheets filed as part of Exhibit L, General Design Drawings, we have included FPC No's 2736-18 through 22 as herein-after described in this license. The remaining sheets were of an informational nature only and are not relevant to the design of the project.

Exhibit M, General Description and Specifications of Equipment is approved only as to those parts which describe part of the licensed project itself. Paragraph "1. Intake" was submitted for informational purposes only and equipment described therein is not a part of Project No. 2736 but rather of the Replacement Dam.

The revised Exhibit R filed July 15, 1974, is approved and made part of this license with the exception of portions of the text relating to expenditures of public funds authorized under the Act of December 28, 1973. Exhibit S is also approved. While we recognized previously that the primary responsibility for mitigation of any adverse environmental impacts from the Replacement Dam Program rests with District, we are requiring Applicant to consult and cooperate with appropriate agencies to help insure that the natural resources involved are protected. In this regard we note but do not include in the license the July 2, 1974, agreement between District and IFG, which Applicant filed as part of Exhibit R.

No conflicting applications are before the Commission at this time. We note that the license issued March 24, 1975, in Project No. 2258 is for the existing American Falls project.

One of the provisions of that order requires Applicant to make application to surrender Project No. 2258 when its generation is rendered inoperable by a more comprehensive hydroelectric development at American Falls.

Finally, Applicant noted in its Exhibits C, D, and E that application would be made to the Idaho State Department of Water Administration for a change in the point of diversion of the water at American Falls, to obtain permits for any additional water used, to construct project works in the river channel, and to remove certain of the existing facilities.

The Commission finds:

- (1) The American Falls Powerplant Project No. 2736 would affect lands of the United States and the United States Department of the Interior Bureau of Reclamation American Falls Replacement Dam and would be located on a navigable waterway of the United States.
- (2) Applicant is a corporation organized under the laws of the State of Maine and is authorized to do business in the State of Idaho.
- (3) Public notice of the filing of the application for major license was given on December 5, 1973. Notice of intervention was filed by the Idaho Public Utilities Commission pursuant to section 1.8(d)(1) of this Commission's Rules of Practice and Procedure. Interventions were granted based on petitions filed by the Governor of Idaho, Honorable Cecil D. Andrus; Idaho Fish and Game Commission; American Falls Reservoir District; and the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho.
- (4) Intervenor Idaho Fish and Game Commission should be permitted to withdraw its petition to intervene.
- (5) A trial-type hearing is neither warranted nor in the public interest, as the record before this Commission is sufficient for decision.
- (6) No conflicting application is before the Commission.
- (7) Subject to the terms and conditions hereinafter imposed, the project does not adversely affect a Government dam, nor will the issuance of a license therefor, as hereinafter provided, affect the development of any water resources for public purposes which should be undertaken by the United States.

(8) Subject to the terms and conditions hereinafter imposed, the project will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of waterpower development, and for other beneficial public uses, including recreational purposes.

(9) The estimated cost of developing the project compared to the estimated cost of developing suitable alternative sources of power is reasonable.

(10) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 123,000 horsepower, and the amount of annual charges based on such capacity to be paid under the license for the project for the cost of administration of Part I of the Act is reasonable.

(11) The amount of annual charges to be paid under the license for recompensing the United States for the use, occupancy, and enjoyment of its lands is reasonable, as hereinafter fixed and specified.

(12) It is appropriate in the administration of the Federal Power Act to defer the question of reasonable annual charges to be assessed for the use of a Government dam.

(13) The plans of the structures affecting navigation have been approved by the Corps of Engineers.

(14) The term of the license hereinafter authorized is reasonable.

(15) The Exhibits designated and described in paragraph (B) below conform to the Commission's Rules and Regulations and should be approved as part of the license for the project.

(16) The Applicant has demonstrated satisfactory evidence that it has the necessary financial capabilities to undertake the development and operation of the project.

(17) Federal development of this project has been precluded by the Act of December 28, 1973.

The Commission orders:

(A) This license is hereby issued to Idaho Power Company (hereinafter Licensee) under the Federal Power Act for a fifty year period commencing the first day of the month in which this order is issued, for the construction, operation and maintenance of the American Falls Project No. 2736, located on the Snake River, in Power County, Idaho, and which occupies lands of the United States, will utilize water from and affect the American Falls Replacement Dam of the United States Department of the Interior Bureau of Reclamation, and further would affect navigable waters of the United States, subject to the terms and conditions of the Federal Power Act, which is incorporated herein by reference as part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) The American Falls Project No. 2736, consists of:

(i) all lands constituting the project area and enclosed by the project boundary, the limits of which are otherwise defined, and/or interests in such lands necessary or appropriate for the purposes of the project, whether such lands or interests therein are owned or held by the Licensee or the United States; such project area and project boundary being shown and described by certain exhibits which form part of the application for license which are designated and described as follows:

<u>Exhibit</u>	<u>FPC No.</u>	<u>Showing</u>
Exhibit J, Sheet 1 of 1	2736-32	General Map
Exhibit K, Sheet 1 of 2	2736-27	Detail Map
Exhibit K, Sheet 2 of 2	2736-28	Detail Map

(ii) project works consisting of: (1) three 18-ft. steel-lined penstocks extending approximately 240 ft. downstream from a connection with similar penstocks and intake works to be constructed as part of the Government's American Falls Replacement Dam to the centerline of project turbines;

(2) a reinforced concrete powerhouse containing three adjustable-blade turbines each rated 42,000 hp at 88-ft. net head connected to three vertical-shaft, semi-outdoor type generators each rated 34.2 mVA (30.8 mW at 0.9 p.f.), a 175-ton gantry crane, and other related electrical and mechanical equipment;

(3) a switchyard upstream from the powerhouse containing one three-phase transformer rated approximately 125 mVA, 13.8/138

kV, with circuit breakers and disconnect switches; (4) a 138-kV steel-pole transmission line extending approximately 2,100 ft. along the right bank and across the Snake River to the 138-kV switchyard of the existing American Falls Project No. 2258 of the Idaho Power Company; (5) a tailrace; (6) recreation facilities consisting of a public parking area, three small landscaped parks with picnic tables, a potable water supply and sanitary facilities, a public access area on the West bank of the Snake River to accommodate bank fishing, and boat launching facilities; and (7) appurtenant facilities: -- the location, nature and character of which are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also form part of the application for license and which are designated and described as follows:

<u>Exhibit L</u>	<u>FPC No</u>	<u>Showing</u>
Sheet 1 of 10	2736-18	Project Layout-Plan & Section
Sheet 2 of 10	2736-19	Powerhouse General Arrangement-Top Deck & Generator Floor
Sheet 3 of 10	2736-20	Powerhouse General Arrangement-Turbine Floor & Inspection Gallery
Sheet 4 of 10	2736-21	Powerhouse General Arrangement-Transverse Sections
Sheet 5 of 10	2736-22	Powerhouse General Arrangement-Longitudinal Section

Exhibit M: Consisting of three typewritten pages, filed February 6, 1974, entitled "General Description and Specification of Equipment", except for paragraph "1" on page 1.

Exhibit R (revised): Filed July 15, 1974 and consisting of:

- (1) seven typewritten pages of text, except for the second paragraph on page 1 and the third full paragraph on page 5 thereof, and
- (2) one map Exhibit R, page 1 of 1 (revised) (FPC No. 2736-29) entitled "Location Map - Recreational Facilities," insofar as it describes existing and proposed recreation sites.

Exhibit S (revised): Filed March 18, 1974, and consisting of five typewritten pages of text.

(iii) all of the structures, fixtures, equipment or facilities used or useful in the maintenance and operation of the project and located on the project area, and such other property as may be used or useful in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property as part of the project is approved or acquiesced in by the Commission; together with all riparian or other rights, the use or possession of which is necessary or appropriate in the maintenance or operation of the project.

(C) This license is also subject to the following terms and conditions set forth herein as articles:

Article 1. The entire project, as described in this order of the Commission, shall be subject to all the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in uses of project land and waters or in the project works or

divergence from such approved exhibits may be made if such changes will not result in decrease in efficiency, in material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Article 4. Upon the completion of the project, or at such other time as the Commission may direct, the Licensee shall submit to the Commission for approval revised exhibits insofar as necessary to show any divergence from or variations in the project area and project boundary as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the exhibits approved by the Commission, together with a statement in writing setting forth the reasons which in the opinion of the Licensee necessitated or justified variations in or divergence from the approved exhibits. Such revised exhibits shall, if and when approved by the Commission, be made a part of the license under the provisions of Article 2 hereof.

Article 5. The construction, operation, and maintenance of the project and any work incidental to additions or alterations shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of the project and for any subsequent alterations to the project. Construction of the project works or any feature or alteration thereof shall not be initiated until the program of inspection for the project works or any such feature thereof has been approved by said representative. The Licensee shall also furnish to said representative such further information as he may require concerning the construction, operation, and maintenance of the project, and of any alteration thereof, and shall notify him of the date upon which work will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for

a period of more than one week, and of its resumption and completion. The Licensee shall allow him and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may from time to time prescribe for the protection of life, health, or property.

Article 6. The Licensee within five years from date of issuance of the license shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance and operation of the project. The Licensee, its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deed or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 7. In the event the project is taken over by the United States upon the termination of the license, as provided in Section 14 of the Act, or is transferred to a new license or to a non-power licensee under the provisions of Section 15 of the Act, the Licensee, its successors and assigns will be responsible for and will make good any defect of title to or of right of occupancy and use in any of such project property which is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and will pay and discharge, or will

assume responsibility for payment and discharge, of all liens or incumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new Licensee, to acquire any different title to or right of occupancy and use in any of such project property than was necessary to acquire for its own purposes as Licensee.

Article 8. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Act and the Commission's Rules and Regulations thereunder.

Article 9. After the first 20 years of operation of the project under the license, six percent per annum shall be the specified rate of return on the net investment in the project for determining surplus earnings of the project for the establishment and maintenance of amortization reserves, pursuant to Section 10(d) of the Act; one-half of the project surplus earnings, if any, accumulated after the first 20 years of operation under the license, in excess of six percent per annum on the net investment, shall be set aside in a project amortization reserve account as of the end of each fiscal year: Provided, that, if and to the extent that there is a deficiency of project earnings below six percent per annum for any fiscal year or years after the first 20 years of operation under the license, the amount of such deficiency shall be deducted from the amount of any surplus earnings accumulated thereafter until absorbed, and one-half of the remaining surplus earnings, if any, thus cumulatively computed, shall be set aside in the project amortization reserve account; and the amounts thus established in the project amortization reserve account shall be maintained therein until further order of the Commission.

Article 10. For the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines, the Licensee shall install and thereafter maintain such gages and stream-gaging stations as the Commission may deem necessary and best adapted to the requirements; and shall provide for the required readings of such gages and for

the adequate rating of such stations. The Licensee shall also install and maintain standard meters adequate for the determination of the amount of electric energy generated by said project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission and may be altered from time to time if necessary to secure adequate determinations, but such alteration shall not be made except with the approval of the Commission or upon the specific direction of the Commission. The installation of gages, the ratings of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of said project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient record of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 11. The Licensee shall install additional capacity or make other changes in the project as directed by the Commission to the extent that it is economically sound and in the public interest to do so, after notice and opportunity for hearing.

Article 12 The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 13. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvements, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or

other headwater improvements of the United States the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the costs of making the determinations pursuant to the then current Commission Regulations under the Federal Power Act.

Article 14. The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

* * * Article 15. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall, after notice and opportunity for hearing, permit such reasonable use of its project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission in the interest of comprehensive development of the waterway or waterways involved and the conservation and utilization of water resources of the region, for water supply, or for the purpose of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation, at least full reimbursement for any damages or expenses which the joint use causes him to incur, for use of its reservoir or other project properties or parts thereof for such purposes, any such compensation to be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary

water rights pursuant to applicable State law, or a showing of cause why such evidence cannot be concurrently submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 16. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive interference.

Article 17. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance and operation of such reasonable facilities and comply with such reasonable modifications of the project structures and operation as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 18. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of Licensee's lands and interest in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article.

This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 19. The Licensee shall construct, maintain and operate, or shall arrange for the construction, maintenance and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal and State agencies, after notice and opportunity for hearing.

Article 20. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: Provided, That the Licensee may reserve from public access, such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 21. The Licensee shall be responsible for and shall take reasonable measures to prevent soil erosion on lands adjacent to the stream(s) and to prevent stream siltation or other forms of water or air pollution resulting from construction, operation or maintenance of the project. The Commission upon request, or upon its own motion, may order the Licensee to take such measures as the Commission may find to be necessary for these purposes, after notice and opportunity for hearing.

Article 22. Licensee shall dispose of all temporary structures, unused timber, brush, refuse, or other unneeded material resulting from the clearing of lands or from the maintenance or alteration of the project works. Disposal of the material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local laws and regulations.

Article 23. Insofar as any material is dredged or excavated in the prosecution of any work authorized under the license, or in the maintenance of the project, such material shall be removed and deposited in such a manner as to reasonably preserve the project environmental values and so as not to interfere with traffic, both land and water. Dredging and filling in a navigable water of the United States will also be done to the satisfaction of the District Engineer, Department of the Army, in charge of the locality.

Article 24. Whenever the United States shall desire to construct, complete, or improve navigation facilities in connection with the project, the Licensee shall convey to the United States, free of cost, such of its lands and its rights-of-way and such right of passage through its dams or other structures, and permit such control of pools as may be required to complete and maintain such navigation facilities.

Article 25. The operation of any navigation facilities which may be constructed as a part of or in connection with any dam or diversion structure constituting a part of the project works shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure, as may be made from time to time by the Secretary of the Army.

Article 26. The Licensee shall furnish free of cost to the United States power for the operation and maintenance of navigation facilities in the vicinity of the project at the voltage and frequency required by such facilities and at a point adjacent thereto whether said facilities are constructed by the Licensee or by the United States.

Article 27. The Licensee shall for the protection of navigation, construct, maintain and operate at its own expense such lights and other signals on fixed structures in or over navigable waters of the United States as may be directed by the Secretary of the Department in which the Coast Guard is operating.

Article 28. The Licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license. Arrangements to meet such

liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

Article 29. The Licensee shall allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across those project lands which are lands of the United States such conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other means of transportation and communication not inconsistent with the enjoyment of said lands by the Licensee for the purposes of the license. This license shall not be construed as conferring upon the Licensee any right of use, occupancy, or enjoyment of the lands of the United States other than for the construction, operation, and maintenance of the project as stated in the license.

Article 30. In the construction and maintenance of the project, the location and standards of roads and trails on lands of the United States and other uses of lands of the United States, including the location and condition of quarries, borrow pits, and spoil disposal areas, shall be subject to the approval of the department or agency of the United States having supervision over the lands involved.

Article 31. The Licensee shall make provision, or shall bear the reasonable cost, as determined by the agency of the United States affected, of making provision for avoiding inductive interference between any project transmission line or other project facility constructed, operated, or maintained under the license, and any radio installation, telephone line, or other communication facility installed or constructed before or after construction of such project transmission line or other project facility and owned, operated, or used by such agency of the United States in administering the lands under its jurisdiction.

Article 32. The Licensee shall cooperate with the United States in the disposal by the United States of mineral and vegetative materials, under the Act of July 31, 1947, 61 Stat. 681, as amended (30 U.S.C. §601, et seq.) from lands of the United States occupied by the project or any part thereof: Provided, That such disposal has been authorized by the Commission and that it does not unreasonably interfere with the occupancy of such lands by the

Licensee for the purposes of the license: Provided further, That, in the event of disagreement, any question of unreasonable interference shall be determined by the Commission after notice and opportunity for hearing.

Article 33. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and take any such other action necessary to restore the project stream(s), lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or provide for the continued operation and maintenance of non-power facilities and fulfill such other obligations under the license as the Commission may prescribe. The Commission, in its discretion, may also terminate the license.

Article 34. The right of the Licensee and of its transferees and successors to use or occupy waters, over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 35. This license shall not be construed as affecting in any way any claim the licensee may have concerning its water rights acquired pursuant to State law. Those rights, not this license, shall govern any claim the licensee may advance against the United States or other parties claiming through the United States for any damages resulting from any future depletion in the flow of the waters of the Snake River and its tributaries for the irrigation of lands or other beneficial consumptive uses.

Article 36. Licensee shall promptly file for Commission information copies of all executed contracts

and other documents relating to any financial obligations assumed by it with respect to the American Falls Replacement Dam and Reservoir.

Article 37. During the planning and design period prior to construction of the project, the Licensee shall consult with the District Engineer, Corps of Engineers, Walla Walla District, concerning the Department of the Army permit requirements.

Article 38. Licensee shall within 1 year from the effective date of this license: (1) complete a study, in consultation with appropriate Federal, State and local agencies, to determine the need, if any, of an alternative alignment and/or clearance for the 138-kV transmission line extending from the powerhouse to the American Falls switchyard necessary for the safety and protection of persons using the reservoir for navigational and recreational purposes, and (2) file a revised Exhibit F and submit for Commission approval revised Exhibits J, K, M, and L, reflecting any change in alignment or clearance of the 138-kV transmission line, in conformance with the Commission's rules and regulations.

not
Article 39. Licensee shall in the design, construction and maintenance of the project works, including transmission lines, follow the Commission's "Guidelines for the Protection of Natural, Historic, Scenic and Recreational values in the Design and Location of Rights-of-Way and Transmission Facilities" of Commission Order No. 414 and other recognized engineering and landscaping practices as may be needed to protect and preserve the environmental values of the project.

X ✓
Article 40. The Licensee shall, during the development and operation of the project, continue to consult and cooperate with the U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, Idaho Department of Fish and Game, Idaho Department of Water Resources, and other appropriate environmental agencies for the protection and development of the natural resources of the project area.

Article 41. The Licensee shall, to the satisfaction of the Commission's authorized representative, install and operate such signs, lights, sirens or other devices

below the powerhouse to warn the public of fluctuations in flow from the project, as may be reasonably needed to protect the public in its recreational use of project lands and waters.

Article 42. The Licensee shall, in cooperation with the U.S. Department of the Interior, State and local agencies, construct, maintain and operate, or arrange for the construction, maintenance and operation thereof, a parking area along the access road to the powerhouse; a foot trail to provide public access, extending from this road, under the railroad bridge, to the west riverbank tailrace area; and a boat dock (Development 6) adjacent to the existing park (Development 1, as shown on the Exhibit R drawing FPC No. 2763-29).

Article 43. Licensee shall consult and cooperate with the Idaho Department of Health and Welfare and comply with State and local regulations in planning and providing for the collection, storage, and disposal of solid wastes generated through public access and use of project lands and waters, and, within one year after issuance of this license, shall file with the Commission a solid waste management plan which has been approved by the Idaho Department of Health and Welfare. This plan shall provide:

- (a) the location of solid waste receptacles to be provided at public areas, picnicking areas, and boat access areas;
- (b) schedules of collection for the above receptacles;
- (c) provisions for including in the subject plan any public use areas as they may be developed; and
- (d) disposal sites and methods of disposal.

Article 44. The Licensee shall cooperate with the U.S. Department of the Interior's Bureau of Reclamation and the Office of the Idaho State Historic Preservation Officer: (1) in developing plans or procedures for the protection, during and after project construction, of any historic resources identified as being within the project boundaries including the Old Island Powerhouse, and (2) in developing and executing plans for the improvement of such structures in the interest of recreation, education, and historic preservation, including the provision of public access to such resources.

Article 45. The Licensee, within 1 year of the date of issuance of the license and following consultation and cooperation with the U.S. Department of the Interior's Bureau of Reclamation and Fish and Wildlife Service, and

the Idaho Department of Fish and Game, shall prepare and submit for Commission approval plans for a comprehensive, 3-year research study devised to determine the mortality rate of fish passed downstream via the turbines. The Licensee shall file annual progress reports with the Commission and at the termination of the study, shall file with the Commission a final report to include recommendations for any changes in project structures or operations as indicated desirable from the study, or the need for any continuation of the study.

Article 46. The Licensee, following consultation with appropriate Federal and State water quality agencies, shall cooperate with the Bureau of Reclamation and the American Falls Reservoir District in the installation, maintenance, and the continuous operation of a dissolved oxygen and temperature monitoring system in the Snake River immediately downstream from the project tailrace. Licensee will insure that procedures exist whereby water releases from the Replacement Dam will bypass the project when the D.O. levels as measured by the system fail to meet the approved State standards. The Licensee shall maintain records of the data gathered and shall file with the State Health and Welfare and Fish and Game Departments and the Commission annual summaries, or summaries for other intervals when requested, reporting observed daily minimum, maximum, and average dissolved oxygen concentrations and temperatures, and any actions taken when the D.O. levels were below the approved State Standard.

Article 47. The Licensee shall commence construction of the project within two years from the effective date of the license and shall thereafter in good faith and with due diligence prosecute such construction, and shall complete construction of such project works within four years from the effective date of the license.

Article 48. The Licensee shall pay the following annual charges, effective as of the first day of the month in which this license is issued:

(i) For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations, in effect from time to time. The authorized installed capacity for such purposes is 123,000 horsepower; and

(ii) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of 10.31 acres of its lands, \$24.74, or such amount as may be determined from time to time pursuant to the Commission's Regulations; and

(iii) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of the American Falls Replacement Dam, an amount to be hereafter determined by the Commission. Upon receipt from the Licensee of the executed contracts, as provided for in Article 36 herein, the Commission will determine the amount of reasonable annual charges to be paid by Licensee for the purpose of recompensing the United States for the use, occupancy, and enjoyment of the American Falls Replacement Dam.

Article 49. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

(D) The Exhibits designated and described in Paragraph (B) above are hereby approved and made a part of the license to the extent heretofore noted.

(E) Intervenor Idaho Fish and Game Commission is hereby permitted to withdraw its petition to intervene.

(F) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license. In acknowledgment of the acceptance of this license it shall be signed for the Licensee and returned to the Commission within 60 days from the date of issuance of this order.

By the Commission.

(S E A L)

Kenneth F. Plumb

Kenneth F. Plumb,
Secretary.

IN TESTIMONY of its acknowledgment of acceptance of all of the provisions, terms and conditions of this license, Idaho Power Company, this 25th day of April, 1975, has caused its corporate name to be signed hereto by JAMES E BRUCE, its _____ President, and its Corporate Seal to be affixed hereto and attested by PAUL L JAUREGUI, its _____ Secretary, pursuant to a resolution of its Board of Directors duly adopted on the 10th day of April, 1975, a certified copy of the record which is attached hereto.

