

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



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

S+S Limited Partnership / by Dan Skeem
(Applicant) (PARTNER)

EMPOWERED

Affidavit of Publication

Nº 9725

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

47-7702
S & S LIMITED PART-
NERSHIP
RT. 3, BUHL, ID 83316
Source: UNNAMED
STREAM tributary to MUD
CREEK
Date Filed: 02/10/1981
Amount: 10.00 CFS
Division Point: NENW
SENW Sec 23 T 09S R 14E,
TWIN FALLS Co.
Use: POWER (10.00 CFS)
from 01/01 to 12/31
Place of Use: SWNW Sec 14
T 09S R 14E
Division Means: CON-
CRETE DIVERSION,
PENSTOCK & TURBINE

I, Rinda Capps McBuire being first duly sworn upon
oath, depose and say that I am Prize Clerk of the TIMES-NEWS,
published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of
the notice of advertisement, as per clipping attached, was published in the regular and
entire issue of said newspaper, and not in any supplement thereof, for Two
consecutive weeks, commencing with the issue dated
March 12, 19 81, and ending with the issue dated
March 19, 19 81.

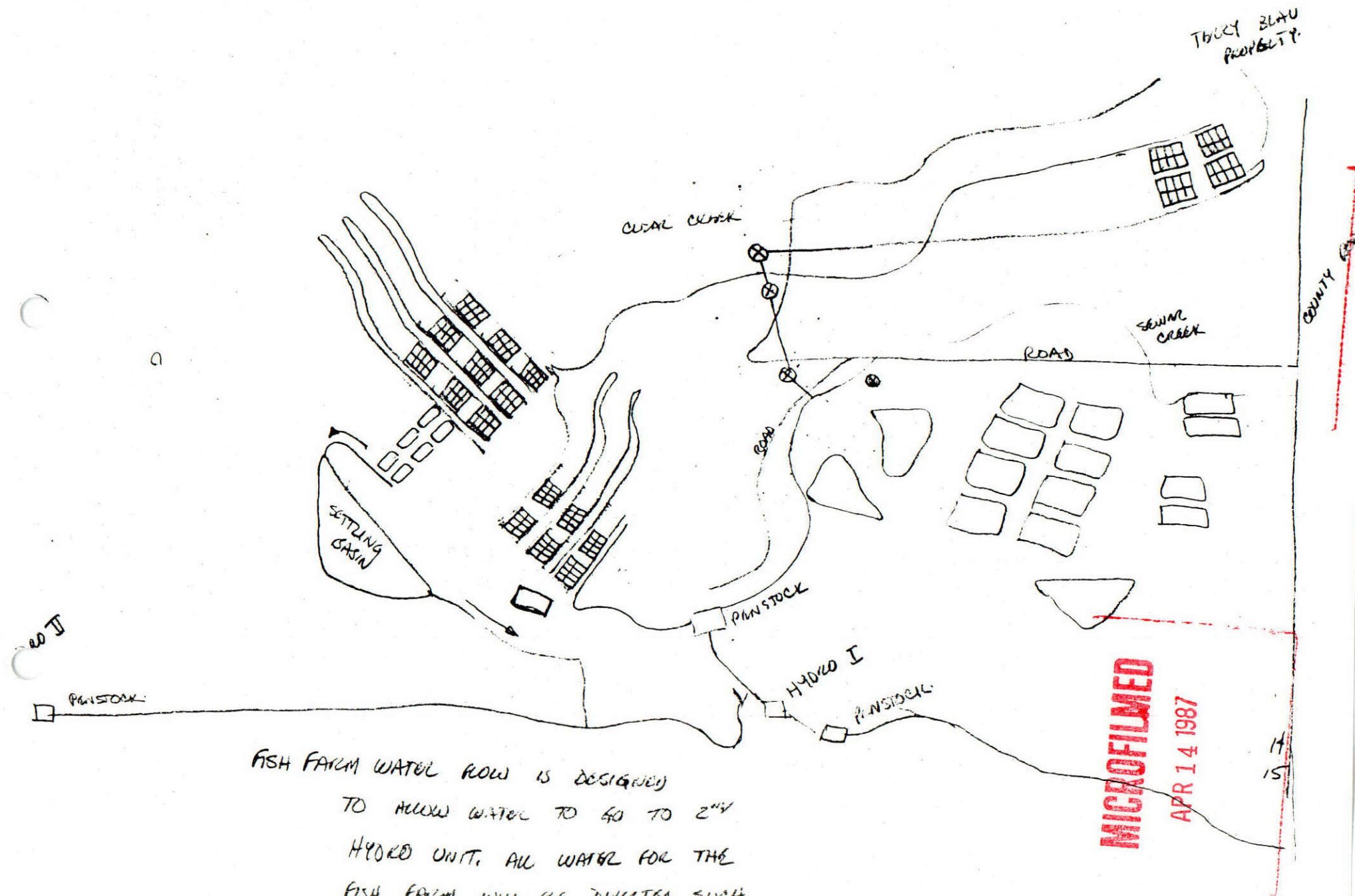
And I do further certify that said newspaper is a consolidation, effective February 16,
1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin
Falls News, published theretofore daily except Monday, both of which newspapers prior to
consolidation had been published under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