Idaho Power Company

By *James E Bruce*
President

Attest:

Paul L Jauregui
Secretary

(Executed in Quadruplicate)

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

AMENDMENT NO. 1
INSTRUMENT NO. 2

AMENDMENT OF LICENSE

Before Commissioners: Richard L. Dunham, Chairman;
Don S. Smith, John H. Holloman III,
and James G. Watt.

Idaho Power Company

)

Project No. 2736

Amendments

ORDER AMENDING MAJOR LICENSE
FOR CONSTRUCTED PROJECT

(Issued July 21, 1976)

On March 31, 1975, we issued a major license for the unconstructed American Falls Project, FPC No. 2736, to Idaho Power Company (hereinafter Licensee).^{1/} The project is to be located at the U.S. Department of the Interior, Bureau of Reclamation's American Falls Replacement Dam on the Snake River, near the City of American Falls in Power County, Idaho. Before us now is an application filed by Licensee on February 27, 1976, and supplemented on March 5, 1976, by which Licensee seeks amendment of Articles 38, 43, and 45 of the Project No. 2736 license.

By Article 38 of the license, Licensee was required to complete a study within one year of the effective date of the license regarding the alignment and/or clearance of the 138 kV transmission line extending from the project powerhouse to American Falls switchyard and, if appropriate, to file revised exhibits to reflect any changes in the transmission line. Article 43 of the license required Licensee to file with the Commission a solid waste management plan for the project within one year of issuance of the license. Article 45 of the Project No. 2736 license required Licensee to file within one year of the license's issuance plans for a comprehensive research study designed to determine the mortality rate of fish passing through the project's turbines.

^{1/} Idaho Power Co., Project No. 2736, 53 F.P.C. ____ (1975). The license has an effective date of March 1, 1975, the first day of the month in which the license was issued.

Licensee requests that Articles 38, 43, and 45 each be amended to allow it an additional year within which to comply with the articles' respective requirements. In support of the application, Licensee states that construction of the Bureau of Reclamation's American Falls Replacement Dam has been delayed, as has construction of Project No. 2736; that construction of Project No. 2736 is now scheduled to commence in mid-1976; and that the proposed amendments to the license will not affect the project's construction.

Licensee has filed copies of letters from the Idaho State Parks & Recreation Department, the Idaho State Department of Health and Welfare, the Idaho Fish and Game Department, and the U.S. Bureau of Reclamation. Licensee was required to consult and/or cooperate with these agencies in meeting the requirements of Articles 38, 43, and 45. Each agency declared its lack of objection to, and in the case of the Idaho Fish and Game Department its support of, Licensee's proposed amendment. In addition, Licensee states that the U.S. Fish and Wildlife Service has no objection.

We believe that Licensee's proposed amendment should be granted. In view of the delays in construction at the project, it can make no difference if Licensee is allowed an additional year in which to file the required studies and plans, and the end-products may be enhanced by the allowance of such additional time. Accordingly, by this order we amend Article 38 to provide that its requirements shall be met by Licensee by March 1, 1977, and Articles 43 and 45 to provide that their respective requirements shall be met by March 31, 1977.

Our amendment of the Project No. 2736 license in the manner hereinafter provided is in the nature of an extension of time, and will have little, if any, effect on the quality of the human environment. Consequently, an environmental impact statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. §§4321 et seq., is not required.

The Commission finds:

It is appropriate for purposes of the Federal Power Act and in the public interest to amend Articles 38, 43, and 45 of the license for Project No. 2736 in the manner hereinafter provided.

The Commission orders:

(A) Article 38 of the Project No. 2736 license is hereby amended to read as follows:

Article 38. Licensee shall, no later than March 1, 1977: (1) complete a study, in consultation with appropriate Federal, State, and local agencies, to determine the need, if any, of an alternative alignment and/or clearance for the 138-kV transmission line extending from the powerhouse to the American Falls switchyard necessary for the safety and protection of persons using the reservoir for navigational and recreational purposes, and (2) file a revised Exhibit F and submit for Commission approval revised Exhibits J, K, M, and L, reflecting any change in alignment or clearance of the 138-kV transmission line, in conformance with the Commission's rules and regulations.

(B) Article 43 of the Project No. 2736 license is hereby amended to read as follows:

Article 43. Licensee shall consult and cooperate with the Idaho Department of Health and Welfare and comply with State and local regulations in planning and providing for the collection, storage, and disposal of solid wastes generated through public access and use of project lands and waters, and shall file with the Commission no later than March 31, 1977, a solid waste management plan which has been approved by the Idaho Department of Health and Welfare. This plan shall provide: (a) the location of solid waste receptacles to be provided at public areas, picnicking areas, and boat access areas; (b) schedules of collection for the above receptacles; (c) provisions for including in the subject plan any public use areas as they may be developed; and (d) disposal sites and methods of disposal.

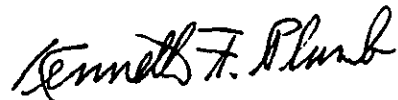
(C) Article 45 of the Project No. 2736 license is hereby amended to read as follows:

Article 45. The Licensee, following consultation and cooperation with the U.S. Department of the

Interior's Bureau of Reclamation and Fish and Wildlife Service, and The Idaho Department of Fish and Game, shall prepare and submit, no later than March 31, 1977, for Commission approval, plans for a comprehensive, 3-year research study devised to determine the mortality rate of fish passed downstream via the turbines. The Licensee shall file annual progress reports with the Commission and at the termination of the study, shall file with the Commission a final report to include recommendations for any changes in project structures or operations as indicated desirable from the study, or the need for any continuation of the study.

By the Commission.

(S E A L)



Kenneth F. Plumb,
Secretary.

Project No. 2736

IN TESTIMONY of its acknowledgment of acceptance of the amendments to Articles 38, 43, and 45 of the license for Project No. 2736, Idaho Power Company, this 10th day of September 1976, has caused its corporate name to be signed hereto by JAMES E BRUCE, its _____ President, and its corporate seal to be affixed hereto and attested by PAUL L JAUREGUI, its _____ Secretary, pursuant to a resolution of its Board of Directors duly adopted on the 9th day of September, 1976, a certified copy of the record of which is attached hereto.

By James E Bruce
President

Attest:

Paul L Jauregui
Secretary

(Executed in quadruplicate)

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION



GOVERNMENT DAM; ANNUAL
CHARGES

Before Commissioners: Richard L. Dunham, Chairman;
Don S. Smith, John H. Holloman III,
and James G. Watt.

Idaho Power Company

) Project No. 2736

ORDER APPROVING CONTRACT PAYMENTS
IN LIEU OF ANNUAL CHARGES,
AND AMENDING LICENSE

(Issued November 5, 1976)

On March 31, 1975, we issued a major license for the unconstructed American Falls Project No. 2736 to Idaho Power Company (hereinafter Licensee). ^{1/} The project is to be located at the U.S. Department of the Interior, Bureau of Reclamation's American Falls Replacement Dam on the Snake River, near the City of American Falls in Power County, Idaho.

Article 36 of the license for Project No. 2736 required Licensee to file with the Commission copies of executed contracts relating to any financial obligations assumed by Licensee with respect to the American Falls Replacement Dam and Reservoir. By Article 48 of the license, the Commission reserved the right to determine the amount of annual charges to be paid by Licensee for the purpose of recompensing the United States for the use, occupancy, and enjoyment of the American Falls Replacement Dam.

On August 11, 1976, Licensee filed with the Commission copies of a Falling Water Contract, a Spaceholder Contract, and a Water Quality Facilities Agreement, which set forth its cost obligations with respect to the American Falls Replacement Dam. By this order we accept these filings as compliance with Article 36 of the Project No. 2736 license, and approve the contract

^{1/} Idaho Power Co., Project No. 2736, 53 F.P.C.
(1975).

payment obligations in lieu of the annual charges normally required by Section 10(e) of the Federal Power Act, 16 U.S.C. §803(e).

Background

The existing American Falls Dam was constructed by the Bureau of Reclamation in 1927 as part of the Minidoka Reclamation Project. Over the years, the dam has deteriorated to the point where, in 1972, storage in the reservoir was limited to about 2/3 capacity for safety reasons.

The Act of December 28, 1973, 87 Stat. 904, authorized the Secretary of the Interior (Secretary) to enter into agreements with the American Falls Reservoir District (District) providing for reconstruction of the dam at American Falls. The District, as constructing agency, is to be authorized by the agreements to finance and provide for construction of the replacement dam. When the Secretary determines that construction is substantially completed the United States is to take title to the dam, which shall then be considered a "Government dam" within the meaning of the Federal Power Act. 2/

The Falling Water Contract filed by Licensee sets forth Licensee's obligation to provide \$19,550,000 toward the cost of the replacement dam. 3/ Licensee will make forty annual payments to a Trustee, which payments will be used to satisfy the District's indebtedness incurred by the issuance of bonds to finance construction of the dam.

The Falling Water Contract was executed on March 24, 1976, and approved by the Secretary of the Interior's representative on March 31, 1976.

2/ See Federal Power Act, Section 3(10), 16 U.S.C. §796(10).

3/ Licensee is also obligated to bear the estimated cost of water quality facilities and a percentage of the dam's cost in excess of \$38,000,000.

Discussion

Section 10(e) provides that all licenses issued under Part I of the Act are subject to the condition that the Commission shall fix reasonable annual charges for the use of Government dams in connection with such licenses. In the instant case, however, Congress has provided for a scheme of development whereby a State agency -- the District -- will finance and construct the dam, following which title will pass to the United States. In this context, annual payments by Licensee will not be made to the United States for the use of the dam; nevertheless, because Licensee is to bear part of the cost of construction of a project that will eventually be owned by the Federal government, the payments will be equivalent to annual charges paid to the United States. 4/

Under the "sharing of the net benefits" method of computing annual charges for use of a government dam, 5/ Staff calculates that annual charges would amount to \$950,000 for Licensee's use of the American Falls Replacement Dam. Licensee's annual payments under the terms of the Falling Water Contract would be approximately \$1,507,000, plus an additional annual payment for Licensee's share of the annual operation and maintenance expenses. In issuing the license for Project No. 2736, we stated:

In light of the substantial nature of the proposed payments to be made by the Licensee toward the construction, maintenance and operation of the Replacement Dam we believe Applicant would in essence be paying an annual charge for the use of a Government dam within the meaning of Section 10(e) of the Act.

Having reviewed the executed contracts filed by Licensee pursuant to Article 36 of the license, we conclude that Licensee's annual costs provide for reasonable payment

4/ Cf. California Oregon Power Company, Project No. 2082, Docket No. E-6390, 13 F.P.C. 1 (1954), supplemented, 15 F.P.C. 14 (1956), aff'd, California Oregon Power Co. v. FPC, 239 F.2d 426 (D.C. Cir. 1956).

5/ See Montana Power Company, Project No. 5, 25 F.P.C. 221 (1961).

for use of the American Falls Replacement Dam. We therefore approve the contract payments in lieu of annual charges payable to the United States, and amend the license for Project No. 2736, as provided below.

The Commission finds:

(1) Idaho Power Company has complied with Article 36 of the license for Project No. 2736.

(2) The annual costs to be paid by Idaho Power Company pursuant to the Falling Water Contract between the Company and the American Falls Reservoir District, dated March 31, 1976, are equivalent to annual charges for recompensing the United States for the use of the American Falls Replacement Dam. The annual costs are reasonable and should be approved by the Commission in lieu of annual charges payable to the United States.

The Commission orders:

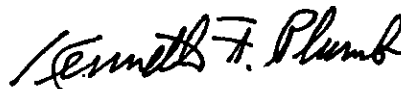
(A) Article 48 (iii) of the license for Project No. 2736 is hereby amended to read as follows:

(iii) for the purpose of recompensing the United States for the use of the American Falls Replacement Dam, Licensee shall discharge its obligations as set forth in the Falling Water Contract between Licensee and the American Falls Reservoir District, dated as of March 31, 1976.

(B) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of the amendment to the license. In acknowledgment of acceptance of all of the terms and conditions of this order, it shall be signed for the Licensee and returned to the Commission within 60 days of its issuance.

By the Commission.

(S E A L)



Kenneth F. Plumb,
Secretary.

Project No. 2736

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this Order, Idaho Power Company, this 16th day of November, 1976, has caused its corporate name to be signed hereto by JAMES E BRUCE, its _____ President, and its corporate seal to be affixed hereto and attested by PAUL L JAUREGUI its _____ Secretary, pursuant to a resolution of its Board of Directors duly adopted on the 12th day of November, 1976, a certified copy of the record of which is attached hereto.

By James E. Bruce
President

Attest:

Paul L Jauregui
Secretary

(Executed in quadruplicate)

STATE OF IDAHO)
COUNTY OF ADA) ss
CITY OF BOISE)

I, PAUL L JAUREGUI, the undersigned, Secretary of Idaho Power Company, do hereby certify that the following constitutes a full, true and correct copy of the resolution passed at the regular meeting of the Board of Directors held November 12, 1976, relating to acceptance of Order Approving Contract Payments in Lieu of Annual Charges, and Amending License under Federal Power Commission Project No 2736.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of Idaho Power Company, this 16th day of November, 1976.

/s/ Paul L Jauregui
Secretary

RESOLVED, That the officers of the Company be, and they hereby are, authorized to acknowledge, accept and execute on behalf of the Company the Order Approving Contract Payments in Lieu of Annual Charges, and Amending License issued by the Federal Power Commission on November 5, 1976, for the American Falls Development designated as Federal Power Commission Project No 2736.

JAN 5 1979

*Copy to
W & Smith*

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

FISH AND WILDLIFE

Idaho Power Company)

Project No. 2736

Order Approving Fish Passage Study Plan
(Issued January 2, 1979)

Idaho Power Company (Licensee) filed on August 25, 1978, and supplemented on November 7, 1978, a proposed study plan entitled "American Falls Dam Fish Passage Study Design". The study plan was filed for Commission approval pursuant to Article 45 ^{2/} of the license for the American Falls Project, FERC No. 2736 ^{3/}. Comments on the study plan were submitted by the U.S. Fish and Wildlife Service (FWS), the Idaho Department of Fish and Game (IDFG), and the Bureau of Reclamation, indicating that the study plan is adequate and acceptable to these agencies.

- 1/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under Section 3.5(g) of the Commission's regulations, 18 CFR 3.5(g) (as amended August 14, 1978).
- 2/ Article 45. The Licensee, within 1 year of the date of issuance of the license and following consultation and cooperation with the U.S. Department of the Interior's Bureau of Reclamation and Fish and Wildlife Service, and the Idaho Department of Fish and Game, shall prepare and submit for Commission approval plans for a comprehensive, 3-year research study devised to determine the mortality rate of fish passed downstream via the turbines. The Licensee shall file annual progress reports with the Commission and at the termination of the study, shall file with the Commission, a final report to include recommendations for any changes in project structures or operations as indicated desirable from the study, or the need for any continuation of the study.
- 3/ Order issuing major license (unconstructed) and permitting withdrawal of intervention, Idaho Power Company, FERC No. 2736 (March 31, 1975).

FWS and IF&G requested, however, that the Commission require Licensee, or its environmental consultants, to formally consult with them at the two planned project review stages outlined in the study plan, and to provide them with copies of the final report.

Although the proposed study period would be significantly shorter than that contemplated by Article 45, it appears the proposed study will still fulfill the purposes of Article 45. Article 45 also requires the Licensee to file annual progress reports during the study period. Under the proposed study plan, the Licensee would file two interim progress reports. The first report would be filed five months after commencement of the study, with the second report to be filed two and one-half months thereafter. The entire study is to be completed no later than March, 1980. The scheme for filing the reports as proposed by the Licensee is an adequate substitute for filing annual progress reports, and also substantially complies with the intent of Article 45.

ENVIRONMENTAL IMPACT

This order does not approve any construction or permanent change in operation or maintenance of the project. Implementation of the study plan will also not adversely affect fish and wildlife resources associated with the project. The study is designed to obtain information useful in determining the effect of the project's operation on the fishery resources and in assessing what modifications in operations or structures, if any, may be necessary to protect these resources. For these reasons, approval of the study plan filed pursuant to license Article 45 does not constitute a major Federal action significantly affecting the quality of the human environment.

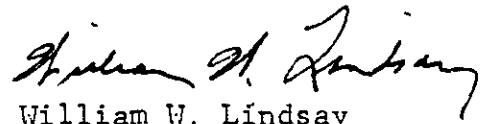
On the basis of the agencies' comments and the Commission staff's own review, it is concluded that the plan as supplemented should be approved.

It is ordered that:

- (A) The "American Falls Dam Fish Passage Study Design" as filed on August 25, 1978, and supplemented November 7, 1978 pursuant to Article 45 of the license for Project No. 2736 is approved.
- (B) Licensee shall consult with the U.S. Fish and Wildlife Service and the Idaho Department of Fish and Game at the two project review stages outlined in the study plan.

- (C) Licensee shall file with the Commission, the U.S. Fish and Wildlife Service, and the Idaho Department of Fish and Game:
- (1) interim progress reports at the project review stages in accordance with the schedule in the study plan, and
 - (2) a final report, at the termination of the study. The final report shall include recommendations, if any, for modification of the project's operation or structures for protection of the fishery resources.

(S E A L)


William W. Lindsay
Director, Office of Electric
Power Regulation

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

OEPR-LP

Project No. 2736 - Idaho
Idaho Power Company

Mr. James E. Bruce
President
Idaho Power Company
P. O. Box 70
Boise, Idaho 83707

March 1, 1979

Subject: Amendment of License Article No. 9 and
Addition of Article No. 50 to the License
for Project No. 2736.

Dear Mr. Bruce:

Pursuant to the authority vested in me by the Commission's regulations, 18 CFR 3.5(a) (as amended August 14, 1978), and your Application for Amendment of License filed May 11, 1978, your license for Project No. 2736 is amended to the following extent:

1. License Article No. 9 is amended by adding the following sentence to the end of the Article:

This Article is effective through May 10, 1978.

2. The following new Article is added to your license effective May 11, 1978, through the remaining term of the license:

Article No. 50. Pursuant to Section 10(d) of the Act, after the first 20 years of operation of the project under license, the rate as computed below shall be the specified rate of return on the net investment in the project for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. One half of the project surplus earnings, if any, accumulated after the first 20 years of operation under the license, in excess of the specified rate of return per annum on the net investment, shall be set aside in a project amortization reserve account as of the end of each fiscal year: Provided, that, if and to the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year or years after the first 20 years of operation under the license, the amount of such deficiency shall be deducted from the

amount of any surplus earnings accumulated thereafter until absorbed, and one-half of the remaining surplus earnings, if any, thus cumulatively computed, shall be set aside in the project amortization reserve account; and the amounts thus established in the project amortization reserve account shall be maintained until further order of the Commission.

The annual specified reasonable rate of return shall be the sum of the weighted cost components of long-term debt, preferred stock, and the cost of common equity, as defined herein. The weighted cost components for each element of the reasonable rate of return is the product of its capital ratios and cost rate. The current capital ratios for each of the above elements of the rate of return shall be calculated annually, based on an average of 13 monthly balances of amounts properly includable in the Licensee's long-term debt and proprietary capital accounts as listed in the Commission's Uniform System of Accounts. The cost rates for such ratios shall be the weighted average cost of long-term debt and preferred stock for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the Treasury Department's 10 year constant maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).

This document should be regarded as an official license instrument and be filed accordingly.

Very truly yours,

Kenneth F. Plumb

Secretary

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION
OFFICE OF ELECTRIC POWER REGULATION

EXHIBIT L

Idaho Power Company)

Project No. 2736

ORDER APPROVING EXHIBIT L DRAWINGS

March 6, 1979

On December 21, 1977, the Idaho Power Company, Licensee for the American Falls Project, FERC Project No. 2736,^{1/} filed for Commission approval "as-built" Exhibit L drawings.^{2/}

The "as-built" Exhibit L drawings show that the project was constructed in substantial conformance with the Exhibit L drawings approved as part of the license, and that there were no changes made in the project design that would affect the safety or adequacy of the project. The drawings conform to the Commission's rules and regulations and should be made a part of the license.

It is ordered that:

(A) The following "as-built" Exhibit L drawings are approved and made a part of the license for Project No. 2736, superseding the Exhibit L drawings noted below:

<u>Exhibit</u> <u>L</u>	<u>FERC No.</u> <u>2736-</u>	<u>Showing</u>	<u>Superseding</u> <u>FERC No. 2736 -</u>
1 of 10	37	Project layout plan and section	18
2 of 10	38	Powerhouse general arrangement top deck and general floor	19

^{1/} On March 31, 1975, the Federal Power Commission issued a major license to Idaho Power Company authorizing the development of the American Falls Project No. 2736. 53 F.P.C. 1017.

^{2/} Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under Section 3.5(g) of the Commission's regulations, 18 CFR 3.5(g) (as amended August 14, 1978).

3 of 10	39	General arrangement plans turbine floor and inspection gallery	20
4 of 10	40	Powerhouse general arrangement transverse sections	21
5 of 10	41.	Powerhouse general arrangement longitudinal section	

(B) The superseded L drawings are deleted from the license.

(S E A L)



William W. Lindsay

William W. Lindsay
Director, Office of Electric
Power Regulation

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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON 20426

IN REPLY REFER TO:

June 18, 1980

OEPR-HL

TO THE LICENSEE ADDRESSED

In 1977, by virtue of the Department of Energy Organization Act, the Federal Energy Regulatory Commission (FERC) became the successor agency to the Federal Power Commission (FPC). As successor to the FPC, the FERC not only assumed responsibility for hydroelectric projects required to be licensed under Part I of the Federal Power Act, but also inherited from the FPC a substantial backlog of applications concerning hydroelectric projects. The Commission is also receiving an unprecedented number of applications for preliminary permits, licenses, and amendments of licenses involving new generating capacity.

Except for holders of some of the oldest licenses, most Licensees must get prior Commission approval before allowing new uses of project lands and waters or conveying interests in project lands, even for relatively insignificant uses. In recent years, licenses have given Licensees explicit authority to allow some uses of project lands and waters without prior approval, but only for a few uses. Because of these circumstances, the Commission receives a great number of applications for approval of changes in land uses or changes in land rights every year, resulting in substantial administrative burdens for both the Licensees and the Commission.

In an order involving Project No. 1490 (issued May 15, 1980), licensed to the Brazos River Authority, the Commission has just revised its policy and endorsed a new article giving Licensees much broader authority to act without prior Commission approval on what are relatively routine matters. The new article will be included in licenses as a matter of course in the future. The new article gives the Licensee authority to grant permission without prior approval for landscape plantings, non-commercial boating access facilities, and erosion control structures, subject to certain conditions. It also allows the Licensee to convey easements or rights-of-way across, or lease of, project lands without prior approval for a substantial number of additional uses, including typical utility distribution lines and improvements of existing bridges and roads. Those conveyances would be subject to a brief annual report, to apprise the Commission of changes that occurred during the prior year. In addition, the article extends to the Licensee authority to convey fee title, easements, rights-of-way, or leases for several other purposes, after a 45-day notice period. The article contains certain conditions designed to make sure that the uses and conveyance covered are consistent with preservation of the projects' scenic, recreational, and other environmental values.

Because the new article provides substantial relief from administrative burdens on Licensees, as well as the Commission, the Commission has authorized the Director of the Office of Electric Power Regulation to afford existing Licensees an opportunity to amend their licenses to add it. A copy of the new article is attached to this letter. If you wish to amend your license to add the new article, you must prepare a letter for each project in the format of the form letter that is also attached. Be sure to fill in the name and number of each project under license, as well as the number of this new article, and attach a copy of the new article with that number filled in. The number of the new article should be the next number above the highest-numbered current article of your license. (E.g., if the highest-numbered current article is 38, the new article will be Article 39.) The letter must be signed for the licensee by an authorized official, in accordance with §1.16(a) of the Commission's regulations, 18 C.F.R. 1.16(a) (1979). It will be filed with the official records of each project as an official license instrument.

If you believe that the attached article substantially replaces a similar existing but narrower authority in your license, you may also use the attached form letter to request that the similar existing license article be deleted from the license.

If you do not request deletion of an existing license article, the new article attached to this letter will be effective upon the date that you file the properly filled-out and signed form letter with the Commission. Receipt of the form letter will not be acknowledged. Therefore, if you return the letter by mail (rather than by personal service), you should call the Division of Hydropower Licensing - Mr. Fred Springer, 202-357-8044, approximately two weeks after you mail it, to be sure it was received and that the new article is in effect.

If you do request deletion of an existing license article, the request will be reviewed by the Director of the Office of Electric Power Regulation. In any event, the new article will be effective from the date your form letter is received. Any deletion of an existing article will be deemed effective 60 days from the date that your form letter is received by the Commission, unless the Director of the Office of Electric Power Regulation issues a letter within that time notifying you that the proposed deletion has not been accepted. Again, you may wish to call Mr. Springer to be sure your letter was received and the new article is in effect.

If you accept the new article attached, then within 60 days after that article becomes effective you will be notified if any of your pending applications for approvals of use of project lands or waters or conveyance of interests in project lands still requires prior Commission approval. Any applications for which you are not notified within that time that prior approval is still required will be deemed withdrawn. You may then proceed to act upon those proposals under the authority of the new article. We will continue to process any remaining applications for which prior approval is still required.

Sincerely,



William W. Lindsay
Director, Office of Electric
Power Regulation

Enclosures:

1. New license article on authority to grant permission to use project lands and waters and to convey interests in project lands, without prior Commission approval.
2. Form letter requesting amendment of license.

FERC Project No. 2736
[Project Name]
American Falls

Honorable Kenneth F. Plumb
Secretary
Federal Energy Regulatory
Commission
825 North Capitol Street, N.E.
Washington, D. C. 20426

Subject: Amendment of the License for Project No. 2736
By Adding Article No. 51 [if applicable:
and by Deleting Article No.].

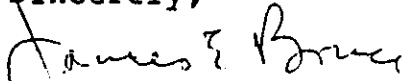
Dear Mr. Plumb:

We have received a letter from Mr. William W. Lindsay, Director of the Office of Electric Power Regulation, offering us an opportunity to amend the license for Project No. 2736 by adding a new standard article. The new article gives the Licensee authority to grant permission for certain uses of project lands and waters and to convey certain interests in project lands, without prior Commission approval. By this letter, we accept that new article as an amendment to the project license. The new article should be designated Article No. 51. A copy of the new article, with that article number filled in, is attached to this letter.

[If applicable, add:

In our judgment, the new article substantially replaces the authority currently contained in Article No. of the license for Project No. . Accordingly, we request that the license be amended to delete Article no. .]

Sincerely,



James E. Bruce, President
Idaho Power Company
[Signature of Authorized Official]
[Name of Authorized Official]
[Title of Authorized Official]
[Name of Licensee]

Attachment:

New license Article No. 51

Article 51. (a) In accordance with the provisions of this article, the Licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain other types of use and occupancy, without prior Commission approval. The Licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the Licensee shall also have continuing responsibility to supervise and control the uses and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the Licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the Licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, cancelling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The types of use and occupancy of project lands and waters for which the Licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities; and (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the Licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The Licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the uses and occupancies for which it grants permission are maintained in good repair and comply with applicable State and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the Licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the Licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the Licensee's costs of administering the permit program. The Commission reserves the right to require the Licensee to file a description of its standards, guidelines, and procedures for

implementing this paragraph (b) and to require modifications of those standards, guidelines, or procedures.

(c) The Licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges and roads for which all necessary State and Federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir. *= 1.55 cfs*
No later than January 31 of each year, the Licensee *= 77 million* shall file three copies of a report briefly describing for *acres* each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The Licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary State and Federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary Federal and State water quality certificates or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary Federal and State approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 45 days before conveying any interest in project lands under this paragraph (d), the Licensee must file a letter to the Director, Office of Electric Power Regulation, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any Federal or

State agency official consulted, and any Federal or State approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the Licensee to file an application for prior approval, the Licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraphs (c) or (d) of this article:

(1) Before conveying the interest, the Licensee shall consult with Federal and State fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the Licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include covenants running with the land adequate to ensure that: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project.

(4) The Commission reserves the right to require the Licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

file 1

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Power Company)

Project No. 2736

ORDER APPROVING REVISED EXHIBIT K
(Issued June 19, 1980)

On February 28, 1977, the Idaho Power Company (Company)*, Licensee for the American Falls Project, FERC Project No. 2736, 1/ filed an application seeking approval of revised Exhibit K and L drawings, pursuant to Article 38 of its license as amended. 2/ The project is located on the Snake River near the City of American Falls, Idaho and began operation on March 30, 1978.

Article 38 of the license required that the Company complete a study to determine the need for an alternate route for the project's 138 kV transmission line extending from the powerhouse to the American Falls Switchyard and to submit revised Exhibits F, J, K, L, and M, as necessary.

The Company, in consultation with the United States Fish and Wildlife Service, the United States Bureau of Reclamation (now the Water and Power Resources Service - WPRS), the Idaho Fish and Game Department, the Idaho Parks Department, the Power County Board of County Commissioners, and the Mayor of the City of American Falls, determined an alternate route for the project's 138 kV transmission line that differs from that originally proposed. The alternate route, as depicted on the revised Exhibits K and L, extends from the powerhouse downstream along the west bank of the river and crosses the river to the American Falls Switchyard, for a distance of approximately 2,300 feet. In the vicinity of the river crossing, the transmission line is from 10 to 125 feet farther away from those project areas that are or would be used for recreational purposes. Approximately one acre of the Company's land was added to the project area.

The revised Exhibit K-1 and K-2 drawings supersede the Exhibit K drawings approved by the order issuing the license. The revised Exhibit L-1 and L-7 drawings need not be approved because they have been superseded by other Exhibit L drawings that were approved by an order issued on March 6, 1979. The alternate transmission line route does not require revised Exhibits F, J, and M.

1/ On March 31, 1975, the Commission issued a major license to the Company authorizing the construction, operation, and maintenance of the American Fall Project No. 2736.

2/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 45 Fed. Reg. 21216 (1980), amending 44 Fed. Reg. 46449 (1979) and 18 C.F.R. 3.5(d)(1979).

DC-A-7

* Mr. Nicolas R. Ysursa

The environmental impacts of the construction, operation, and maintenance of the entire project were considered in the environmental impact statements that were prepared by the WPRS in connection with the replacement of the American Falls Dam. The impacts of the project considered therein have not been altered by the construction of the transmission line. Therefore, the approval of the revised Exhibit K drawings does not constitute a major Federal action significantly affecting the quality of the human environment.

It is ordered that:

(A) The following exhibits, conforming to the Commission's regulations, are hereby approved as part of the license.

<u>Exhibit Sheet No.</u>	<u>FERC No.</u>	<u>Title</u>	<u>Superseded Drawing No.</u>
K - 1 of 2	2736 - 33	Detail Map	2736 - 27
K - 2 of 2	2736 - 34	Detail Map	2736 - 28

(B) The superseded Exhibit K sheets 1 and 2 (FERC Nos. 2736 - 27 and - 28) are hereby deleted from the license.

(C) This order is final 30 days from the date of its issuance unless a petition appealing it to the Commission is filed under Section 1.7(d) [as amended in Docket No. RM78-19 (August 14, 1978) and Docket No. RM79-59 (July 23, 1979)].

(S E A L)

Robert E. Cashow
for William W. Lindsay
Director, Office of Electric
Power Regulation

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426
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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Power Company
Idaho Power Migrating Corporation

Project Nos. 18-003,
503-005, 1971-023,
1975-003, 2055-004,
2061-002, 2726-005,
2736-005, 2777-003,
2778-003, 2848-007,
and 3104-003
Idaho

ORDER APPROVING TRANSFER OF LICENSES

JUN 9 1989

Idaho Power Company seeks Commission approval to transfer its licenses for the projects listed below to Idaho Power Migrating Corporation. The projects are located on the indicated rivers in Idaho. The purpose of the transfer is to effectuate an agreement and plan of merger whereby the Company will be merged with and into the Migrating Corporation.

Licensed Projects Being Transferred

Project No.	Project Name	Project Location	
		River	County
18-003	Twin Falls	Snake	Jerome & Twin Falls
503-005	Swan Falls	Snake	Ada & Owyhee
1971-023	Hells Canyon	Snake	Adams & Washington
1975-003	Bliss	Snake	Gooding & Twin Falls
2055-004	C.J. Strike	Snake	Elmore & Owyhee
2061-002	Lower Salmon	Snake	Gooding & Twin Falls
2726-005	Malad	Malad	Gooding
2736-005	American Falls	Snake	Power & Bingham
2777-003	Upper Salmon	Snake	Gooding & Twin Falls
2778-003	Shoshone Falls	Snake	Jerome & Twin Falls
2848-007	Cascade	North Fork Payette	Valley

I HEREBY CERTIFY THAT THE FORE-
GOING IS A TRUE COPY OF THE
ORIGINAL THEREOF.

Donald W. Williams
ATTORNEY FOR IDAHO POWER COMPANY

2-1

<u>Project No.</u>	<u>Project Name</u>	<u>Project Location</u>	
		<u>River</u>	<u>County</u>
3104-003	Lucky Peak	*	Ada

*Transmission Line License associated with the Lucky Peak Power Project No. 2832.

Idaho Power Company has fully complied with the terms of the licenses and agrees to pay annual charges that have accrued to the date of the transfer. Idaho Power Migrating Corporation is qualified to hold the licenses and operates the properties under license and agrees to accept all the terms and conditions of the licenses and to be bound by the licenses as if it were the original licensee.

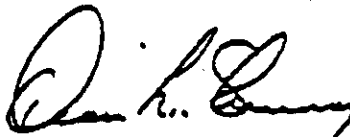
No comments, protests, or motions to intervene were filed in response to the public notice of the application to transfer the licenses. Transfer of the licenses for these projects is consistent with the Commission's regulations and is in the public interest.

The Director orders:

(A) Transfer of the licenses for these projects is approved.

(B) Approval of the transfer is contingent upon transfer of title of the properties under license and delivery of all license instruments to Idaho Power Migrating Corporation, which shall be subject to all terms and conditions of the licenses as though it were the original licensee. Idaho Power Migrating Corporation shall submit certified copies of all instruments of conveyance within 60 days from the date of this order.

(C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission within 30 days from the date of this order. Idaho Power Migrating Corporation shall acknowledge acceptance of this order and its terms and conditions by signing and returning the attached acceptance sheet within 60 days from the date of this order.



Dean L. Shumway
Director, Division of
Project Review

50

Project Nos. 18-003 et al.

IN TESTIMONY of its acknowledgement of acceptance of all of the terms and conditions of this order, Idaho Power Migrating Corporation, this _____ day of _____, 19____, has caused its corporate name to be signed hereto by _____, its President, and its corporate seal to be affixed hereto and attested by _____, its Secretary, pursuant to a resolution of its Board of Directors duly adopted on the _____ day of _____, 19____, a certified copy of the record of which is attached hereto.

By _____
President

Attest:

Secretary

(Executed in quadruplicate)

2-3

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

-2-

Idaho Power Company

Project No. 2736-011
IdahoORDER APPROVING REVISED RECREATION PLAN
(Issued July 19, 1991)

On June 20, 1991, Idaho Power Company, licensee for the American Falls Project, filed a revised recreation plan to accurately represent the existing facilities and permit expansion of Snake River Access area operated by the Power County Waterways Commission.

The filing included documentation of consultation with appropriate agencies. No objections to the proposal were received. In a letter dated May 29, 1991, the Idaho State Historical Society (ISHS) recommended an archeological assessment be conducted in the area proposed for improvements. In an assessment report dated July 11, 1991, no archeological resources were identified. In a letter dated July 8, 1991, commenting on the assessment, ISHS requested notification should any cultural resources be identified during the course of construction. Ordering paragraph (B) is included to ensure the project's cultural resources are adequately protected.

The licensee has included a copy of a lease for a recreational use easement to the Power County Waterways Commission for the Snake River Access Area. The lease agreement contains the necessary covenants required by the Commission and should be approved.

Environmental impacts associated with the licensee's proposal, as modified by the agency permits and ordering paragraph (B), should be minor and of short duration. The licensee's proposal will provide improved recreational access to the project consistent with the project license and the Commission's regulations and should be approved.

The Director orders:

(A) The licensee's June 20, 1991, filing is approved.

(B) If previously unidentified archeological or historic properties are discovered during the course of constructing the park facilities, the licensee shall stop all land-clearing and land-disturbing activities in the vicinity of the properties and consult the State Historic Preservation Officer (SHPO). In this

instance, the licensee shall file with the Commission a cultural resource management plan prepared by a qualified cultural resource specialist after consulting with the SHPO. The management plan shall include (1) a description of each discovered property indicating whether it is listed on or eligible for the National Register of Historic Places, (2) a description of the potential effect on each discovered property, (3) proposed measures for avoiding or mitigating effects, (4) documentation of the nature and extent of consultation, and (5) a schedule for mitigating effects and conducting additional studies. The Commission may require changes in the plan.

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


J. Mark Robinson
Director, Division of Project
Compliance and Administration

Power

Symbol Ilr-733

Mindoka, Idaho

C O N T R A C T

Between the United States and the Idaho Power Company,
Relative to Power Rights at American Falls, Idaho.

Dated June 15, 1923.

Dala Walton
USBR - Borley
has contracts
678-0461 X23

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE
MINIDOKA IRRIGATION PROJECT.

Contract between the United States and Idaho Power Company relative to
power rights at American Falls, Idaho.

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1. THIS AGREEMENT, Made this 15th day of June, 1923 in
2. pursuance of the Act of Congress of June 17, 1902, (32 Stat.,
3. 388) and acts amendatory thereof or supplementary thereto,
4. between THE UNITED STATES OF AMERICA, hereinafter styled the
5. United States, acting for this purpose by Hubert Work
6. Secretary of the Interior, and the IDAHO POWER COMPANY, a
7. corporation organized under the laws of the State of Maine
8. and authorized to do business in the State of Idaho, and
9. having its principal place of business at Boise, Idaho.
10. hereinafter styled the company, its successors and
11. assigns.

2. Purpose and Plans of United States.

12. WHEREAS, the United States contemplates the con-
13. struction of a large reservoir at American Falls, Idaho, to
14. store the flood water and winter flow of Snake River and
15. make the same available for the reclamation of large areas
16. of public lands of the United States including the North
17. Side Pumping Division of the Minidoka Project and other por-
18. tions of the Snake River Valley, and to supplement the water
19. supply of various projects in the Snake River Valley now
20. having an inadequate or insufficient water supply during
21. part of the irrigation season. And

3. Company Public Service Corporation.

22. WHEREAS, the company is a public service corpor-
23. ation furnishing electricity throughout the Southern por-
24. tion of the State of Idaho for light, heat, and power and
25. irrigation purposes. And

4. Interference with Rights of Company.

26. WHEREAS, said electricity is, to a large extent, gen-
27. erated by the company in hydro-electric plants owned by it
28. and located on the Snake River at American Falls and various
29. points below and the water which it uses and claims for use
30. at American Falls is or would be also used, to a large extent,
31. in its plants located and to be located at points below on
32. the stream, so that the storing by the United States of win-
33. ter flow at American Falls will interfere with certain power
34. and other rights of company at American Falls and points be-
35. low and

5. Use of Property Owned by Company.

36. WHEREAS, a portion of said proposed American Falls dam
37. and reservoir will be located on land owned by the company
38. and the construction and operation of the same will also make
39. necessary the destruction of or interfere with certain gener-
40. ating stations and other property of the company; and

6. Company's Prior Filings at American Falls.

41. WHEREAS the company has at American Falls water filings
42. prior to the American Falls filings of the United States
43. sufficient to embrace the entire amount of water reserved

44. to the company under this contract.

7. Need of United States for Power.

45. AND WHEREAS, the said proposed North Side Pumping
46. Division of the Minidoka Project of the United States is a
47. pumping project and the United States will require in con-
48. nection with the said project a large power plant for the
49. development of a large amount of electric power for pump-
50. ing water upon the lands of the said project.

8. Mutual Covenants.

51. NOW, THEREFORE, WITNESSETH: That for and in con-
52. sideration of the covenants and agreements of the par-
53. ties herein, upon the conditions herein named, the par-
54. ties covenant and agree:

9. Property to be Conveyed to United States.

55. The Company hereby agrees, upon the terms and condi-
56. tions hereinafter stipulated, to sell and by good and
57. sufficient deed convey to the United States of America,
58. free of tax liens and of liens or incumbrances created,
59. granted or imposed by itself or its public utility pred-
60. ecessors, all its right, title and interest in and to the
61. following described real estate, situated in the counties
62. of Power and Bingham, State of Idaho, to-wit: (a) The prop-
63. erty described in the list of land descriptions hereto
64. attached as Exhibit "A" and made a part of this contract;
65. and any other real property owned by the company, if any
66. such there be, under the proposed dam or reservoir to be

67. constructed by the United States in connection with the
68. American Falls Reservoir project; the said proposed dam
69. to be located and constructed upstream from the company's
70. American Falls Dam as now constructed and north of the
71. right of way of the Oregon Short Line Railroad Company's
72. bridge property as now located at American Falls; the ti-
73. tle to be conveyed to the United States in all cases to be
74. as full and complete as title as the company has, Provided,
75. however, that to the extent hereinafter expressly provided
76. and to no greater extent than hereinafter expressly
77. provided, and subject to all the terms, conditions and
78. provisions hereinafter set out, the Company shall have and
79. there is reserved to the Company, the right to store the
80. water which it is to receive from the Proposed American Falls
81. Reservoir, upon that part of the property and rights describ-
82. ed in Paragraph 9, located within the reservoir, and agreed
83. to be conveyed by the Company to the United States insofar
84. as such reservation to the Company does not conflict with any
85. of the rights hereinafter granted or agreed to be allowed to
86. the United States or any of the limitations or restrictions
87. hereinafter agreed to be placed upon the rights of the Company.

88. (b) The two power plants at American Falls known as
89. the Island Power plant and the West Side plant, except as to
90. the water rights otherwise provided for in this contract to-
91. gether with the following described tracts of land on which
92. said plants are located, to-wit:

See P. 11

93. The following described parcel of land situated in
94. Lot 5 Sec. 31, T. 7 S., R. 31 E., B. M., beginning at a
95. point on the low-water line, on the West bank of Snake
96. River where the continuation (in a straight line) of
97. the North boundary line of lot five of section thirty-one
98. Township seven south of Range thirty-one east of Boise
99. Meridian, would intersect the said low-water line on the
100. West bank of Snake River; thence west along said north
101. boundary line of said lot five for a distance of 211.5 feet
102. to a stake on the south boundary line of the right of way
103. of the Oregon Short Line Railroad; thence westerly along
104. the south boundary line of said right of way, for a distance
105. of 270 feet to a stake; thence South 43° 14' East for a
106. distance of 386 feet; thence due East to the intersection
107. of the low-water line on the west bank of Snake River;
108. thence along the low-water line on the said west bank of
109. said Snake River, following the meandering thereof, to the
110. point of beginning, containing about two acres, more or less
111. reserving to the Company from said property in said lot five,
112. rights of way and easements for occupancy and use by the
113. Company for the purpose of erecting, operating and maintaining
114. electric transmission lines, and structures and equipment
115. appurtenant thereto for substation, sectionalizing and switch-
116. ing purposes, said rights of way and easements, including
117. the right of ingress and egress over the property of the
118. United States, to be located as mutually agreeable to the

119. United States and the Company.

120. Also the following described piece or parcel of
121. land situated in Lot 12 of Section Thirty (30) Town-
122. ship Seven (7) South, Range Thirty-one (31) East of the
123. Boise Meridian, commencing at a point on the west bank
124. of the Snake River where the easterly boundary line of the
125. right of way of the Oregon Short Line Railroad Company
126. intersects the said bank of Snake River; thence running
127. along the bank of said Snake River in a southerly direction
128. for a distance of eighty feet; thence in a straight line in
129. a westerly direction to the intersection of the east bound-
130. ary line of said railroad company's right of way one hundred
131. and seventy-five feet; and thence along the easterly bound-
132. ary line of said railroad right of way to the place of be-
133. ginning.