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

Rinda Capps McBuire
Subscribed and sworn to before me on this 24 day of

APR 1 1981
Department of Water Resources
Southwest District Office

Thelma Rowlett-Smith
Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho



FISH FARM WATER FLOW IS DESIGNED
 TO ALLOW WATER TO GO TO 2ND
 HYDRO UNIT. ALL WATER FOR THE
 FISH FARM WILL BE DIVERTED SUCH
 THAT IT WILL NOT GO INTO HYDRO I.

47-7702

WATER RIGHT OWNERSHIP SUMMARY

Original

S & S Limited Partnership

Zions Leasing Co.

Glaser Land & Livestock Inc. - awarded
ownership through decree of foreclosure
dated 9/26/86

Assignment to Zion Leasing Co. from
Glaser Land & Livestock Inc. received
3/5/87

Present Owner

Zions Leasing Co.

MICROFILMED

APR 14 1987

RECEIVED

MAR 05 1987

ASSIGNMENT OF IDAHO WATER PERMIT NO. 47-7702

Department of Water Resources

ASSIGNMENT made this 22nd day of February, 1987, between GLASER LAND & LIVESTOCK, INC., by and through Norman P. Glaser, President, Hallock, Nevada 89824, and ZIONS LEASING COMPANY, a Utah corporation, authorized to do business and in good standing in Idaho, 310 South Main Street, Salt Lake City, Utah.

WITNESSETH:

That GLASER LAND & LIVESTOCK, INC. (hereinafter referred to as "Assignor"), for good and valuable consideration, the receipt and sufficiency of which is hereby confessed and acknowledged, does by these presents assign to Zions Leasing Company all of Assignor's right, title, and interest in that certain Idaho Water Permit No. 47-7702 approved by the Idaho Department of Water Resources on May 13, 1981.

IN WITNESS WHEREOF, Assignor has hereunto set its hand the day and year first above written.

GLASER LAND & LIVESTOCK, INC.

By Norman P. Glaser
NORMAN P. GLASER, President

MICROFILMED

APR 14 1987

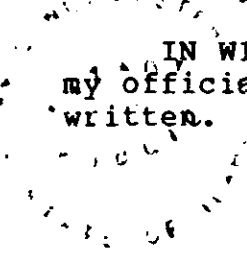
STATE OF IDAHO }
County of Twin Falls } ss.
I hereby certify that this instrument
filed for record at the request of
4:35 PM this MAR 4 1987
in my office and duly recorded in book
of page
RICHARD A. PENIC
County Recorder
Deputy
Fee \$ 4.00
Return to 1

917927

STATE OF Idaho)
County of Twin Falls) ss:

On this 22 day of February, in the year 1987, before me,
Wm L Nungester, notary public, personally appeared
NORMAN D. GLASER, known or identified to me to be the President
of the corporation that executed the instrument or the person who
executed the instrument on behalf of said corporation, and
acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
my official seal the day and year in this certificate first above
written.


Wm L Nungester
Notary Public
Residing at Buhl, ID
My Commission Expires _____

MICROFILMED

APR 14 1987

RECEIVED
JUN 2 1986

Department of Water Resources

ASSIGNMENT OF IDAHO WATER PERMIT NO. 47-7702

ASSIGNMENT made this 30 day of May, 1986, between S & S Limited Partnership, by and through Wayne B. Skeem, partner, Route 3, Buhl, Idaho, and Zions Leasing Company, a Utah corporation authorized to do business and in good standing in Idaho, 310 South Main Street, Salt Lake City, Utah.