134. Also the following described tract of land lying in
135. the river channel of Snake River between Lots 4 and 12, of
136. Section 30, T. 7 S., R. 31 E., B.M. Beginning at a point
137. where the South boundary of Lot 14, Block 20 of the Original
138. Townsite of American Falls intersects the west boundary of
139. Lot 4 Sec. 30, T. 7 S. R. 31 E., B.M., thence in a northerly
140. direction along said west boundary of Lot 4 to the northwest
141. corner of said Lot 4, thence in a straight line across the
142. channel of Snake River to the north east corner of Lot 12,
143. Sec. 30, T. 7 S., R. 31 E., B.M., thence in a southerly

144. direction along the east boundary of said Lot 12 to the
145. southeast corner of said Lot 12; thence in an easterly di-
146. rection along the south boundary of said Sec. 30 to a point
147. where a due north and south line, through a point 25 feet
148. due east from the southeast corner of what is known as the
149. Island Plant power house belonging to the Company, intersects
150. the south boundary of said Sec. 30; thence due north to the
151. center line of the Oregon Short Line Railroad as now located;
152. thence in a straight line in a north-westerly direction to
153. the point of intersection of the east toe of the intake to
154. the said Island Plant with the downstream toe of the company's
155. American Falls dam; thence along the toe of the east face of
156. the east pier or abutment wall of the headworks of said Island
157. plant to the upstream toe of the company's said American Falls
158. dam; thence southeasterly along the upstream toe of that por-
159. tion of the company's said American Falls dam which the com-
160. pany will retain to the easterly toe of the division dam to be
161. constructed by the United States between the westerly end of
162. that portion of the company's dam which the company will retain
163. and the government's proposed American Falls reservoir dam (re-
164. ferred to in Paragraph 15 of this agreement): thence in a straight
165. line in an easterly direction to the point of beginning, and
166. all rights of the Company in the tailrace from said Island and
167. West Side plants; and the United States shall have and there
168. is granted to the United States the right of ingress and egress

169. for pedestrian traffic over the Company's wood-steel
170. bridge leading from the east bank of Snake River to the
171. said Island Plant, so long as said bridge may be maintained
172. by the Company, reserving to the Company, and the Company
173. shall have the right and easement of junction, tie, abutment
174. and support of the portion of the Company's American Falls
175. dam to be retained by it to the portion of said dam to be
176. conveyed to the United States and to the headworks of
177. said Island Plant and to said division dam to be constructed
178. by the United States between the portion of the Company's
179. dam to be retained by it and the Government's proposed
180. American Falls reservoir dam; reserving further to the Com-
181. pany the west portion of the Company's dam as described
182. and with the limitations contained in Paragraph 9 (c), and
183. reserving further to the Company and the Company shall have
184. the right and easement of junction, tie, abutment and sup-
185. port of the Company's said wood-steel bridge upon the pro-
186. perty adjacent to said Island Plant; and reserving further
187. to the Company and the Company shall have the rights and
188. easements of flowage and pondage on and over the premises
189. conveyed to the United States under this agreement and lying
190. south of the down stream toe of the Government's proposed
191. American Falls dam and east of said proposed division dam
192. and the headrace or works of said Island Plant for the pur-
193. pose of utilizing the Company's water rights and rights to
194. the use of water; and further reserving to the Company, and

195. the Company shall have the easement and right to waste
196. and discharge such water over said lands lying south of
197. the downstream toe of the Government's proposed American
198. Falls dam and east of said division dam and the head race
199. or works of said Island plant, and through and over the
200. Company's American Falls dam and works and along and against
201. the works and property of the United States. The Company
202. agrees to so maintain and operate the said power plants
203. and other structures to be conveyed to the United States
204. until delivery of possession thereof to the United States
205. that the same will be delivered to the United States in
206. as good condition as they now are, ordinary wear and
207. tear and any damage directly or indirectly caused by
208. the United States excepted. Provided, however, that
209. should the company on account of any extraordinary
210. accident or calamity be unable to deliver such plants in
211. such condition, it shall have the option to deliver them
212. as they then are and shall furnish to the United States
213. free of charge as demanded by the officer of the United
214. States in charge of said American Falls Reservoir the
215. equivalent output of power of such plants minus the amount
216. of power which may actually be developed at these plants
217. by the United States - such power to be delivered on the
218. generator voltage bus of the Island plant and such deliv-
219. ery to terminate on April 1st, 1928. The power developed
220. at said West Side and Island Plants or delivered by the

221. company under this subdivision shall after the delivery
222. of the deeds provided for in subdivision (d) hereof be
223. considered a part of and not in addition to the power
224. right otherwise defined to be in the United States under
225. the terms of this agreement.

226. (c) The property described in Exhibit "B" attached
227. hereto and made a part hereof; and the west portion of
228. the present dam and spillway at American Falls up to and
229. including the intake to the Island plant; reserving, how-
230. ever, to the company all and every of the rights it now
231. has to use, maintain and operate said property in connec-
232. tion with the use, maintenance and operation of its East
233. Side plant, until such time as the United States has con-
234. structed the division dam in accordance with the provisions
245. of Paragraph 15 hereof and has made the provision for the
236. discharge of water into the pool between the government's
237. proposed American Falls reservoir dam and the Company's
238. East Side plant in compliance with the terms of said Para-
239. graph 15, Provided that the United States shall, after
240. making second payment, have the right to demolish such por-
241. tion of the present dam and spillway at American Falls west
242. of the Island plant intake as may be necessary for the con-
243. struction of the proposed government power plant and other
244. works at American Falls, providing that by so doing no in-
245. terference is had with the operation of the Company's East
246. Side Plant.

247. (d) All the company's water rights, appropriations
248. water filings and permits, at American Falls, or used or
249. intended to be used in connection with the company's power
250. plants and proposed plants at American Falls, except the
251. rights, whether primary or tertiary, expressly reserved
252. to the company, as hereinafter set out. The water rights
253. of the company transferred to the United States for use
254. for power purposes shall be considered as impressed with
255. a right in the United States to change the use of such
256. water from power to irrigation or to store the same for
257. irrigation whenever the Secretary of Interior shall decide
258. that such water is required for irrigation purposes. But
259. it is expressly agreed and understood that the water rights
260. and rights to the use of water which it is herein agreed
261. that the Company shall have are reserved out of its exist-
262. ing appropriations and rights as independent rights under
263. its own filings and appropriations and of the dates of prior-
264. ity to which the Company is entitled under such appropria-
265. tions and are not to be considered as mere contract rights
266. under contract with the United States.

267. (e) The right to limit all other rights of the company
268. on Snake River at whatever points and in whatever counties
269. the same may be located insofar as and no farther than the
270. rights allowed and granted to the United States to store
271. and use water as herein provided may interfere with any
272. rights of the company at any lower points on Snake River.

P 30, p. 30
limits
rights
sold

10. Company's Primary Summer Power Right.

274. It is agreed and understood that the company reserves
275. and it shall have as against the United States and those
276. claiming or that may hereafter claim under them, the first
277. or primary right at American Falls to use for power purposes
278. at American Falls the following amounts of water during the
279. following periods of each year:

280. 100 second-feet beginning April 1st, increasing uniformly
281. to 2500 second-feet on May 1st, and continuing at that
282. amount to September 15th inclusive, then decreasing uniformly
283. to 100 second-feet on October 31st and ~~acne~~ except as here-
284. inafter provided from November 1st to March 31st inclusive.

285. The above described power right so reserved to the com-
286. pany shall be considered as prior and superior to all other
287. rights at American Falls. The company may also have a pri-
288. mary right to use at any time any water brought to American
289. Falls by it from beyond the Snake River water shed, or any
290. stored water acquired by the company from storage capacity
291. hereafter constructed above American Falls provided that it
292. is understood and agreed that the company's right to store
293. water, except water brought by the company from beyond the
294. Snake River watershed, in such capacity above American Falls
295. shall be inferior and subordinate to the right of the United
296. States to provide for building and to fill and use 3,000,000
297. acre-feet of storage capacity, including the capacity of the
298. American Falls Reservoir anywhere on Snake River in addition
299. to the storage capacity now available in Jackson Lake Reser-
300. voir and Lake Walcott.

11. Government's Summer Power Right at American Falls.

301. The United States shall have and the company hereby
302. grants to the United States as against the company a
303. secondary power right at American Falls to that amount
304. of water which will generate continuously for delivery
305. from the generator bus bars in the Government power
306. station at American Falls 6,700 kilowatts beginning
307. on April 1st, increasing uniformly to 25,000 kilowatts
308. on May 1st and to 30,000 kilowatts on June 1st, contin-
309. uing at that amount to August 15th, inclusive, then de-
310. creasing uniformly to 25,000 kilowatts in September 15th,
311. and to 5,500 kilowatts on October 31st, and none from No-
312. vember 1st to March 31st inclusive, except in connection
313. with the 10,000 kilowatts as authorized in Paragraphs
314. 24 and 19 hereof. In no case, however, except as au-
315. thorized by Paragraph 13, shall the water utilized under
316. this power right exceed 1,500 second-feet on April 1st,
317. increasing uniformly to 5,000 second-feet on May 1st,
318. and to 6,000 second-feet on June 1st, continuing at that
319. amount to September 15th inclusive, and decreasing uni-
320. formly to 1,500 second-feet on October 31st. The secondary
321. power right granted to the United States under this paragraph
321a. shall be inferior and subordinate to the primary power right
321b. reserved to the company in paragraph 10 hereof, and shall be
321c. prior and superior to all power rights of the company at Amer-
321d. ican Falls other than the rights reserved under Para. 10 here
321e. and the right to the storage provided in Para. 19. Provided,

322. however, that if the Company, through the refusal, for
323. any reason, of the United States or its successors in
324. control of said reservoir to comply with the terms of
325. this agreement, fails to receive for its own use at its
326. plants at American Falls, unless its right to such water
327. has been taken under the power of eminent domain, the
328. amount of water and at the times and in the manner con-
329. templated by this agreement, it shall have the right to
330. make up such deficiency (during the time of such refusal
331. and no longer) out of the appropriations, water filings,
332. and permits which it now holds, and the amount which the
333. United States shall have the right to store or use out of
334. said appropriations, shall be reduced accordingly. It is
335. agreed and understood that errors or inaccuracies in the
336. release or delivery of water from the reservoir shall not
337. be construed as a refusal by the United States to comply
338. with the terms of this agreement. Nothing contained in
339. this contract shall be construed to make the United States
340. in any way responsible for the delivery of the water to any
341. of the plants of the Company after the same has been re-
342. leased by the United States for the Company from the res-
343. ervoir at American Falls.

12. Company's Additional Summer Power Right.

344. The company reserves and shall have as against the
345. United States a tertiary power right at American Falls to
346. all additional water released or wasted from the reservoir

347. as released or wasted by the United States from April 1st
348. to October 31st inclusive over and above the amounts re-
349. quired to furnish the primary rights reserved to the com-
350. pany in paragraph 10 hereof, and the secondary right grant-
351. ed to the United States under Paragraph 11 hereof.

352. Should the company fail for five years after a storage
353. capacity of 1,500,000 acre-feet or more has been provided at
354. American Falls, to make provision to utilize all the ter-
355. tiary power provided in Paragraph 12, then the United States
356. shall become entitled as against the company to develop and
357. use any unused portion thereof, but should the United States
358. fail, for a period of three years after becoming vested
359. with the right to develop and use such undeveloped portion
360. of said tertiary power, to make provision to utilize the
361. same then thereafter either party may by making such pro-
362. vision become entitled to utilize such undeveloped portion
363. of said tertiary power right.

13. Substitution of Acre-feet for Second-feet.

364. During the period from April 1st to October 31st in-
365. clusive, either party may take instead of the continuous
366. flow specified above in Paragraphs 10 and 11 an equivalent
367. amount of water each day in varying amounts during various
368. hours of the day, providing the number of acre-feet taken
369. by either party during any one day of twenty-four hours
370. shall not exceed a number double the number of second-feet
371. specified in the above schedules in Paragraphs 10 and 11

372. for such day.

14. Company's Summer Regulation of 5,000 Acre-feet.

373. The company may accumulate from time to time in stor-
374. age capacity that would otherwise be unused in the American
375. Falls reservoir out of the amounts of water to which it is
376. entitled under Paragraph 10, an amount not exceeding 5,000
377. acre-feet, and use the same as desired, except that after the
378. reservoir has been filled in any year, the company shall be
379. entitled under this paragraph only to that part of the 5,000
380. acre-feet accumulated after the filling of the reservoir and
381. subject to the limitation of maximum delivery and gate or
382. outlet capacity herein provided, and provided further that
383. the company shall release upon demand by the United States
384. such portion of the said 5,000 acre-feet as the company may
385. have accumulated whenever the available stored water in the
386. American Falls Reservoir to which the present Minidoka pro-
387. ject and extensions thereof diverting from Lake Walcott are
388. entitled amounts to less than 5,000 acre-feet, and in any
389. event release all claim to any part of said 5,000 acre-feet
390. of accumulated water remaining after September 30th.

15. Outlet Works and Division Dam for Company

391. The United States will provide for the company in the
392. proposed dam to be constructed by the United States discharge
393. works sufficient for a 6,000 second-feet delivery with a
394. loss of head not to exceed two feet. Such discharge works
395. shall discharge into the pool between the proposed reservoir

396. dam and the company's east side plant and shall be as low
397. as and similar to the outlets connecting with the power
398. plant to be constructed by the United States, and shall be
399. so constructed that the company may and is given the right
400. to attach its penstocks directly thereto and shall be pro-
401. vided with protecting devices similar to those to be pro-
402. vided for the intakes to the proposed Government power
403. plant at American Falls. The United States shall construct
404. and maintain as a part of the American Falls storage dam, a
405. division dam between the westerly and of that portion of the
406. company's American Falls dam which the company will retain,
407. and the Government's proposed American Falls Reservoir dam to
408. an elevation five feet above the present concrete crest of com-
409. pany's dam, and of sufficient strength to retain the water on
410. the easterly side up to the crest of said dam, and provision
411. shall be made whereby the Company shall not be required dur-
412. ing any flood to discharge over that portion of the com-
413. pany's American Falls dam and spillway retained by the
414. company any greater portion of the flood than would have
415. been discharged over that portion retained had said dam
416. and spillway not been changed from its present condition.

16. Company's Primary Storage Capacity.

417. In part consideration for the rights and property to
418. be conveyed to the United States by the company, and as a
419. part of the cost of the proposed development at American
420. Falls the United States grants to the company and the com-

421. pany shall be entitled to the perpetual use of 45,000
422. acre-feet of storage capacity in the reservoir to be con-
423. structed by the United States, such capacity to be for
424. storing the water reserved to the company, and the water
425. referred to in the last sentence of Paragraph 10, the
426. company's right to such storage capacity to be on an equal
427. basis in all respects, except as otherwise provided herein,
428. with other primary storage capacity rights in the reservoir,
429. as defined in the contracts between the United States and
430. the Irrigation Companies and Districts cooperating with the
431. United States in the construction of said reservoir, a form
432. of which contract is attached hereto and marked Exhibit "C".

17. Operation and Maintenance Charges

433. For the purpose of determining the operation and main-
434. tenance charge to be paid by the company, each acre-feet of
435. secondary storage capacity provided for in Paragraph 18 shall
436. be considered as the equivalent of 7/20 (seven-twentieths)
437. of an acre-foot of primary storage capacity and the company
438. will pay to the United States each year a proportionate part
439. of the total cost of operation and maintenance of the reser-
440. voir, and distribution of the waters therefrom to the head
441. of the ditches and to the power plants of the company di-
442. verting water from Snake River below said reservoir in the
443. proportion that 134,250 acre-feet is of the total available
445. capacity of the reservoir plus 89,250 acre-feet, the times,
446. conditions, and manner of billing or stating such charge to

447. the company and of paying the same to the United States
448. to be the same as provided in the contracts between the
449. United States and the various irrigation companies and dis-
450. tricts cooperating in the construction of said reservoir.

18. Company's Secondary Storage Capacity.

451. Between October 1st of any year and June 10th of the
452. following year, the company shall have and is hereby grant-
453. ed for the purpose of regulating and controlling the water
454. reserved to the company under Paragraph 19 hereof, and the
455. water which may be acquired under the last sentence of Par-
456. agraph 10, a secondary right to use not to exceed 255,000
457. acre-feet of storage capacity in the reservoir when such
458. capacity is not then required and not being used by the
459. owners of irrigation rights to the use of such capacity,
460. but shall have no further right to use any part of said
461. 255,000 acre-feet of capacity or any water stored therein
462. after the reservoir is first filled each season, and the
463. company shall in any event release on April 1st of each
464. year all right and claim to such capacity and water stored
465. therein, except 60,000 acre-feet, and shall release all right
466. and claim to the remainder, if any, on June 10th of each year.

19. Company's Reserved Water Right of 300,000 Acre-Feet.

467. It is agreed that in addition to the primary right re-
468. served in Paragraph 10, the company reserves and shall have
469. the right (for power development at American Falls and to
470. such extent as provided in Paragraph 21 hereof for power
471. development at points below Milner) to 300,000 acre-feet

472. of water flowing into the reservoir after October 1st of
473. any year which shall be the first 300,000 acre-feet flow-
474. ing into the reservoir after October 1st and actually
475. storable therein, except that precedence shall be given
476. for the release through the American Falls Reservoir dam
477. to the amount of water, if any, required to supply the
478. amount of power not exceeding 10,000 kilowatts, half-hour
479. peak, needed to supply the power demands and uses on the
480. Minidoka Project and its proposed extensions, and including
481. the town of Minidoka and the territory now supplied by the
482. United States, and the camps, buildings, construction work,
483. dam and adjacent grounds of the United States at American
484. Falls, but not elsewhere in the old or new town of American
485. Falls except that if the company should refuse to extend
486. its lines into the new or government townsite at American
487. Falls and furnish service in such townsite, then the United
488. States may do so. The extension of power lines into the
489. new townsite and furnishing of power to customers therein
490. shall not be construed as waiving any of the rights of
491. either party as to the amount of damage which may be al-
492. lowed the company in condemnation or otherwise for the
493. removal of the old town or otherwise. Nothing in this
494. paragraph contained shall be construed to deny the United
495. States the right to store and use for irrigation purposes
496. the water herein authorized to be used for the generation
497. of said winter power of not exceeding 10,000 kilowatts,

498. half-hour peak, whenever the Secretary of the Interior
499. shall decide that such water is required
500. for irrigation purposes. The expression "10,000 kilowatts,
501. half-hour peak", wherever it occurs in this contract shall
502. be interpreted as meaning that the average for any half-
503. hour interval must not exceed 10,000 kilowatts.

20. Company Right to Primary Storage Water.

504. The water required to fill the 45,000 acre-feet of
505. primary storage capacity allowed the company under Para-
506. graph 16 hereof shall be a part of the 300,000 acre-feet
507. of water reserved to the company under Paragraph 19 hereof,
508. and the company shall have no right to require the turning
509. out for the company of more than 300,000 acre-feet in any one
510. year beginning October 1st in addition to the primary rights
511. set forth in Paragraph 10 and the holdover authorized in
512. this paragraph. The company shall have the privilege of
513. holding after October 1st and until November 15th any water
514. which it may have remaining in its own storage capacity of
515. 45,000 acre-feet, but the company's right shall expire on
516. November 15th to any amount so held over beyond that date.

21. Company's Rights below Milner Dam

517. The company's right to demand the turning out of water
518. from the reservoir for release by and use below Milner Dam
519. shall be limited to the 45,000 acre-feet of primary storage
520. rights, the water referred to in the last sentence of Para-
521. graph 10, and to such portion of the 255,000 acre-feet men-

522. tioned in Paragraph 18 as is needed for beneficial use for
 523. power development at Shoshone Falls or Twin Falls but not
 524. exceeding the amount that may be necessary to make the

525. total flow at the head of Shoshone Falls:

526.	790 second-feet	October 1st to November 30th, incl.	690	84,000
527.	890 " "	December 1st to January 31st, "	790	98,000
528.	790 " "	February 1st to February 12th, "	690	16,56
529.	690 " "	February 13th to April 15th, "	590	72,00
530.	790 " "	April 16th to June 10th, "	690	76,00

531. exclusive of any part of the company's said 45,000 acre-feet
 532. of primary storage and the water referred to in the last
 533. sentence of Paragraph 10.

534. Provided, however, that the amount of water released
 535. past Milner for maintaining the flow at Shoshone Falls be-
 536. tween October 1st and June 10th inclusive, as listed above,
 537. shall be a part of the 255,000 acre-feet of primary storage
 538. water which the Company may have stored in its secondary
 539. storage capacity in the reservoir, and provided that it re-
 540. leases such water from the American Falls Reservoir in such
 541. a way that the required flow can be maintained at Shoshone
 542. Falls by the utilization of storage capacity in Lake Walcott not
 543. to exceed 3,000 acre-feet of storage capacity.

544. Nothing in this paragraph is to be construed as abridg-
 545. ing the Company's right to release from the Reservoir and
 546. have passed by Milner at any time any part of its 45,000
 547. acre-feet of primary stored water stored in its primary
 548. storage capacity, or held over as provided for in Paragraph
 549. 20.

See P. 12 7 p. 14
 for summer
 rights.
 722
 @ Twin Falls
 Ac-F
 347,000
 Ac-F

22. Twin Falls Power Site.

550. Should the company construct a power plant at Twin
551. Falls, then the flow to be maintained below the Milner dam
552. shall be measured and determined at Twin Falls instead
553. of Shoshone Falls and the schedule of flow set out in the
554. foregoing paragraph shall be reduced 100 second-feet for
555. each period, but nothing herein contained shall be construed
556. as waiving any rights of the United States at Twin Falls
557. or any other power site on Snake River, owned or controlled
558. in whole or in part by the United States, or implying that any
559. license, permit or right will be granted the company.

23. Government's Winter Power Rights.

560. In securing the winter power not exceeding half-hour
561. peak of 10,000 kilowatts provided for the United States
562. under paragraph 19 hereof, the United States shall secure
563. at the Minidoka Power plant so much of said power as it is
564. reasonably practicable to secure from the installed machin-
565. ery at said plant without releasing water which otherwise
566. might be held for irrigation, generating at American Falls
567. the balance, if any, of the amount required. Nothing here-
568. in contained shall be construed to prevent the United States
569. from obtaining the ten thousand kilowatts at its American
570. Falls plants when the Minidoka plant is closed or out of oper-
571. ation on account of enlargement, improvement or repairs.

24. Storage Rights of United States and Winter Waste.

572. The United States shall have and the company hereby
573. grants to the United States as against the company the right

574. to store in the American Falls Reservoir for use for
575. irrigation and domestic purposes and for the power use
576. set forth in Paragraph 11 and for the development of an
577. amount of power not exceeding 10,000 kilowatts, half-hour
578. peak, as defined in Paragraph 19, all of the storable
579. water at American Falls not specifically reserved to the
580. company or granted to the company as against the United
581. States. The company reserves and as against the United
582. States shall have the right to use for power purposes at
583. American Falls water released or wasted between November
584. 1st and March 31st, inclusive, in excess of the amount
585. herein specified to be allowed to the United States for
586. power under the foregoing provisions of this contract.
587. The availability of water for waste shall be determined
588. by the U. S. Reclamation Service by assuming a year be-
589. ginning October 1st of 200,000 acre-feet less storable run-
590. off than the lowest year of record at the time of such
591. determination, and such water as under this assumption
592. is not necessary to provide 300,000 acre-feet for the com-
593. pany and to fill existing storage capacity will be consid-
594. ered available for wasting. Until some lower year is ob-
595. served the lowest year of record shall be deemed to have
596. a storable run-off of 1,500,000 acre-feet, including the
597. 300,000 acre-feet reserved to the company. The United
598. States agrees that such water as may be available for
599. waste during the winter shall be released as nearly uni-
600. formly as may be practicable, or in such other manner as

601. to secure its reasonable availability for beneficial use for
602. power development. During the development period, the com-
603. pany shall have the right to use for power purposes, until
604. demanded by the United States, the water granted to the
605. United States for power purposes, but this water shall be
606. available for use by the United States for power purposes,
607. on its demand.