WITNESSETH:

That S & S Limited Partnership (hereinafter referred to as "Assignor") for good and valuable consideration, the receipt and sufficiency of which is hereby confessed and acknowledged, does by these presents assign to Zions Leasing Company all of Assignor's right, title, and interest in that certain Idaho Water Permit No. 47-7702 approved by the Idaho Department of Water Resources on May 13, 1981.

IN WITNESS WHEREOF, Assignor has hereunto set its hand the day and year first above written.

S & S LIMITED PARTNERSHIP

By: Wayne B. Skeem
Wayne B. Skeem, Partner

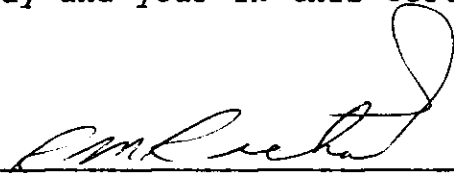
MICROFILMED

APR 14 1987

STATE OF Idaho)
) ss.
COUNTY OF Twin Falls)

On this 30th day of May, 1986, before me, a Notary Public in and for said State, personally appeared Wayne B. Skeem, known or identified to me to be one of the partners in the limited partnership of S & S Limited Partnership, and the partner or one of the partners who subscribed said limited partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said limited partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public For: Idaho
Residing At: Twin Falls
My Commission Expires: 10-2-88

RECORDED
APR 14 1987

RECEIVED

AUG 6 1986

Department of Water Resources
Water Right No. 47-7702

AFFIDAVIT FOR WATER RIGHTS
TO BE USED FOR POWER PURPOSES

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

M. SCOTT NEWBOLD, being first duly sworn on oath, deposes and says that:

1. He is the Assistant Vice President of Zions Leasing Company ("Zions") and in that capacity has personal knowledge of the matters discussed herein.

2. Zions is a corporation duly organized and existing under and by virtue of the laws of the State of Utah, which is qualified to do business in the State of Idaho under the laws of the State of Idaho.

3. Zions' designated registered agent in the State of Idaho pursuant to Idaho Code § 30-1-12 is C. T. Corporation, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, qualified to do business in the State of Idaho under the laws of the State of Idaho, whose designated registered agent is Eberle, Berlin, Kading, Turnbow & Gillespie, 300 North 5th Street, Boise, Idaho. C. T. Corporation keeps the corporate records required by Idaho Code § 30-1-52.

MICROFILMED

APR 14 1987

4. The Mud Creek hydroelectric facility where water acquired pursuant to the above-referenced permit is utilized, uses a diversion dam and canals intended for hydropower uses, and will not use existing man-made irrigation facilities.

DATED this 30th day of July, 1986.


M. Scott Newbold

Subscribed and sworn to me this 30th day July, 1986.


Notary Public For: State of Utah
Residing At: Salt Lake City, Utah
My Commission Expires: Nov. 16, 1989

MICROFILMED

APR 14 1987

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

APPROVED

1. Name of applicant S & S LIMITED PARTNERSHIP Phone 543-8082

Post office address Rte 3, BUHL, IDAHO

2. Source of water supply (SEWER CR) UNNAMED which is a tributary of MUD CR.
STREAM

3. Location of point of diversion is NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 23 Township 9S

Range 14E B.M. TWIN FALLS County, additional points of diversion if any: _____

SE $\frac{1}{4}$ NW $\frac{1}{4}$; Sec. 23 T9S R14E

4. Water will be used for the following purposes:

Amount 10.0 ^{CFS} for HYDRO POWER purposes from JAN 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 10.0 CFS cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. CONCRETE DIVERSION

PIPELINE & TURBINE

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

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

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year - maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation: SW $\frac{1}{4}$ of NW $\frac{1}{4}$
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section 14 Township 9S

Range 14E B.M.

(2) Amount of power to be generated: 94 horsepower under 100 feet of head.

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

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

(5) If water is to be used for other purposes describe: POWER GENERATION.