25. Release of Liens.

608. The company shall secure from the trustee, or other per-
609. son or persons having power to release, and shall deliver to
610. the United States a valid release of all the property and
611. rights described in Para. 9 (a) to 9 (e) inclusive, and Para.
612. 24 from the lien of any mortgage, deed of trust or other in-
613. cumbrance created or granted by the company or its public
614. utility predecessors and a release of all tax liens.

26. Abstract.

615. In consideration of the premises, the company further
616. agrees upon receipt of notice that this contract has been
617. signed by the Secretary of the Interior, to furnish promptly
618. at its own expense, an abstract of title which shall later be
619. extended to include any instruments subsequently recorded in
620. connection herewith, and also the record of conveyance made
621. pursuant to this agreement provided that if the company fails
622. or refuses to furnish proper abstract of title within sixty (60)
623. days after notice that this agreement has been signed, or if
624. within such period written request be made by the company.
625. such abstract may be procured by the United States at the
625a. expense of the company and the cost thereof

*See
County
Recorder*

626. deducted from the purchase price.

27. Payments by the United States.

627. In consideration whereof the United States agrees that
628. it will purchase said property on the terms herein expressed,
629. and upon the signing of the usual Government vouchers there-
630. for and their further approval by the proper Government of-
631. ficials, it will, as full payment for the property, and
632. rights herein agreed to be conveyed to the United States,
633. and for all damages for entry upon the above described prop-
634. erty, and the construction, operation and maintenance of
635. Reclamation works under said act, and for all claims by the
636. company for surveys, examinations, opinions of experts, and
637. expenses of whatsoever kind incurred in connection with the
638. consummation of this contract, in addition to the storage
639. capacity rights herein granted to the company, cause to be
640. paid the sum of one million (\$1,000,000) Dollars in in-
641. stalments as hereinafter provided by United States Treasury
642. warrant or fiscal officer's check, which sum shall become
643. due and payable in four equal annual instalments, the first
644. of which will be due and payable after the furnishing of the
645. abstract and other evidence of title herein provided and
646. concurrently with delivery of the deeds to the property des-
647. scribed in Paragraph 9 (a), and one instalment on the same day
648. of each year thereafter until the full amount herein spec-
649. ified has been paid, Provided that concurrently with receiv-
650. ing said second instalment the company shall deliver to the
651. United States a deed conveying to the United States all

652. the company's right, title and interest to the West Side
653. and Island plants, other than water rights except as herein
654. otherwise provided and land described in Paragraph 9 (b)
655. and release from tax liens and other liens agreed to be
656. released in Paragraph 25 and concurrently with the receipt
657. of the third instalment, the company shall deliver to the
658. United States the deed and assignment of the properties des-
659. cribed in Paragraph 9 (c), and concurrently with the receipt
660. of the fourth instalment shall deliver the deeds and assign-
661. ments of the remainder of the property and rights herein
662. agreed to be conveyed. Provided that the company may retain
663. the possession and use of all the property herein agreed to
664. to be conveyed or assigned until the first annual instalment
665. has been paid, but that upon the payment of the first annual
666. instalment the United States may take possession of the land
667. needed for the proposed dam and reservoir as described in
P. 3 668. Paragraph 9 (a), and upon payment of the second annual in-
669. stalment may take possession of the West Side power plant and
670. Island Plant and be entitled to use so much water under the
671. existing appropriations now owned by the Company and used in
672. connection with said plants, as may be necessary for the oper-
673. ation of said plants to their respective capacity, provided,
674. however, that the right of the United States to the use of
675. such water shall terminate absolutely upon the transfer of
676. the water rights to be conveyed by the Company under Para-
677. graph 9 (d) hereof, or upon the vesting of the water rights

678. mentioned in Paragraph 31 hereof upon the failure of the
679. United States to make certain payments, and provided fur-
680. ther, that the water used by the United States at said
681. plants shall not be deducted from the amount of water which
682. the Company is entitled to receive after the rights of the
683. Company become restricted to the amounts specified in Para-
684. graphs 10 and 19 hereof, and neither the consent of the
685. Company to the use of such water nor the use of such water
686. by the United States, shall operate to vest any title or
687. permanent right to the use of such water in the United States,
688. and the United States may take possession of all of the chan-
689. nel west of and including the Island plant and headrace, and
690. property described in 9 (b), but it is understood and agreed
691. that the company may retain the possession and use of all of the
692. other property and rights herein agreed to be conveyed or as-
693. signed to the United States until the completion of the pay-
694. ments herein provided for. The United States may pay any
695. instalments before due and thereupon shall be entitled to
696. take the property and receive the deeds provided to be taken
697. or delivered upon the payment of such instalment. It is
698. expressly understood that the first instalment to be paid
699. by the United States hereunder includes the claim of the com-
700. pany for reimbursement for all expenses of whatsoever kind
701. which it has incurred in connection with the consummation of
702. this contract, including surveys, investigations, examinations,
703. and opinions of experts, and for obtaining data and inform-

704. ation upon which to base this agreement.

28. Continued Use of Rights by Company until
Storage Capacity is Provided.

705. As against the United States the company shall be
706. entitled to continue the use of the water at American Falls
707. covered by the company's present appropriations and filings
708. (except such as the United States may become entitled to
709. use to operate the Island and West Side Plants under this
710. agreement) until such time as the 45,000 acre-feet of pri-
711. mary storage capacity herein granted to the company shall
712. have been first provided for the Company and until that time
713. the company shall be entitled to right of way over the lands
714. and rights conveyed to the United States by the company and
715. located in the bed of the river for the purpose of and to
716. the extent necessary for such continued use by the company
717. of said filings and appropriations in so far as such right of
718. way can be used by present structures and extensions without
719. increasing the hazard of flooding the construction work of
720. the United States. Nothing in this contract shall be con-
721. strued as giving the company a right to demand right of way
722. or flowage easement across any land unwatered for construc-
723. tion purposes by the United States except to the extent nec-
724. essary to pass the natural flow of the river.

29. Distribution System in American Falls.

725. The company shall not by anything herein contained be
726. deemed to have transferred any of its poles, lines, or
727. other property not described in Paragraph 9 located in

728. the present town of American Falls or connecting the dis-
729. tribution system in said town with its generating plants,
730. or to have released the United States from any damages to
731. said poles, lines, distributing system or such other prop-
732. erty on account of the relocation of said town made nec-
733. essary by the construction and operation of the proposed
734. reservoir.

30. Reservation in Deed of Reserved Rights.

735. It is the intent of this agreement that all power
736. rights at American Falls except those granted to the United
737. States herein shall be reserved to the company and that the
738. deeds and conveyances by the company to the United States
739. may contain a reservation in favor of the company of the
740. rights reserved to it under the provisions of this agreement.

*Get
deeds &
conveyances*

31. Failure of Appropriation.

741. Where the payments of this contract extend beyond the
742. current fiscal year it is understood that the contract is
743. made contingent upon Congress making the necessary appro-
744. priations for expenditures thereunder after such current
745. year has expired. In case such appropriation as may be
746. necessary to carry out this contract is not made the com-
747. pany hereby releases the United States from all liability
748. due to the failure of Congress to make such appropriation.

749. Any instalment or portion thereof not paid when due
750. shall thereafter bear interest at the rate of 6% per annum
751. payable annually and should any instalment remain due and

752. unpaid for a period of fifteen years the Company shall
753. have the right to waive and surrender to the United States
754. such due and unpaid installments. The effect of such waiver
755. or surrender shall be to modify paragraph 24 hereof to the
756. following extent:

757. If only the first installment shall have been paid the
758. grant to the United States as therein provided to store
759. in American Falls reservoir all the storable water not
760. reserved to the Company or granted to it as against the
761. United States shall be limited to such storable water over
762. 2700 second-feet; if only the first two installments shall
763. have been paid, such grant shall be limited to the stor-
764. able water not reserved to Company or granted to it as
765. against the United States over 2200 second-feet; and if
766. the first three payments shall have been made, then over
767. and above 1700 second feet, such additional amounts of
768. water as listed above to be retained by Company in lieu
769. of cash which it would otherwise be entitled to. The
770. provisions of this paragraph shall not impair the right.
771. title or interest of the United States in any property
772. theretofore conveyed to it by the Company or otherwise
773. affect this agreement or the rights hereunder. Should
774. such waiver and surrender of unpaid installments be made
775. as herein provided and should the United States fail to
776. construct a reservoir of sufficient capacity to provide
777. the storage capacity herein agreed, granted or agreed to

778. be furnished to the company the United States shall not
779. be liable in damages for failure to provide such storage
780. capacity.

32. Company's Remedy for Failure to Receive Storage.

781. It is the understanding and intent of the parties
782. that the storage capacity rights herein granted to the
783. company shall be vested rights in it but that if by change
784. of Law, a court or commission decision or in any other way
785. than by errors or inaccuracies in delivery or release
786. of water from the reservoir the company shall be refused or
787. denied the right to and use of said capacity or any thereof,
788. the Company shall be entitled to recover the damages which
789. it may suffer, and to such other relief as a court of
790. competent jurisdiction may adjudge the Company entitled to
791. under the terms of this agreement and the situation of the
792. parties, but in case of any errors or inaccuracies in the
793. delivery or release of water the company shall have and
794. be limited to the same rights and redress as provided for
795. the Irrigation Companies and Districts in the contracts,
796. the form of which is attached hereto and marked Exhibit "C",
797. between the United States and the Irrigation Companies and
798. Districts cooperating with the United States in the con-
799. struction of the Reservoir.

33. Liens and Incumbrances.

800. Liens or incumbrances existing against said premises
801. and of which the company agrees to secure the release, may

802. at the option of the United States be removed at the time
803. of conveyance by reserving the amount necessary from the
804. purchase price and discharging the same with the money so
805. reserved, but this provision shall not be construed to au-
806. thorize the incurring of any lien or incumbrance as against
807. this agreement, nor as an assumption of the same by the
808. United States.

34. Effective when Signed By the Secretary.

809. This agreement shall become effective to bind the
810. United States to purchase said premises immediately upon its
811. approval or signature by the Secretary of the Interior,
812. provided, however, that it shall be of no further force
813. or effect unless signed by the Secretary of the Interior,
814. within ninety days after its execution by the Company and
815. authorization, ratification or approval by the board of di-
816. rectors of the company which shall be evidenced by a cer-
817. tified copy of the resolution filed with the Director of
818. the Reclamation Service.

35. Binding on Successors and Assigns.

819. This agreement shall inure to the benefit of and be
820. binding upon the successors and assigns of the company, and
821. also upon the successors and assigns of the United States.

36. No Waiver of Rights of Federal Power Commission or State.

822. The execution of this contract shall not be construed
823. as waiving any authority, jurisdiction or control which the
824. Federal Power Commission may have over the company or its

825. assigns at American Falls or elsewhere, and the approval
826. of this contract by W. G. Swendsen Comm. Rec. representing the State
827. of Idaho shall not be construed as waiving or abridging
828. any lawful jurisdiction, authority, or control which such
829. officer or the State of Idaho may have over the waters of
830. the state or the issuing of permits, certificates or li-
831. censes thereto.

37. Cooperation with reference to Water Rights.

832. In complying with the laws of Idaho relating to per-
833. fecting water filings made by either party at American Falls
834. both parties shall cooperate so that to the extent permitted
835. by statute and the administrative officers having jurisdiction,
836. the construction of works and use by either party shall ap-
837. ply to proof on the permit of the earliest priority of the
838. class on which such proof can be made. In the event the
839. company desires to transfer and change the points of
840. diversion and use, or any of them, of any of its appropria-
841. tions, rights or permits now held by it in connection with
842. the Island and West Side Power Plants, the Company as against
843. the United States shall have the right at any time after the
844. right of the United States to use the Company's water in con-
845. nection with said Island and West Side Plants' terminates as
846. provided in Paragraph 27 hereof, to transfer and change such
847. points of diversion and use from the Island and West Side
848. Plants to the East Side Plant, or any other plant or plants
849. constructed by the Company at American Falls, subject to the

850. provisions and limitations of this contract in respect to
851. the time of use and amount of water to which the Company may
852. be entitled; and the United States shall cooperate with the
853. company in making such transfer and change; and in the event
854. the United States desires to transfer and change the points
855. of diversion and use of the water rights or any part thereof
856. conveyed to the United States by the Company and to which it
857. may be entitled under the terms of this contract from the
858. present points of diversion and use to any plant or plants
859. owned by the United States at American Falls, the United
860. States shall have as against the Company the right to make
861. such transfer and change in such points of diversion and
862. use subject to the provisions and limitations of this con-
863. tract in respect to the time of use and amount of water to
864. which it may be entitled, and the Company shall cooperate
865. with the United States in securing such transfer and change.

38. Agency Clause.

866. The contractor expressly warrants that he has employed
867. no third person to solicit or obtain this contract in his
868. behalf, or to cause or procure the same to be obtained upon
869. compensation in any way contingent, in whole or in part upon
870. such procurement; and that he has not paid, or promised or
871. agreed to pay, to any third person, in consideration of such
872. procurement, or in compensation for services in connection
873. therewith, any brokerage, commission, or percentage upon the
874. amount receivable by him hereunder; and that he has not, in

875. estimating the contract price demanded by him, included
876. any sum by reason of any such brokerage, commission, or
877. percentage; and that all monies payable to him hereunder
878. are free from obligation to any other person for services
879. rendered, or supposed to have been rendered, in the pro-
880. curement of this contract. He further agrees that any
881. breach of this warrant shall constitute adequate cause
882. for the annulment of this contract by the United States,
883. and that the United States may retain to its own use from
884. any sums due or to become due thereunder an amount equal
885. to any brokerage, commission, or percentage so paid, or
886. agreed to be paid: (Provided, however, it is understood
887. that this covenant does not apply to the selling of goods
888. through a bona fide commercial representative employed by
889. the contractor in the regular course of his business in deal-
890. ing with customers other than the Government and whose
891. compensation is paid, in whole or in part, by commissions
892. on sales made, nor to the selling of goods through estab-
893. lished commercial or selling agents or agencies regularly
894. engaged in selling such goods.)

39. Member of Congress Clause.

895. No Member of or Delegate to Congress, or Resident
896. Commissioner, after his election or appointment or either
897. before or after he has qualified and during his continuance
898. in office, and no officer, agent, or employee of the Govern-
899. ment, shall be admitted to any share or part of this con-
900. tract or agreement, or to any benefit to arise thereupon.

901. Nothing, however, herein contained shall be construed to
902. extend to any incorporated company, where such contract
903. or agreement is made for the general benefit of such in-
904. corporation or company, as provided in Section 116 of the
905. Act of Congress approved March 4, 1909 (35 Stat., L. 1109).

IN WITNESS WHEREOF the parties have hereto signed their
names the day and year first above written. Said Company
acting in pursuance of a resolution of its Board of Di-
rectors duly adopted on October 13th, 1921.

UNITED STATES OF AMERICA

By (Sgd) Hubert Work
Secretary of the Interior

IDAHO POWER COMPANY

By (Sgd) F. F. Johnson
President

(Seal)

ATTEST:

(Sgd) Clarence T. Ward
Secy.

(Seal)

Approved except as to Exhibit "C"

(Sgd) W. G. Swendsen
Commissioner of Reclamation

MEMORANDUM

TO: The File

October 10, 1996

FROM: Ralph Mellin, Special Projects Coordinator *Rm*

SUBJECT: American Falls Hydroelectric Water Rights from Contract Between the U.S. and Idaho Power Co.
dated June 15, 1923

The water rights "reserved to the company" [par. 9(d), p. 11] consist of the following:

1. The following flows between the noted dates: zero on March 31st, then 100 cfs on April 1st, and uniformly increased to 2,500 cfs on May 1st, continuing until September 15th, then uniformly decreased to 100 cfs on October 31st, and zero on November 1st (par. 10, p. 12). This is a primary right.
2. The first 300,000 ac-ft of inflow after October 1st. That is after flows to generate up to 10,000 kw at the Minidoka Power Plant for "demands" on the "Minidoka Project" are released (par 19, p. 20; & par. 23 & p. 23); use the un-subordinated water rights at Minidoka of 3,525 cfs. Storage for 45,000 ac-ft will be provided--a primary right, and storage may be provided if not needed for irrigation for the remaining 255,000 ac-ft--a secondary right--with 195,000 ac-ft to be released by April 1st & an additional 60,000 ac-ft to be released by June 10th under specific criteria of par. 21; and the remaining 45,000 ac-ft to be released by the following November 15th (par. 16, p. 18; & par. 18, p. 19).
3. A power right at American Falls to all additional water released or wasted from the reservoir between April 1st and October 31st--a tertiary right--(par. 12, p. 14). Also, "reserved" from IPC's previous water rights all additional water released or wasted from November 1st to March 31st; a formula is provided to define waste water, but the formula would appear to have little impact more than allowing for the filling of American Falls Reservoir and "existing storage" for example, Jackson Lake (par. 14, p.16).

The net contract result appears to be the contract provides for the filling of American Falls Reservoir and "existing storage" after described primary and secondary rights for Idaho Power Company reserved from its original water rights are met. No other change is seen in the existing water rights.

*FERC License Application
2736**American Falls
License issued
March 31, 1975*

STATEMENT PERTAINING TO WATER RIGHTS

The following statement pertaining to water rights for its existing American Falls power plant is substantially as set forth in the Company's Mortgage and Deed of Trust dated as of October 1, 1937, to Bankers Trust Company, et al, as Trustees, and Indentures supplemental thereto.

All water rights, flowage rights, reservoir and flooding rights, water appropriations and licenses, and rights to the storage and use of water, including water and water rights acquired by contract and water rights acquired by actual application of water to beneficial use, and all rights acquired or reserved under and by virtue of that certain agreement dated June 23, 1923, between Idaho Power Company and the United States of America, and all agreements and contracts mandatory thereof or supplementary thereto, also including all rights acquired under and by virtue of that certain water location for 2,000 second feet of the waters of the Snake River made by J H Brady on August 1, 1901, verified notice of which was filed for record in the office of the County Recorder of Blaine County, Idaho, on August 12, 1901, and recorded in Book 4 of Water Rights, at Page 265, of the records of said office, for which Transfer Certificate No 463 for 611 second feet of said waters was issued by the Commissioner of Reclamation, State of Idaho, on June 17, 1929; also that certain water location for 6,000 second

American Falls

Iron exhibited 4D, E
in license #2936

2000 ds

6-1-01

by J. H. Brady

in Blaine Co Book 4, p 265

W/transfer certificate #463 for 611 ds

6,000 ds

7-15-01 by Andrew J. Tarfat

in Blaine Co. Book 4, p 266

W/transfer certificate #464 for 253 ds
(not found in IDWR records)

1,400 ds

license #11168

~~2-5-20~~

9-3-08

4,600

license 14067

3-8-19

~~2-21-21~~

change in point of diversion needed

42-203B(6) : cannot subordinate
old licenses. --- 42-203B(5) without
an agreement w/ the power co.

feet of water of the waters of Snake River made by Andrew J Tarbet on July 15, 1901, certified notice of which is filed for record in the office of the County Recorder of Blaine County, Idaho, on July 17, 1901, and recorded in Book 4 of Water Rights, at Page 266, of the records of said office, for which Transfer Certificate No 464 for 253 second feet of said waters was issued by the Commissioner of Reclamation, State of Idaho, on June 17, 1929; also License and Certificate of Water Right No 4168, issued February 5, 1920, by the Commissioner of Reclamation, State of Idaho, to Idaho Power Company for 1,400 second feet of waters of Snake River at American Falls, with priority of September 3, 1908, and recorded in Book 5 of Licenses, at Page 2529, of the records of the Department of Reclamation, State of Idaho; also License and Certificate of Water Right No 14067, issued July 21, 1924, by the Commissioner of Reclamation, State of Idaho, to Idaho Power Company for 4,600 second feet of the waters of Snake River at American Falls, with priority of March 8, 1919, and recorded in Book 6 of Licenses, at Page 3175, of the records of the Department of Reclamation, State of Idaho.

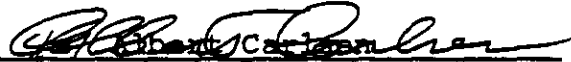
No special hydroelectric, water power or irrigation laws of the State of Idaho pertain to the construction of applicant's proposed project. Reference is made to the general laws of the State of Idaho relating to the appropriation of waters and the obtainment of permits and licenses therefor, as contained in Idaho Code, Title 42, particularly Chapters 2, 4 and 17 thereof.

It would be necessary for the Company to file with the State Department of Water Administration for a change in the point of diversion of the water and to obtain a permit for any additional water utilized. Since the water supply is available, as evidenced by the Company's existing water rights, the Company would anticipate no problem with such filings and would make the filings as soon as possible. It will also be necessary for the Company to file and obtain from the State Department of Water Administration a permit to construct the project works in the river channel and to remove certain of the existing facilities.

Applicant is duly qualified and doing business in the State of Idaho as an electrical public utility, reference being made to Certificate of Good Standing in said state, filed as a part of Exhibit A. No franchise from any county or municipality thereof, is required to be obtained before the project can be completed and put into operation, as applicant now holds all county and municipal franchises required for its public utility operations. Applicant's operations and business are subject to the jurisdiction and regulatory control of the Public Utilities Commission of Idaho and a certificate of convenience and necessity for the construction of the project works from said commission would need to be applied for and obtained by applicant.

This statement is a part of the application for license
made by the undersigned this SEP 21 1973.

IDAHO POWER COMPANY

By 
President

*American Falls**submittal of
Compensation**From Oregon Appellate
See #32*

Article 11. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 12. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvements of the United States the Licensee shall pay to the Commission the amounts for which it billed from time to time for such headwater benefits and for the costs of making the determinations pursuant to the then current Commission Regulations under the Federal Power Act.

Article 13. The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes.

Article 14. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall, after notice and opportunity for hearing, permit such reasonable use of its project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission in the interest of comprehensive development of the waterway or waterways involved and the conservation and utilization of water resources of the region, for water supply, or for the purpose of steam-electric, irrigation, industrial, municipal, or similar uses.

The Licensee shall receive reasonable compensation, at least full reimbursement for any damages or expenses which the joint use causes him to incur, for use of its reservoir or other project properties or parts thereof for such purposes, any such compensation to be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot be concurrently submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 15. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive interference.

Article 16. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance and operation of such reasonable facilities and comply with such reasonable modifications of the project structures and operation as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 17. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free

United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 29. The Commission reserves the right to determine at a later date what, if any, lands of the United States are occupied or affected by the project works and to fix the annual charge for the use thereof.

Article 30. The Licensee shall cooperate with the U.S. Department of the Interior's Bureau of Reclamation, the Office of the Idaho State Historic Preservation Officer, and other appropriate agencies (1) in the identification of historical resources within the project boundary, (2) in developing a plan for protection of such structures including the Old Island Powerhouse, and (3) in developing and executing plans for the improvement of such resources in the interest of recreation, education, and historic preservation, including the provision of public access to such structures.

Article 31. The Licensee shall operate its facilities at American Falls in such a manner as not to interfere with the release of water by the Government at American Falls Dam and, when required by the United States, acting through the Department of the Interior, the Licensee shall draw down the elevation of water in its forebay pool sufficiently to permit the waters to flow from the Government's American Falls Dam into the forebay of the Licensee's installation at rates of flow as determined by the Department of the Interior.

* Article 32. The project shall be operated in such a manner as will not conflict with the future depletion in flow of the waters of Snake River and its tributaries, or prevent or interfere with the future upstream diversion and use of such water above the backwater created by the project for the irrigation of lands and other beneficial consumptive uses in the Snake River watershed.

Article 33. This license shall not be construed as affecting in any way any claim the licensee may have concerning its water rights acquired pursuant to State law. Those rights, not this license, shall govern any claim the licensee may advance against the United States or other

parties claiming through the United States for any damages resulting from any future depletion in the flow of the waters of the Snake River and its tributaries for the irrigation of lands or other beneficial consumptive uses.

Article 34. The Licensee shall, to the satisfaction of the Commission's authorized representative, install and operate such signs, lights, sirens or other devices below the powerhouse to warn the public of fluctuations in flow from the project as may be reasonably needed to protect the public in its recreational use of project lands and waters.

Article 35. The Licensee shall, within two years from the issuance of the license, file for Commission approval an Exhibit R and an Exhibit S for the project conforming to the requirements of Section 4.41 of the Commission's Rules and Regulations under the Federal Power Act. These exhibits shall be prepared in cooperation with the appropriate State and Federal agencies with Exhibit R specifically incorporating a solid waste management plan to include (a) the location of solid waste receptacles to be provided at public areas, picnic areas, and boat access areas, (b) schedules for collection from the receptacles, (c) provisions for including in the subject plan any public use areas as they may be developed, and (d) disposal sites and methods of disposal.

Article 36. Within two years from the issuance of this order, the Licensee shall enter into an agreement with the Bureau of Reclamation, United States Department of the Interior, to effect the maximum justifiable development of the power resources of the American Falls site consistent with comprehensive development for other beneficial public purposes.

Article 37. The Licensee shall file for surrender of license for this project when its generating capacity is rendered inoperable by reason of the construction and/or operation of a more comprehensive hydroelectric development at American Falls.

Article 38. The Licensee shall continue to consult and cooperate with the Idaho Department of Parks and Recreation, Idaho Fish and Game Department, Fish and Wildlife Service and the Bureau of Reclamation of the U.S. Department

68 MAR 1 1995

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Power Company) Project No. 2736-019

ORDER AMENDING LICENSE AND APPROVING REVISED EXHIBITS

(Issued March 19, 1997)

On August 1, 1996, Idaho Power Company, licensee for the American Falls Project, FERC No. 2736, filed revised exhibit K drawings. The American Falls Project is located on the Snake River near the City of American Falls, Power County, Idaho.

The revised exhibit K drawings, sheets 1 and 2, reflect updates to the structural appearance of the dam, power plant, and spillway, updates to transmission line data, the addition of an easement previously awarded to Power County, and minor real estate and project boundary changes.

A public notice regarding the revised project boundary and features was issued on September 11, 1996. No comments, protests, or motions to intervene were filed in response to the public notice.

The revised exhibit K drawings conform to the Commission's rules and regulations. This order approves the drawings and amends the project description to reflect a previously approved change 1/ in the location of the 138-kV transmission line.

The Director orders:

(A) The license 2/ for the American Falls Project, FERC No. 2736, is amended as provided by this order.

(B) Ordering paragraph (B) of the license is revised, in part, to read:

(ii) project works consisting of:...(4) a 138-kV transmission line extending from the powerhouse downstream along the west bank of the Snake River, and across the river to the American Falls Switchyard, for a distance of approximately 2,300 feet:...

(C) The revised exhibit K drawings, sheets 1 and 2, filed August 1, 1996, are approved, made part of the license, and

1/ 11 FERC 62,230, Order Approving Revised Exhibit K, June 19, 1980.

2/ 53 FCC 1017, Order Issuing Major License and Permitting Withdrawal of Intervention, March 31, 1975.

DC-A-3

RECEIVED

MAR 26 1997

Department of Water Resources

Project No. 2736-019

-2-

numbered as follows:

EXHIBIT	FERC NO.	TITLE	SUPERSERVED/ DELETED
K-1	2736-43	Detail Map	2736-33
K-2	2736-44	Detail Map	2736-14

(D) The superserved exhibit K drawings are eliminated from the license.

(E) Within 90 days of the date of issuance of this order, the licensee shall file four sets of aperture cards of the approved drawings. The aperture cards should be reproduced on silver microfilm. All microfilm should be mounted on Type D (3 1/4" x 7 1/8") aperture cards.

Prior to microfilming, the FERC Drawing Number (2736-43 and 2736-44) shall be shown in the margin below the title block of the approved drawing. After mounting, the FERC Drawing Number should be typed in the upper right corner of each aperture card. Additionally, the Project Number, FERC exhibit (i.e., K-1 and K-2), Drawing Title, and date of this order should be typed in the upper left corner of each aperture card. See Figure 1.

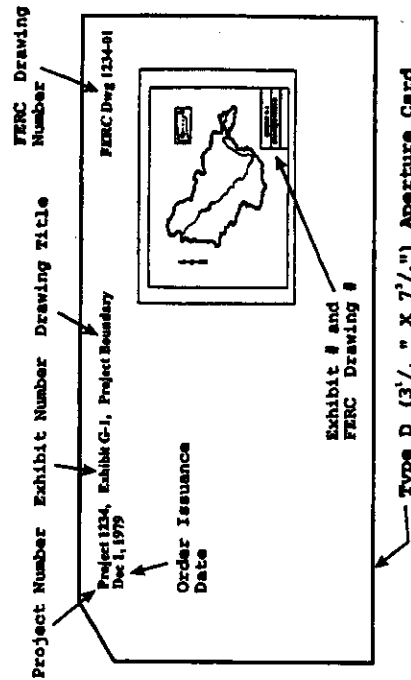


Figure 1. Sample Aperture Card Format

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Power Company

Project No. 2736-011
Idaho

ORDER APPROVING REVISED RECREATION PLAN

(Issued July 19, 1991)

On June 20, 1991, Idaho Power Company, licensee for the American Falls Project, filed a revised recreation plan to accurately represent the existing facilities and permit expansion of Snake River Access area operated by the Power County Waterways Commission.

The filing included documentation of consultation with appropriate agencies. No objections to the proposal were received. In a letter dated May 29, 1991, the Idaho State Historical Society (ISHS) recommended an archeological assessment be conducted in the area proposed for improvements. In an assessment report dated July 11, 1991, no archeological resources were identified. In a letter dated July 8, 1991, commenting on the assessment, ISHS requested notification should any cultural resources be identified during the course of construction. Ordering paragraph (B) is included to ensure the project's cultural resources are adequately protected.

The licensee has included a copy of a lease for a recreational use easement to the Power County Waterways Commission for the Snake River Access Area. The lease agreement contains the necessary covenants required by the Commission and should be approved.

Environmental impacts associated with the licensee's proposal, as modified by the agency permits and ordering paragraph (B), should be minor and of short duration. The licensee's proposal will provide improved recreational access to the project consistent with the project license and the Commission's regulations and should be approved.

The Director orders:

(A) The licensee's June 20, 1991, filing is approved.

(B) If previously unidentified archeological or historic properties are discovered during the course of constructing the park facilities, the licensee shall stop all land-clearing and land-disturbing activities in the vicinity of the properties and consult the State Historic Preservation Officer (SHPO). In this

-2-

instance, the licensee shall file with the Commission a cultural resource management plan prepared by a qualified cultural resource specialist after consulting with the SHPO. The management plan shall include (1) a description of each discovered property indicating whether it is listed on or eligible for the National Register of Historic Places, (2) a description of the potential effect on each discovered property, (3) proposed measures for avoiding or mitigating effects, (4) documentation of the nature and extent of consultation, and (5) a schedule for mitigating effects and conducting additional studies. The Commission may require changes in the plan.

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

J. Mark Robinson
J. Mark Robinson
Director, Division of Project
Compliance and Administration

RECEIVED

JUL 26 1991

Department of Water Resources

December 29, 1971

Re: Permit No. 16635/01-2046

Idaho Power Company
Box 30
Boise, Idaho 83707

Gentlemen:

Enclosed herewith is the Water License issued on the above referenced permit.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BBF:DR
Enc: License

01-2046

December 9, 1971

Idaho Power Company
Box 30
Boise, Idaho 83707

Gentlemen:

A representative of this department has made an examination of the works covered by your Permit No. 16635/01-2046 and has found the following:

Quantity of water diverted: 9,000 cfs

Amount of water that can be recognized as beneficially used under Idaho law: 2,000 cfs

The maximum quantity diverted shall not exceed 1,447,590 acre feet per season.

Beneficial Use: Power generation purposes within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 31, Twp. 7S, Rge. 31E, B.M. (American Falls Project)

Point of diversion: SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, Twp. 7S, Rge. 31E, B.M.

The priority date established is : October 15, 1926

If you do not concur with these findings, please advise us within 10 days; otherwise, a license will be issued as set forth in this letter.

Very truly yours,

BOBBY D. FLEENOR
Assistant Director

BDF:DR

01-2046

March 9, 1971

Re: Permit No. 16635/01-2046

Mr. James E. Bruce
Vice President & Secretary
Idaho Power Company
Post Office Box # 70
Boise, Idaho 83707

Dear Mr. Bruce:

We have received your letter of February 26, 1971, providing the supplemental information relating to Proof of Beneficial Use submitted for Permit No. 01-2046.

It appears that we now have the necessary information and a license for the diversion of this water will be issued shortly.

Very truly yours,

Bobby D. Fleenor
Assistant Director

BDF:cm

01-2046

SNAKE RIVER



HYDRO POWER

IDAHO POWER COMPANY

BOX 70 BOISE, IDAHO 83707

February 26, 1971

JAMES E. BRUCE

Vice President, Secretary and General Counsel

State of Idaho
Department of Water Administration
Statehouse, Annex 2
Boise, Idaho 83702

Re: Supplemental Information Relating
to Proof of Beneficial Use - Permit
No 01-2046 (16635)

Gentlemen:

Forwarded herewith is certain information supplementing material previously submitted in connection with Idaho Power Company's Proof of Beneficial Use for Permit No 01-2046 (16335).

The Application for Permit (16635) involves 2,000 cfs of water in the Snake River downstream from American Falls Dam and Reservoir, which 2,000 cfs is used in the production of power and energy in the Company's American Falls hydroelectric development.

The Company has permits or licenses previously granted for the diversion and use of 7,000 cfs and this application was made in order to authorize the appropriation of an additional 2,000 cfs, making a total of 9,000 cfs, the amount of water which is required to operate the hydroelectric station at full capacity. *9,000 cfs described but only 8,000 cfs found Am*

The existing installation at American Falls is located at what was denominated as the "East Side" plant and the turbines and generators now in place and in use are the same facilities that were in the plant in 1927. Attached hereto as Exhibit 1 is a copy of the "General Description and Specifications of Equipment" in the American Falls hydroelectric development. Also attached hereto as Exhibit 2 is a "Loading Table" of the five units in the American Falls hydroelectric station, which table represents a summary of operational tests of the equipment. Exhibit 2 shows that, in order to achieve the maximum capacity of the five units (27,000 KW), a discharge of 9,000 cfs is required.

If any further information is required, please inform us.

Very truly yours,

James E. Bruce
James E Bruce

Vice President and Secretary

JEB:mlm

Encls

01-2046

GENERAL DESCRIPTION AND SPECIFICATIONS OF EQUIPMENT

AMERICAN FALLSGenerating Equipment (5 Units)Unit No 1 - Operation date 1913.

1 - Allis-Chalmers horizontal double runner reaction type hydraulic turbine in open flume setting, nameplate rating 5500 horsepower (maximum capacity at design head, 4800 horsepower), 48 ft head, 164 rpm; direct connected to

1 - General Electric horizontal generator rated at 4375 kva, 3500 kw, .8 P F, 3-phase, 2300 volts, 60 cycles, 164 rpm, with direct connected exciter.

Unit No 2 - Operation date January 20, 1924.

Unit No 3 - Operation date December 28, 1923.

Unit No 4 - Operation date June 8, 1927.

Unit No 5 - Operation date June 10, 1927.

4 - Allis-Chalmers vertical single runner hydraulic turbines set in concrete spiral casings, nameplate rating 9000 horsepower (maximum capacity at design head, 9850 horsepower), 55 ft head, 120 rpm; direct connected to

4 - Allis-Chalmers vertical outdoor generators rated at 7500 kva, 6000 kw, .8 P F, 3-phase, 6600 volts, 60 cycles, 120 rpm.

Each 7500-kva generator has an individual 125 kw motor driven exciter, with one additional exciter provided that can be switched to replace any individual exciter including the direct connected exciter for No 1 unit.

Plant Intake Works

The intake for each turbine is provided with trash screens and electric hoist operated headgates.

Transformation and Switching Equipment

Generator No 1 is connected to the plant 2300-volt bus which supplies the plant auxiliary service, one distribution feeder, and is connected to the 45-kv station bus through the tertiary winding of No 1 transformer bank.

No 2 generator is connected to the 46-kv bus through No 1 transformer bank. This bank consists of 3 - 3333-kva outdoor, water cooled, single phase transformers with an oil circuit breaker between the high voltage side and the 46-kv station bus.

No 3 generator is connected to the 46-kv station bus through a bank of 3 - 2500-kva, outdoor, water cooled, single phase transformers with an oil circuit breaker on the high voltage side.

01-2046

One spare transformer is provided which will work in either of the above banks.

No 1 Transformer Bank

4 - 3333-kva OIWC outdoor transformers, 48.2Y/6.9/2.3 kv, connected between 46-kv station bus, 2.3 kv bus, and No 2 generator. One transformer is a spare unit for this bank and for Bank No 2.

No 2 Transformer Bank

3 - 2500-kva OIWC outdoor transformers, 48.2Y/6.9 kv, connected between 46-kv station bus and generator No 3.

No 3 Transformer Bank

4 - 11,250-kva OIWC outdoor transformers (one spare), 138Y/48.2Y/6.6 kv, installed between 138-kv, 46-kv, and 6.6-kv station buses.

2.3-kv Bus

No 1 generator, No 1 transformer, a distribution feeder, and station auxiliaries are connected to this bus.

6.9-kv Bus

Generators No 4 and No 5 are connected to this bus.

46-Kv Bus

Transformer banks No 1, No 2, No 3 and two transmission lines connect to this bus through oil circuit breakers.

138-kv Bus

No 3 transformer bank, a tie to Brady substation, and four transmission lines connect to this bus through oil circuit breakers.

Other Equipment

A 65-ton gantry crane is provided over the four large units, a 30-ton bridge crane over No 1 unit, a 35-ton bridge crane in the repair house, and a 12-ton bridge crane over No 1 turbine pit.

— 2 — 2 — 2 —

01-2046

Idaho Power Company
American Falls Hydro-Electric Station
Head - 50 ft.

Economical Loading Table

Total Load Kw	Unit No.1 Kw	Unit No.2 Kw	Unit No.3 Kw	Unit No.4 Kw	Unit No.5 Kw	Total Discharge Cfs	Efficiency Kw/Cfs
0	-	-	-	-	Motor	500	0.00
500	-	-	-	-	500	580	0.70
1,000	-	-	-	-	1,000	660	1.40
1,500	-	-	-	-	1,500	740	1.94
2,000	-	-	-	-	2,000	820	2.40
2,500	-	-	-	-	2,500	900	2.78
3,000	-	-	-	-	3,000	990	3.05
3,500	-	-	-	-	3,500	1,080	3.26
4,000	-	-	-	-	4,000	1,180	3.40
4,500	-	-	-	-	4,500	1,300	3.48
5,000	-	-	-	-	5,000	1,430	3.50
5,500	-	-	-	-	5,500	1,600	3.46
6,000	-	-	-	-	6,000	1,850	3.25
6,500	-	-	3,000	-	3,500	2,070	3.14
7,000	-	-	3,500	-	3,500	2,160	3.24
7,500	-	-	3,500	-	4,000	2,260	3.32
8,000	-	-	4,000	-	4,000	2,360	3.39
8,500	-	-	4,000	-	4,500	2,480	3.43
9,000	-	-	4,500	-	4,500	2,600	3.46
9,500	-	-	4,500	-	5,000	2,730	3.48
10,000	-	-	5,000	-	5,000	2,860	3.50
10,500	-	-	5,000	-	5,500	3,030	3.46
11,000	-	-	5,500	-	5,500	3,200	3.44
11,500	-	-	4,000	3,500	4,000	3,440	3.34
12,000	-	-	4,000	4,000	4,000	3,540	3.39
12,500	-	-	4,000	4,000	4,500	3,660	3.41
13,000	-	-	4,500	4,000	4,500	3,780	3.35
13,500	-	-	4,500	4,500	4,500	3,900	3.46
14,000	-	-	4,500	4,500	5,000	4,030	3.47
14,500	-	-	5,000	4,500	5,000	4,160	3.48
15,000	-	-	5,000	5,000	5,000	4,290	3.50
15,500	-	-	5,000	5,000	5,500	4,460	3.48
16,000	-	4,000	4,000	4,000	4,000	4,720	3.39
17,000	-	4,000	4,500	4,000	4,500	4,960	3.42
18,000	-	4,500	4,500	4,500	4,500	5,200	3.46
19,000	-	4,500	5,000	4,500	5,000	5,460	3.48
20,000	-	5,000	5,000	5,000	5,000	5,720	3.50
21,000	-	5,000	5,500	3,000	5,500	6,060	3.46
22,000	-	5,500	5,500	5,500	5,500	6,400	3.44
23,000	1,000	5,500	5,500	5,500	5,500	6,810	3.38
24,000	2,000	5,500	5,500	5,500	5,500	7,000	3.43
25,000	2,500	5,500	5,500	5,500	6,000	7,400	3.38
26,000	2,500	5,500	6,000	6,000	6,000	7,900	3.30
27,000	3,000	6,000	6,000	6,000	6,000	9,000	3.00

01-2046

February 22, 1971

Re: Permit No. 01-2046 (16635)

Mr. James E. Bruce
Vice President and Secretary
Idaho Power Company
Box 70
Boise, Idaho 83707

Dear Mr. Bruce:

On January 4, 1971, I wrote you regarding Permit No. 16635/01-2046 held by Idaho Power Company for the production of power at American Falls. At that time, I requested your thoughts regarding disposition of that filing and whether or not this permit was to be considered in the same status as Permit Nos. 15201 and R-273 that we have discussed previously with you. I would like very much to clarify this matter and take the necessary actions and would appreciate your earliest comments.

Very truly yours,

C. STEPHEN ALLRED
Deputy Director

CSA/kh

<u>Permit</u>	<u>File</u>	<u>Priority</u>
15-201	01-02041 for 1,200 cfs	3-17-1921
R-273	01-02065 for 300,000 Ac-Ft	3-17-1921

Both apparently given up in lieu of
Storage and inflow rights in the name
of USBP for American Falls Reservoir

Post meillon
10/8/96

01-2046

January 4, 1971

Mr. James E. Bruce
Vice President and Secretary
Idaho Power Company
Box 70
Boise, Idaho 83707

Dear Mr. Bruce:

In reviewing the material submitted by your company in response to an Order to Show Cause issued by this office on October 1, 1970, we have found that there is still one additional existing permit upon which action needs to be taken. Permit No. 16635/01-2046 was issued to Idaho Power Company on January 18, 1927. The permit carries a tentative priority of October 15, 1926 for 2000 cfs of water to be used at the Eastside Power plant then existing at American Falls. On October 7, 1927, a certificate of completion of works was issued for 2000 cfs or a total of 9000 cfs when combined with other water rights, the then existing capacity of the works. Proof of application of the water to beneficial use was submitted on January 18, 1933. On January 26, 1933, this office advised your company that the right appeared to be covered by the contractual arrangements made between Idaho Power Company and the Federal Government regarding operation of American Falls Reservoir. We further advised the company that we would hold action on the permit in abeyance until actions had been completed on previous filings held by Idaho Power. Those filings were the same filings as covered by our Order to Show Cause of October 1, 1970.

I would appreciate your thoughts as to whether or not the status of this permit is the same as those which we have previously considered. If you feel that this is the case, then perhaps this filing could be handled in the same manner as those considered in the Show Cause Order. If this would be agreeable, I would appreciate your company's concurrence to include Permit No. 16635/01-2046 in the same Order as Permits No. 15201 and R-273.

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

Very truly yours,

C. STEPHEN ALLRED
Deputy Director

CSA:cc

01-2046

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF ENGINEER

Permit No. **18635**

This proof is for BEN USE

In Water District No.....

1. Name of applicant... **Idaho Power Company**
2. Source of water supply: **Snake River**
3. Location of point of diversion: Is in the **N 69° 30' W 1872.3 ft.** / **distant from SE corner** of Section **30**
- T. **7 S** R. **31 E.B.M.** County of **Power**

4. Describe works as they exist, giving dimensions and capacities of same:.....

5. Water is used for:..... **Power**

6. State whether or not water has been turned into works of diversion:.....

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation):

(Submit map on attached plat, showing location and details of above description.

8. What large stream would the water here appropriated finally reach?

Remarks..... No fee is required in connection with proof of application of water to
beneficial use under this permit, since no examination is required. Section 41-215
empowers the Commissioner of Reclamation to waive the fee when, in his judgment,
no examination is necessary. This right is supplementary to other rights already
initiated.

This examination was made on the.....day of....., 19.....

(Signed)

16635-

Idaho Power Company
M. L. Hibbard, Mgr.
Boise, Idaho

Permit No. 16635

Examination for BEN USE

County Power

INSTRUCTIONS TO EXAMINERS

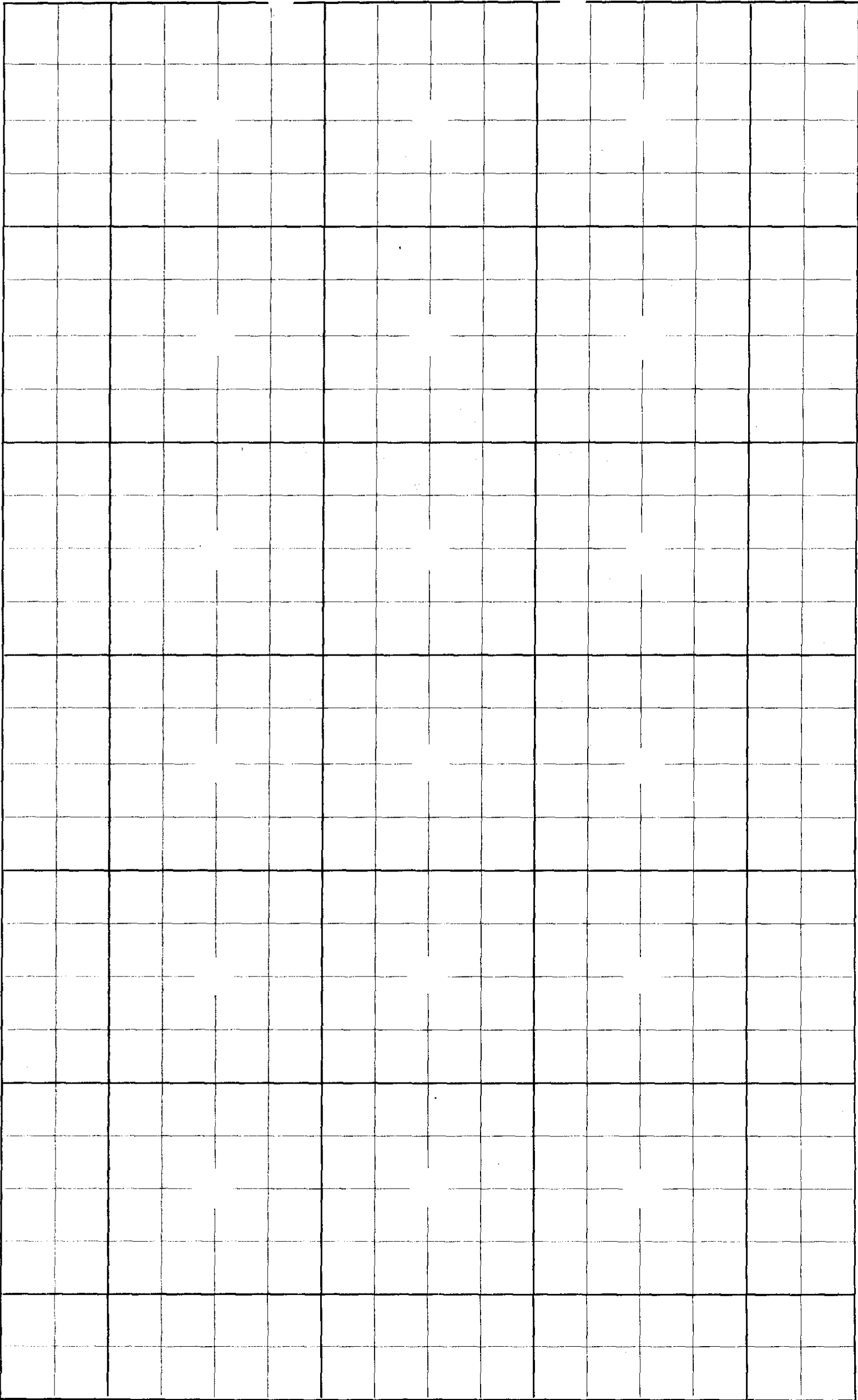
1. Always carefully note the location of the point of diversion and accurately plat same.
 2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
 3. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
 4. If any unusual conditions are discovered, make a plain statement of them under remarks.
 5. Always see the holder, if possible, and go over the whole ground with him and make your report only upon actual existing facts and conditions.
-

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

REPORT OF ENGINEER

PERMIT NO. 16635

REPORT ON PROOF OF BEN USE



SCALE: 2 INCHES EQUALS 1 MILE. DRAW MAP IN INK.

January 26, 1933

Re: PERMIT No. 16635

IDAHO POWER COMPANY,
Boise,
Idaho

Attention Mr. E. C. KIERSTED, Special Agent

Gentlemen:

Upon consideration, proof of application of water to beneficial use under Permit No. 16635 appears to me to be in the same position as proof of completion of works heretofore offered under Permits 15201 and R-273, for the reason, as we construe it, that your rights in the American Falls reservoir are comprehended in and dependent upon your contract with the United States. However, action upon proof of application of water to beneficial use under Permit No. 16635 will be held in abeyance until a final conclusion is reached with reference to issuance of Certificate of Completion of Works under the above mentioned permits.

We are returning herewith your check in the sum of \$5.00 to cover examination fee re proof of beneficial use of water under Permit No. 16635, for the reason that if a license is issued under said permit it will be considered supplemental to rights heretofore acquired, in which case no examination is required by law.

Very truly yours,

Commissioner of Reclamation

RWF/mt
Enc.-Chk. \$5.00

16635-

Affidavit of Publication

County of Power, }
State of Idaho, } SS.

A. M. Quane being first duly sworn
on his oath, states:

That he is the printer of the American Falls Press, a newspaper of general circulation in Power County, Idaho, published weekly at American Falls in said county; that said newspaper has been published in said county uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That the annexed notice or advertisement was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for four successive weekly issues thereof, the date of the first publication being the 3th day of December 1932, the date of the last publication being the 30th day of December 1932.

(Signed) A. M. Quane

Subscribed and sworn to before me this
30th day of December 1932.

E. C. Thier
Notary public, residing at American
Falls, Idaho.

My Commission expires the
14th day of July, 1933.

(SEAL).

(Dec. 2-15-22-19)
Notice For Publication.
NOTICE OF PROOF APPLICATION
OF WATER TO BENEFICIAL USE.
Notice is hereby given that at 10
A. M. on the 15th day of January,
1933, at Boise, County of Ada, State
of Idaho, before M. E. Hughes, No-
tary Public, proof will be submitted
of the application to beneficial use
of 2,000 cubic feet per second of the
waters of Snake River in accordance
with the terms and conditions
of Permit No. 14,435 heretofore
issued by the Department of Recla-
mation of the State of Idaho.
The name and postoffice address
of the person or corporation holding
said permit are Idaho Power Com-
pany, 1220 Idaho Street, Boise,
Idaho.
The use to which said water has
been applied is for power production.
The amount applied to beneficial
use is 2000 cubic feet per second.
The place where said water is
used (if for irrigation, give full and
accurate description of the lands
irrigated) is at Idaho Power Com-
pany's American Falls Power Sta-
tion.
The name of the canal or ditch or
other works by which said water is
conducted to such place of use is
American Falls Power Station.
The right to take water from
such works is based upon Permit
No. 14,435.
The source of supply from which
such water is diverted is Snake
River.
The date of the priority which
said user is prepared to establish is
October 15, 1922.
R. W. FABER
Commissioner of Reclamation.

16635-

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Permit No. 16635

Proof of Application of Water to Beneficial Use

Deposition of Holder

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. M. L. Hibbard; Boise, Idaho; General Manager; P.O. Box 770, Boise, Idaho.

Ques. 2. If acting in behalf of corporation, state its name, principal place of business (if a foreign corporation, give name of postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans. Idaho Power Company; Boise, Idaho; President and General Manager; President.

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. 16,635; October 15, 1926.

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Snake River; at American Falls, approximately North 69 degrees and 30 minutes West 1872.3 feet from the Southeast Corner of 30-7S.-31E.B.M.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use.

Ans. Gravity type concrete dam with 5-foot flashboards - length approximately 1493 feet, and height from 9 to 14 ft; elevation of crest of flashboards 4296.579 ft; 7 tainter gates and one ice-gate are installed - 5 each 8x12 ft., 2 each 14x30 ft., and the ice-gate 8x20 ft. Of the works described the westerly portion of dam, approximating 516.2 ft.

(see reverse side)

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have actually been irrigated with said water.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Development of power, at American Falls Power Station, on east side of Snake River at American Falls, Idaho,

Ques. 7. If for other than for irrigation purposes; state how applied, amount of horse power generated, etc.

Ans. Through Units Nos. 4 and 5, being two vertical single runner concrete spiral turbines rated at 9,000 h.p. each, each direct connected to generator of 6,000 kw capacity, and additional and supplemental to Units Nos. 1, 2 and 3, constructed and used under water appropriations now owned, possessed and claimed by Idaho Power Company and under Water Permits Nos. 4168 and 14,067.

16635-

Ques. 8. What is the minimum amount of water required for the purpose specified above?

Ans. 3800 c.f.s.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans.

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. Since October, 1926; in development of electrical energy; 3800 c.f.s.; continually.

Ques. 11. State when, how, in what amount and to what extent waters other than those diverted under the above mentioned permit have been diverted and applied to beneficial use upon the lands herein described. Give full particulars regarding such other appropriations and rights claimed thereunder.

Ans. Beginning in 1902 and continuing since 1908, approximately 611 c.f.s. under Appropriation of August 1, 1901; and beginning in 1904, approximately 253 c.f.s. under Appropriation of July 15, 1901; and beginning in March, 1913, approximately 1400 c.f.s. under Permit No. 4168; and beginning in October, 1926, approximately 4600 c.f.s. under Permit No. 14,067.

(Sign)

W. L. Hubbard

I hereby certify that the foregoing testimony was read to the above subscribed before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Boise, County of Ada, State of Idaho, on this 18th day of January, A. D. 1933.

M. E. Hughes

My commission expires March 27/1936.

(Continuing answer to Question 5.)

in length, including 5 tainter gates, each 8x12 feet, have been acquired by United States. The remainder, approximating 834.4 ft. in length, including 2 tainter gates, each 14x30 ft., and the ice-gate, is owned by Idaho Power Company. In that portion of the dam owned by Idaho Power Company provision is made for installation of 2 gates each 14x30 feet, and 3 gates each 13x20 feet. The works are capable of diverting more than 9000 c.f.s. The diversion works are a part of the American Falls Power Station.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 16,635

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Myron Swendsen; 41; Civil Engineer; Boise, Idaho.

Ques. 2. Are you acquainted with Idaho Power Company, the holder of Permit No. 16,635? How long have you known him and where does he reside?

Ans. Yes, since 1916. Boise, Idaho.

Ques. 3. Have you read or heard read said Permit No. 16,635, and are you familiar with its provisions and conditions?

Ans. Yes. This deposition is made as applying to Units Nos. 4 and 5 of the American Falls Power Plant, proofs of application of water to beneficial use at the said plant

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Snake River. North 69 degrees and 30 minutes West approximately 1872.3 feet from the southeast corner of Sec. 30, Twp. 7 South, Range 31 E.B.M. Gravity type dam, of concrete, about 1500 feet long and about 14 feet high, with 5-foot flashboards, seven tainter gates, of which five are 8x12 feet and two 14x30 feet, and an ice-gate 8x20 feet.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. Diversion works in place, about 9000 second feet. More than 8600 second feet, not at full load capacity of plant.

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each sub-division in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvement which have been made as a direct result of said use.

Ans. Generating power, at American Falls Power Plant.

16635

Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent

Ans. Water has been applied in generating power through two vertical single-runner turbines rated at 9000 h.p. each, direct-connected to two generators of 6000 kw. each, known as Units Nos. 4 and 5 of the plant, to the extent of more than 3800 second feet.

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. _____

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. No.

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. On January 5th, 1933, I witnessed the operation of Units Nos. 4 and 5, as described in response to Question No. 7 herein, the two said units utilizing at the time more than 3600 second feet in power generation, which was not the possible maximum use of water by these units.

(Signed) Myron Burdson

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Boise, County of Ada, State of Idaho, on this day of January 18th, A. D. 1933.

M. J. Hughes
Notary Public.

My commission expires March 27/1936

(Continuing answer to Question 3.)

having been made previously, according to the records, as to Units Nos. 1, 2 and 3 under Water Permits Nos. 4168 and 14,067.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 16,635

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Geo. N. Carter. 45. Boise, Idaho. Civil engineer. Idaho Building.
Boise, Idaho.

Ques. 2. Are you acquainted with Idaho Power Company, the holder of Permit No. 16,635? How long have you known him and where does he reside?

Ans. Yes, since 1916. Boise, Idaho.

Ques. 3. Have you read or heard read said Permit No. 16,635, and are you familiar with its provisions and conditions?

Ans. Yes. This deposition is made as applying to Units Nos. 4 and 5 of the American Falls Power Plant, proofs of application of water to beneficial use at the said plant
(continued on reverse)

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Snake River. North 69 degrees and 30 minutes West approximately 1872.3 feet from the southeast corner of Sec. 30, Twp. 7 South, Range 31 E.B.M. Gravity-type dam, of concrete, about 1500 feet long and about 14 feet high, with 5-foot flashboards, seven tainter gates, of which five are 8x12 feet and two 14x30 feet, and an ice-gate 8x20 feet.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. Diversion works in place, about 9000 second feet. More than 8600 second feet, not at full load capacity of plant.

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each sub-division in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvement which have been made as a direct result of said use.

Ans. Generating power, at American Falls Power Plant.

16635

Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent

Ans. Water has been applied in generating power through two vertical single-runner turbines rated at 9000 h.p. each, direct-connected to two generators of 6000 kw. each, known as Units Nos. 4 and 5 of the plant, to the extent of more than 3800 second feet.

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. _____

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. No.

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. On January 5th, 1933, I witnessed the operation of Units Nos. 4 and 5^{as} described in response to Question No. 7 herein, the two said units utilizing at the time more than 3600 second feet in power generation, which was not the possible maximum use of water by these units.

(Signed)

Geo. H. Carter

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Boise, County of Ada, State of Idaho, on this day of January 18th, A. D. 1933.

My commission expires March 27/1936

M. E. Hughes
Notary Public.
Boise, Idaho

(Continuing answer to Question 3.)

having been made previously, according to the records, as to Units Nos. 1, 2 and 3 under Water Permits Nos. 4168 and 14,067.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Date December 6, 1932

The Editor
American Falls Press
American Falls, Idaho

DEAR SIR:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to January 18th, 1933, the date set for proof, the expense of the publication to be paid by the applicant,

Idaho Power Company, 1220 Idaho Street, Boise, Idaho
to whom you should furnish proof of publication on or prior to the date set for proof.

Please acknowledge receipt of this notice and furnish this office with a copy of the first publication.

Very truly yours,

R. V. FAPIS

Commissioner of Reclamation

16635

November 30, 1932

Re: Permit No. 16635

Mr. E. C. Kiersted
Special Agent, Idaho Power Co.
1220 Idaho Street
Boise, Idaho

Dear Sir:

This will acknowledge receipt of your notice in duplicate for publication in the matter of Beneficial Use proof under the above numbered permit.

A copy of the notice has been mailed to the American Falls Press, American Falls, Idaho, with instructions to publish the same once a week for four successive weeks prior to January 18, 1933, which is the date when proof will be made.

The necessary depositions will be mailed to Mr. M. E. Hughes, Notary Public, Boise, Idaho, about ten days prior to the above mentioned date so that he will have them in ample time to accept the proof.

Very truly yours,

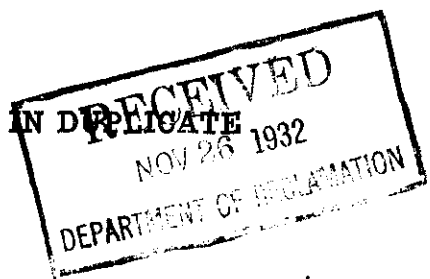
R. W. FARIS
Commissioner of Reclamation

By Chief Clerk & Office Engr.

PLH:MC

16635-

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE



(Date) November 19, 1932

(P. O.) 1220 Idaho Street, Boise, Idaho

TO THE COMMISSIONER OF RECLAMATION:

Boise, Idaho.

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the American Falls Press of American Falls, Idaho, published in the county in which the works are situated.

Idaho Power Company.

By

E. M. Smith, Vice Agent

(In case of canals or other works designed to divert and carry more than 50 cubic feet of water per second, the following certificate must be signed by a well-known and competent engineer)

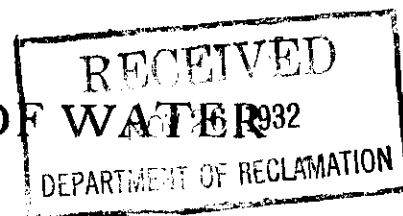
I hereby certify that the facts set forth in the attached notice are true.

Guy L. Dwyer
Engineer.

16635-

NOTICE FOR PUBLICATION

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE



Notice is hereby given that at 10 a. m. on the 18th day of January, 1933,
 at Boise, County of Ada, State of Idaho,
 before M. E. Hughes, Notary Public, proof will be submitted
 of the application to beneficial use of 2000 cubic feet per second of the
 waters of Snake River in accordance with the terms and conditions of
 Permit No. 16,635 heretofore issued by the Department of Reclamation
 of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are
Idaho Power Company, 1220 Idaho Street, Boise, Idaho.

The use to which said water has been applied is for power production

The amount applied to beneficial use is 2000 cubic feet per second.

The place where said water is used (if for irrigation, give full and accurate description of the
 lands irrigated) is at Idaho Power Company's American Falls Power Station.

The name of the canal or ditch or other works by which said water is conducted to such place of use
 is American Falls Power Station.

The right to take water from such works is based upon Permit No. 16,635.

The source of supply from which such water is diverted is Snake River.

The date of the priority which said user is prepared to establish is October 15, 1926.

R. W. FARIS
 Commissioner of Reclamation.

16635-

2000 sec. ft of the waters
of Snake River or so
much thereof as together
with the amounts diverted
^{to place of intended use}
and conveyed by ~~the~~ rights
heretofore granted under Permits
#4168 & #4067 shall make
a total of 9000 second
feet the present capacity
of ~~the~~ the diversion works
of the company.

16635

16635-

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

BOISE

F. F. JOHNSON, Pres.
Agent, Idaho Power Co.,
Boise, Idaho

November 17, 1932

Dear Sir:—

I enclose herewith blank notice of proof of application of water to beneficial use under your permit No. **16635**, which should be filled out and returned to this office at least 60 days before the date upon which you wish to make proof. The date for proof, as set out in your permit, is **Jan. 18, 1933**, and, if proof is submitted subsequent to said date, your priority will be brought down a length of time equal to the time elapsing between the date proof should have been made and the date proof is actually made.

Yours truly,

R. W. FARIS
~~ASSISTANT COMMISSIONER~~
Commissioner of Reclamation.

16635-

March 13, 1928.

Re: Permit No. 16635-Idaho Power Company

Messrs. Ensign & Ensign,
Boise, Idaho.

Gentlemen:

Referring to your letter of the 12th inst. would say that proof of completion of works has been made and accepted under the above permit thereby releasing the bonding company from further liability under the bond filed in connection with said permit.

Very truly yours,
GEO. N. CARTER,
Commissioner of Reclamation.

By _____
Chief Clerk.

16635



ENSIGN & ENSIGN
[AUTHORITY LIMITED]
GENERAL AGENTS FOR
SOUTHERN IDAHO

HAWLEY & HAWLEY
CONSULTING ATTORNEYS

National Surety Company

CAPITAL \$10,000,000.00

LOCAL BOARD RESIDENT VICE-PRESIDENTS

JOHN D. DALY
JAS. H. HAWLEY JESS B. HAWLEY
RESIDENT ASS. SECRETARIES
L. W. ENSIGN FRANK G. ENSIGN

New York.

BOISE, IDAHO

March 12, 1928

Commissioner of Reclamation
State House
Boise, Idaho

Re-Water Permit #16635, Idaho Power
Company

Dear Sir:

Mr. Kiersted wrote us sometime ago that the Idaho Power
Company had filed proof of completion of works under this permit
and that the liability under our bond terminated. Will you
please verify this for the information of our Company?

Yours very truly,

ENSIGN & ENSIGN
General Agents

(By *W. B. Joyce*)
The Board Man

LWE:HB

16635-

October 13, 1927.

Re: Permit No. 16635.

Idaho Power Company,

Boise, Idaho.

Attention: Mr. Kiersted.

Gentlemen:

We are enclosing herewith Certificate of
Completion of Works issued under the above
numbered permit; also receipt for fees paid.

Very truly yours,

GEO. N. CARTER,
Commissioner of Reclamation,

By

Chief Clerk.

B:P.

Enc.

16635-

Idaho Power, Co. Am. Falls.

Amt. Cert. & M. License.

4168 - 6000 - 6000 - 1450

14067 - 4600 - 4600 - 4600

15201 - 1200 -

15201 To be
in name of
USBR?

16635 - 2000 -

(2000 - this proof.)

Total 10600 to date + 2000 would be 12600

16635 -

October 4, 1927

Re: Permit No. 16635.

Idaho Power Company,
Boise, Idaho.

Gentlemen:-

Attention: Mr. Kiersted.

Referring to the proof of completion of works under the above numbered permit would say that, upon receipt of fees in the sum of \$602.00, the certificate of completion will be issued.

These fees are based upon a capacity of 2,000 second feet, being \$5.00 for the first ten second feet and thirty cents additional for each additional second foot, or fraction.

Very truly yours,
GEO. H. CARTER,
Commissioner of Reclamation.

By _____
Chief Clerk.

76635-



IDAHO POWER COMPANY
BOISE, IDAHO

81-16-2

July 18, 1927.

Mr. George H. Carter, Commissioner,
Department of Reclamation,
Boise, Idaho.

Dear Mr. Carter;

Herewith please find Affidavit of Publication of Notice of Intent to submit proof of completion of works under Water Permit No. 16635, the Deposition of Witnesses, and the Deposition of Holder - all in the matter of proof of completion of diversion works by Idaho Power Company under Water Permit No. 16635 for 2,000 c.f.s Snake River at American Falls.

If you will be good enough to advise the amount of fees required we shall forward remittance promptly.

Very truly,

E. C. [Signature]
E. C. [Signature]

Special Agent.

ECK:S

16635-

Affidavit of Publication

County of Power, }
State of Idaho, } ss.

O. J. Quane, being first duly sworn
on his oath, states:

That he is Printer of the American Falls Press, a newspaper of general circulation in Power County, Idaho, published weekly at American Falls in said County, that said newspaper has been published in said county uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for four successive weekly issues thereof, the date of the first publication being the 9th day of June, 1927, the date of the last publication being the 30th day of June, 1927.

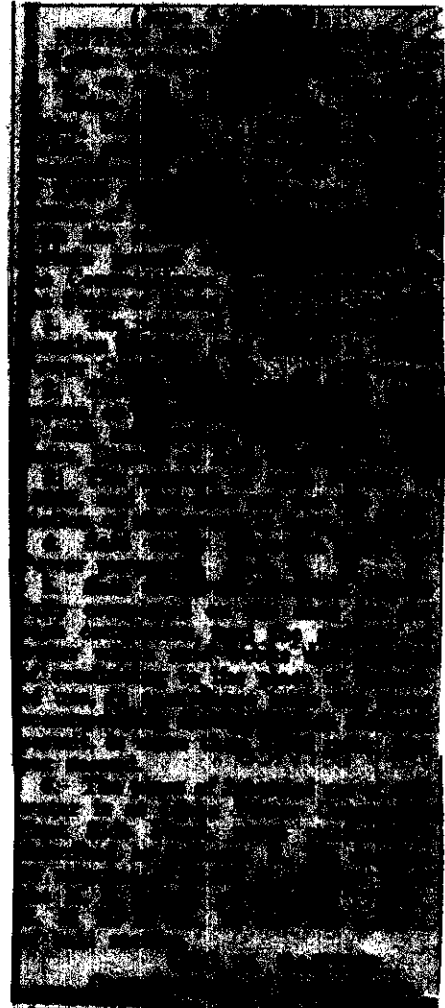
O. J. Quane
Subscribed and sworn to before me this 30th day of June, 1927.

W. C. Laybourne
Notary Public, residing at American Falls, Idaho.

My Commission expires the 8 day of Dec., 1927.

(SEAL)

COSTS: 47 lines at 10 cents a line for the first insertion and 5 cents a line for each of 3 subsequent insertions, total \$ 11.75.



16635-

Proof of Completion of Works

DEPOSITION OF HOLDER

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. W. R. Putnam, Boise, Idaho; General Manager; P.O. Box 910, Boise, Idaho

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business, your position with reference to same, and your authority for appearing in its behalf.

Ans. Idaho Power Company; Augusta, Maine; Vice-President and General Manager; Vice-President.

Ques. 3. State number and date of permit, amount of water you are authorized to divert, source, and point of diversion.

Ans. 16635; January 18, 1927; 2000 c.f.s.; Snake River; north 69 degrees 30 minutes West approximately 1672.5 feet from Southeast Corner of 30-7S-31E. B. M (the Company dam at American Falls).

Ques. 4. State purpose for which water is to be used, and, if for irrigation, state the number of acres and give description of the land you intend to reclaim.

Ans. Power

Ques. 5. State whether or not the water has been turned into your works of diversion, and, if so, when and to what extent.

Ans. The works of diversion have been in place since 1913, and, in part, prior thereto; water under Permit No. 16635 has been turned in since October 15, 1926.

Ques. 6. State whether or not the works of diversion are fully completed, and whether or not, they comply in all respects with the terms of the permit.

Ans. Works of Diversion are substantially completed and comply with terms of permit.

Ques. 7. If the works of diversion do not comply with all the terms of your permit, state fully those particulars in which there is any variance.

Ans. _____

Ques. 8. Give description of works, state dimensions and capacity of each part, and give cost of same.

Ans. Gravity type concrete dam with 5-foot flashboards - length 1495 feet, and height from 9 to 14 ft; elevation of crest of flashboards 4296.579 ft; 7 tainter gates and one ice-gate are installed - 5 each 8x12 ft., 2 each 14x30 ft., and the ice-gate 8x20 ft. Of the works described, the westerly portion of dam, approximating (see reverse side)

(Sign here.)

W. R. Putnam

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, in BOISE CITY, County of

ADA, State of Idaho, on this EIGHTEENTH day of JULY, A. D. 1927.

My Commission expires MARCH 27, 1928

M. J. Hughes
Notary Public.
Notary Public residing at Boise, Idaho

16635

516.2 ft. in length, including 5 tainter gates, each 8x12 feet, have been acquired by United States. The remainder, approximating 834.4 ft. in length, including 2 tainter gates, each 14x30 ft., and the ice-gate, is owned by Idaho Power Company. In that portion of the dam owned by Idaho Power Company provision is made for installation of 2 gates each 14x30 feet, and 3 gates each 13x20 feet. The works are capable of diverting more than 9000 c.f.s. The cost of the diversion works was in excess of \$300,000.

The Depositions of two Witnesses, in this form, taken separately, required in each case.

Permit No. 16635

Proof of Completion of Works

DEPOSITION OF WITNESS

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Henry L. Senger - Boise, Idaho - Engineer - Boise, Idaho

Ques. 2. Are you acquainted with Idaho Power Company, the holder of Permit No. 16635, authorizing the diversion of 2000 second-feet of the waters of Snake River, at American Falls for power purposes? How long have you known him, and where does he reside?

Ans. More than 10 years - Boise, Idaho

Ques. 3. Have you read or heard read said Permit No. 16635, and are you familiar with its terms and conditions?

Ans. Yes

Ques. 4. (If for irrigation purposes). Are you acquainted with the land proposed to be irrigated under said permit? If so, describe same, state its character, and give your estimate of the amount of water required for its profitable cultivation.

Ans. _____

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use?

Ans. Yes

Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Concrete dam, 1495 ft. long; Gravity type with 5-foot flashboards on top. Elevation top flashboards is 4296.579; Concrete dam varies in height from 9 ft. to 14 ft. The dam includes one 8x20 ft. ice gate, 2 - 14x30 ft. tainter gates and 5 - 8x12 ft. tainter gates. The United States has acquired title to 516.2 ft. of the dam described above including the 5 - 8x12 ft. tainter gates. The balance is owned by the Idaho Power Company. Within the section owned by the Idaho Power Company provision is made for 5 future tainter gates as follows, 2 - 14x30 ft. and 3 - 13x20 ft. Capacity of works estimated to be more than 9000 c.f.s.

(Sign here.)

Henry L. Senger

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in BOISE CITY, County of ADA, State of Idaho, on this EIGHTEENTH day of

JULY

A. D. 1927

M. J. Hughes

16635-

The Depositions of two Witnesses, in this form, taken separately, required in each case.

Permit No. 16635

Proof of Completion of Works

DEPOSITION OF WITNESS

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. G. O. Crane, Boise, Idaho. Engineer, Boise, Idaho

Ques. 2. Are you acquainted with Idaho Power Company, the holder of Permit No. 16635, authorizing the diversion of 2000 second-feet of the waters of Snake River, at American Falls for power purposes? How long have you known him, and where does he reside?

Ans. About 11 years. Boise, Idaho

Ques. 3. Have you read or heard read said Permit No. 16635, and are you familiar with its terms and conditions?

Ans. Yes

Ques. 4. (If for irrigation purposes). Are you acquainted with the land proposed to be irrigated under said permit? If so, describe same, state its character, and give your estimate of the amount of water required for its profitable cultivation.

Ans. _____

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use?

Ans. Yes

Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Concrete gravity type dam 1495 ft. long with 5-foot flashboards installed on the crest. Height of dam varies from 9 to 14 feet. Elevation of top of flashboards 4296.579. 7 tainter gates and one ice gate are installed in the dam, 5 gates each 8x12 feet, 2 gates each 14x30 ft. and the ice gate 8x20 ft. The westerly 516.2 ft. of the dam is owned by the United States. In this section of the dam are located the 5 - 8x12 ft. gates. The remaining section of the dam approximately 834.4 ft. is owned by the Idaho Power Company. In this section are located the two 14x30 ft. tainter gates and the 8x20 ft. ice gate with provision for 5 future tainter gates, 2 - 14x30 ft. each and 3 - 15x20 ft. each. Estimated capacity of works in excess of 9000 c.f.s.

(Sign here.)

G. O. Crane

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in BOISE CITY, County

of ADA, State of Idaho, on this EIGHTEENTH day of JULY A. D. 1927

M. J. Hughes

16635-

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Date June 4, 1927

Publisher The Press,
American Falls, Idaho.

DEAR SIR:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to July 18, 1927, the date set for proof, the expense of the publication to be paid by the applicant, Idaho Power Company, Boise, Idaho, to whom you should furnish proof of publication on or prior to the date set for proof.

Please acknowledge receipt of this notice and furnish this office with a copy of the first publication.

Very truly yours,

GEO. N. CARTER,

Commissioner of Reclamation.

16635-

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF ENGINEER

Permit No. 16635This proof is for Completion WorksIn Water District No. 361. Name of applicant: Idaho Power Company2. Source of water supply: Snake River3. Location of point of diversion: Is in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30T. 7 S. R. 31 E.B.M. County of POWER

4. Describe works as they exist, giving dimensions and capacities of same: *For detail description of Dam see plan filed with permit. Penstock opening consists of two rectangular openings from the face of the dam 11 feet wide and 14 feet high controlled by 2 trunnion gates from thence the water is conducted to the scroll case of the turbine, thence to the tail race by a draft tube 16' 4" in diameter. Secondary regulation is had by oil operated gates at the reaction turbine. Capacity 2000 c.f.s.*

5. Water is used for: Power Purposes6. State whether or not water has been turned into works of diversion: Yes

7. ~~List legal subdivisions of lands to be irrigated and if proof is for beneficial use give exact number of acres under cultivation in each forty-acre tract~~ (Describe manner and place of use if for other than irrigation): Place of Use- At the Idaho Power Company's East Side Plant -

S. 80° 38' W. 1401 ft. distant from the N.E. Cor. of Sec. 31, T. 7 S., R. 31 E.B.M.

in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section.

(Submit map on attached plat, showing location and details of above description.) (See permit map)

8. What large stream would the water here appropriated finally reach? Snake River

Remarks: *This unit is one of 5 units installed at this plant it being a 7500 K.V.A. Generator, vertical type direct connected to Allen Chalmers reaction turbine operating under about 47 feet head and requiring 2000 c.f.s. of water at full load. The entire equipment consists of four units of the type and size above described and one unit of 3750 K.V.A. capacity. The 3750 K.V.A. unit together with 2 of the 7500 K.V.A. units are complete and now in operation. Of the other 2 - 7500 K.V.A. units one is complete and being tested and the other is being assembled. However it is only one of the 7500 K.V.A. units to which this permit applies, but it is made as supplemental and in addition to other permits.*

This examination was made on the 31st day of May 1927

(Signed)

Myron Sverdrup

Examiner.

16635-

Idaho Power Co.

Permit No. **16635**

Examination for **COLE. WORKS**

County **POWER**

INSTRUCTIONS TO EXAMINERS

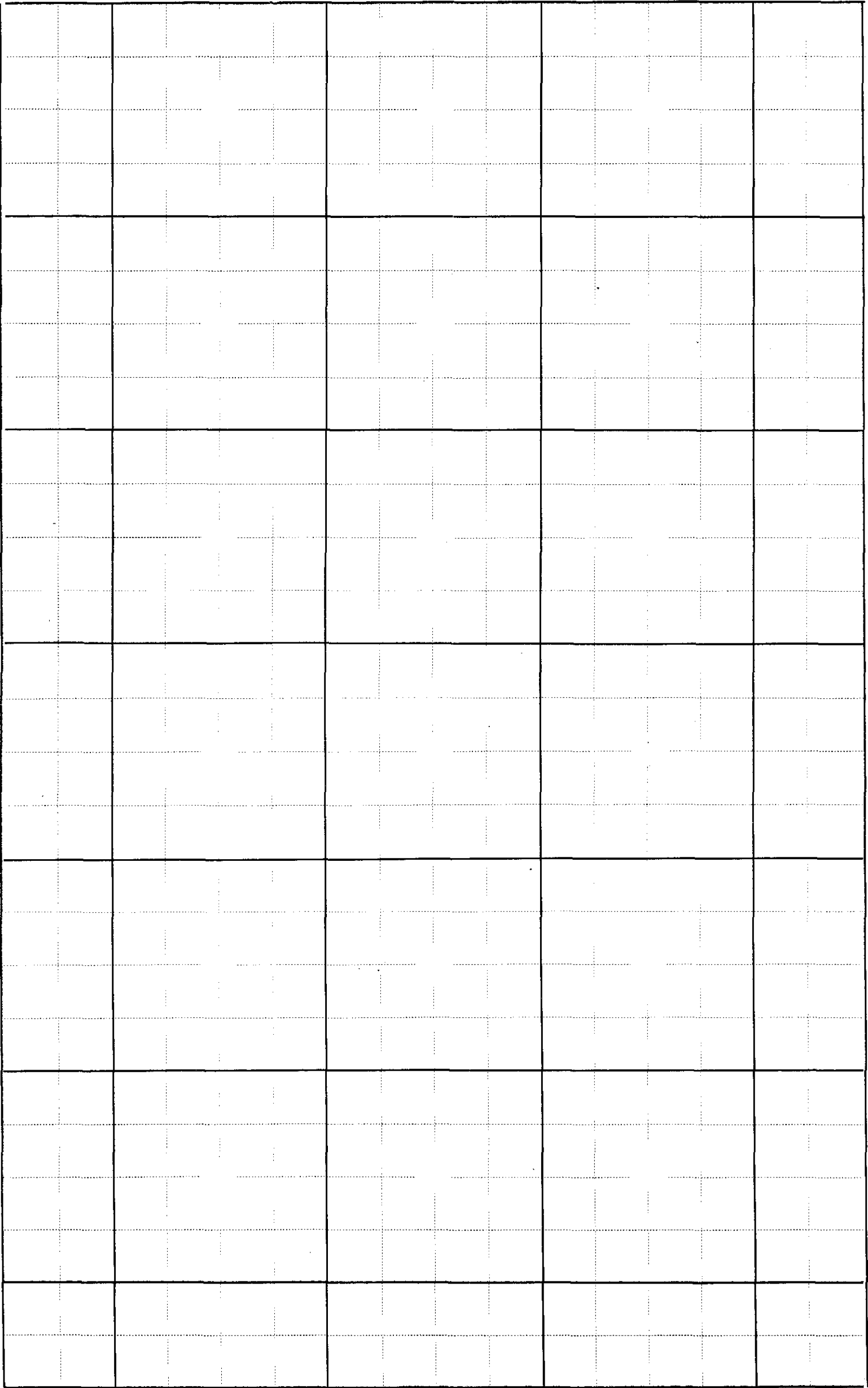
1. Always carefully note the location of the point of diversion, and accurately plat same.
 2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
 3. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
 4. If any unusual conditions are discovered, make a plain statement of them under remarks.
 5. Always see the holder, if possible, and go over the whole ground with him, and make your report only upon actual existing facts and conditions.
-

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

REPORT OF ENGINEER

PERMIT NO. _____

REPORT ON PROOF OF _____



SCALE: 2 INCHES EQUALS 1 MILE. DRAW MAP IN INK.

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) May 5, 1927

(P. O.) 910 Boise, Idaho

TO THE STATE ENGINEER:

Boise, Idaho.

DEAR SIR:

You are hereby authorized to have the attached notice published at my expense in the

American Falls Press of American Falls, published
in the county in which the works are situated.

DATA FOR CURRENT

By E. Kierstedt Special Agent.

(In case of canals or other works designed to divert and carry more than 50 cubic feet of water per second, the following certificate must be signed by a well-known and competent engineer.)

I hereby certify that the facts set forth in the attached notice are true.

Laurel W. Singer

Engineer.

16635-

Notice for Publication

Notice is hereby given that at 10 A. M., on the 18th day of July 1927, at Boise, County of Ada, State of Idaho, before M. E. Hughes, Notary Public, proof will be submitted of the completion of works for the diversion of 2000 cubic feet per second of the waters of Snake River in accordance with the terms and conditions of a certain permit heretofore issued by the Commissioner of Reclamation of the State of Idaho.

1. The name of the person or corporation holding said permit is Idaho Power Company
2. The postoffice address of such person or principal place of business of such corporation is P.O. Box 910 Boise, County of Ada, State of Idaho.
3. The number of such Permit is 16635, and the date set for the completion of such work is

July 18, 1927

4. Said water is to be used for Power purposes.
5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place of intended use, in accordance with the plans accompanying the application for such permit, is more than 2000 cubic feet per second.

6. The amount of lands for which said water is available is acres, particularly described as follows:

The place of intended use of said water is at Idaho Power Company's East Side Plant, more particularly described as follows: S. 80° 38' W. 1401 ft. distant from the N.E. corner of Sec. 31, T. 7 S., R. 31 E., B.M., in the NW 1/4 of said section.

Geo. N. Carter.

Commissioner of Reclamation.

16635

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

INSTRUCTIONS

PROOF OF COMPLETION OF WORKS

Idaho Power Company,
Boise, Idaho.

April 5, 1927.

Boise, Idaho,

DEAR SIR:

I enclose herewith blank form upon which to give notice that you are prepared and desire to submit proof of completion of works under your permit No. 16635.

This form should be filled out and mailed to the Department of Reclamation, at least 60 days before the date upon which proof is to be submitted, which proof MUST be on or before July 16, 1927. Upon receipt of the blank properly filled out, notice for publication will be sent to the paper direct from this office, which notice must be published a period of four weeks prior to the date of proof.

The proof may be submitted at any place convenient to you and two witnesses, where there is a notary public or other officer authorized to administer oaths.

The certificate that shall be issued under this proof does not give you a perpetual right to the use of the water for which application is made, as it only confirms the completion of the works of a capacity to divert and convey to the place of intended use a certain amount of water. The law requires that another proof be submitted when the water has been fully applied to a beneficial use, at which time license is issued for the amount of water actually in use. Information in regard to this last proof will be furnished on request.

Very truly yours,

GEO. N. CARTER.

Commissioner of Reclamation.

16635-

BOND

KNOW ALL MEN BY THESE PRESENTS, That the Idaho Power Company
of Boise, Idaho, as principal, and NATIONAL SURETY COMPANY, a New York
corporation ~~XXXX~~

~~for~~ as sureties, are held and firmly bound unto the State of Idaho in the full
and just sum of FOUR THOUSAND AND NO/100 - - - - - (\$ 4,000.) Dollars,
lawful money of the United States, to the payment of which sum, well and truly to be made, said principal
and sureties bind themselves, their heirs, administrators, executors and assigns, jointly and severally, under
the terms and conditions hereinafter set forth.

The terms of this obligation are such that, whereas the above named principal on the 15th
day of October, 1926, filed in the office of the State Engineer in Boise, Idaho, a
certain application for permit to appropriate the public waters of the State of Idaho, the said application
being thereupon numbered No. 23479, in accordance with which said application the State Engineer
granted and issued to the said principal herein a certain permit numbered No. 16635, a full, true and
complete copy of which application No. 23479 and permit No. 16635, is of record in the office of
the State Engineer, in Book 60 of Permits, at page 16635

Now, if the above bounden principal shall faithfully carry to completion the said works of diversion
as specified in said application No. 23479 and permit No. 16635, in the manner and form pre-
scribed therein and within the time therein allowed, then the above obligation to be void otherwise to re-
main in full force and effect.

IN WITNESS WHEREOF, The said principal and sureties have hereunto set their hands and seals,
this 17th day of February, 19 27

WITNESSES:

Attest:

James G. Bone
Secretary

(SEAL)

W. J. Tuttle

(SEAL)

NATIONAL SURETY COMPANY

(SEAL)

By

John D. Daly
Vice President, John D. Daly

STATE OF IDAHO

County of

ss. Attest:

L. W. Ensign
Res. Asst. Secy. L. W. Ensign

Countersigned by

~~XXXX~~~~XXXX~~

L. W. Ensign
Res. Agent, Ensign & Ensign, General Agents, Boise, Idaho

~~XXXXXX~~

are subscribed to the within and foregoing obligation as sureties thereto, each being duly sworn, upon oath
for himself deposes and says:

That he is a resident and freeholder of the State of Idaho and that he is worth the sum named in said
obligation, to-wit, \$....., over and above all his debts and liabilities, exclusive of property exempt
from execution.

Subscribed and sworn to before me this

Lee H. Carter
Notary Public, Idaho

, 19

16635-

Board of Directors.

R900987

BOND

GIVEN BY

Idaho Power Company

IN FAVOR OF

State of Idaho



NATIONAL SURETY COMPANY

Home Office: 115 Broadway

Approved as to form and sufficiency

Form 46 10M 10-25 Made in U. S. A

FREDERIC W. ALLEN Lee Higginson & Co. New York.	ALANSON P. LATHROP President American Light & Traction Co. New York.
ALBERT B. ASHFORTH Albert B. Ashforth, Inc. New York.	A. W. LOASBY Vice President, Equitable Trust Co., New York.
WILLIAM D. BALDWIN Chairman of the Board of Directors Otis Elevator Company New York.	JOHN C. McCALL Vice President New York Life Insurance Co. New York.
S. LEADING BERTRON Bertron, Griscom & Co. New York.	GEN. SAMUEL McROBERTS President Metropolitan Trust Company New York.
N. F. BRADY New York.	SIDNEY Z. MITCHELL President Elec. Bond & Share Co. New York.
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LOUIS R. CHENEY Hartford, Conn.	LEE A. PHILLIPS Vice President and Treasurer, Pacific Mutual Life Ins. Co. Los Angeles
E. H. CLARK Manager Hearst Estate New York.	H. HOBART PORTER Sanderson & Porter New York.
O. B. CORTELYOU President Consolidated Gas Co. New York.	FRANK PRESBREY President The Frank Presbrey Co. New York.
FREDERIC R. COUBERT Coudert Bros. New York.	JOEL RATHBONE Vice Chairman of the Company New York.
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RC. JRT I. JENKS Berwind White Coal Co. New York.	
WM. B. JOYCE Chairman of the Company New York and Beverly Hills, Cal.	
COLONEL FRANK B. KEECH F. B. Keech & Co. New York.	
W. S. KINNENAR New York.	

State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

Permit No. 16635.

E. C. Kiersted,
P. O. Box 910,
Boise, Idaho.
Dear Sir:

Boise, Idaho, **January 18, 1927.**

I enclose herewith above numbered permit. **BE SURE AND NOTE**
LIMITATIONS AND CONDITIONS OF SAME as given under approval of
the Commissioner of Reclamation on the third page.

GEO. N. CARTER.

Commissioner of Reclamation.

16635-

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Boise

Permit No. 16635.

January 18, 1927.

NOTICE

You are advised that in order to keep this permit in force a bond in the sum of \$ **4000.00** must be filed in the office of the Commissioner of Reclamation on or before March 19, 1927, conditioned upon faithfully carrying to completion the works of diversion as specified in said permit and in the application therefor.

GEO. N. CARTER.

Commissioner of Reclamation

16635-