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

[illegible]

Total number of acres to be irrigated _____

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

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

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

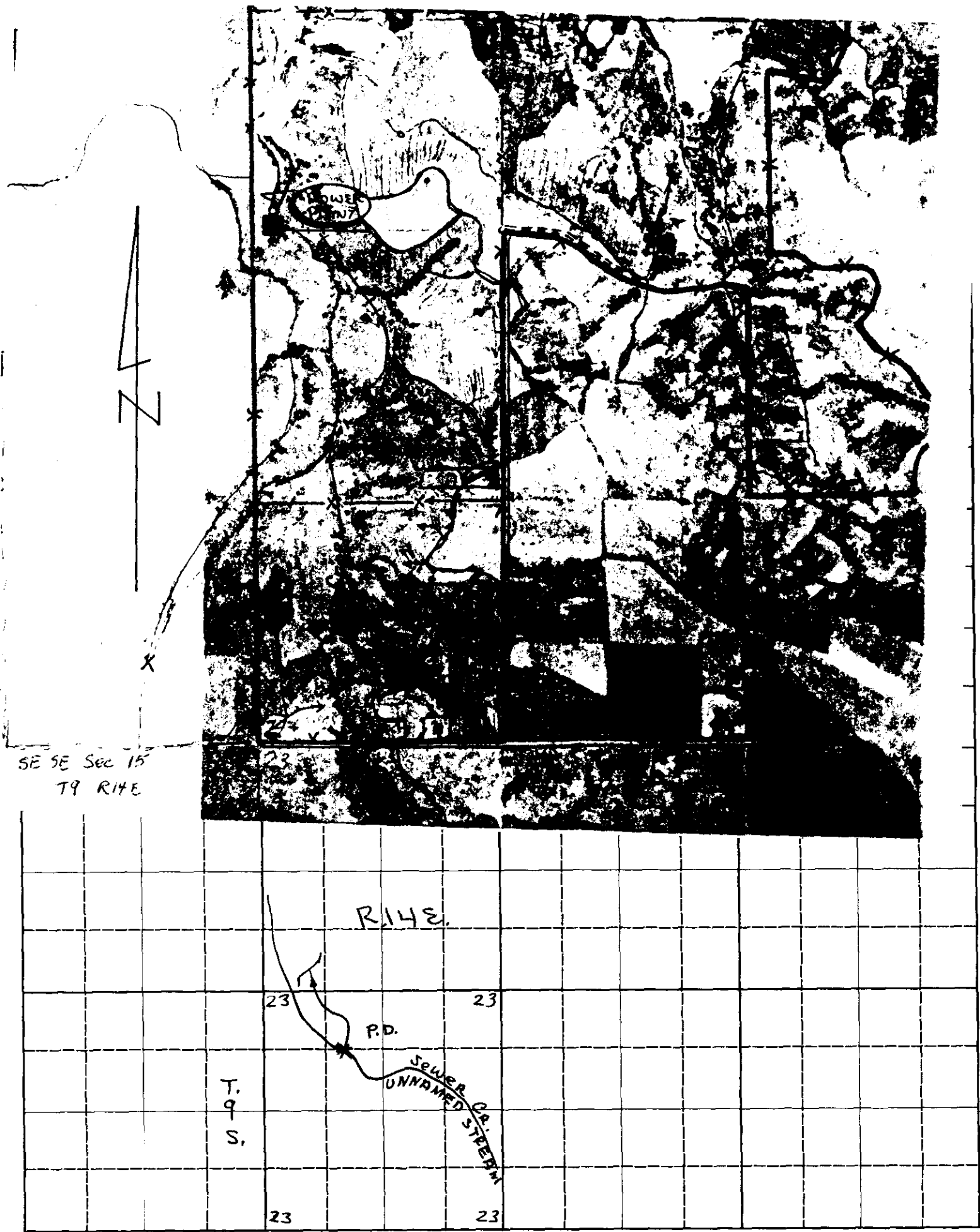
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing

10. Remarks _____

[illegible]

SECRET

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



Scale: 2 inches equal 1 mile.

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

S & S limited Partnership / by Dan Heem
(Applicant) (PARTNER)

Proposed Priority

2/10/81

Received by Ray Judsky Date Feb 10, 81 Time 1:00 P.M.

Preliminary check by JP Fee \$ 225.50 # 16824

Receipted by marj Date 2/12/81

Publication prepared by adm Date 2/25/81

Published in Times News

Publication dates 3/2 & 3/9/81

Publication approved marj Date 3/9/81

Protests filed by: None

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by RA RA

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 47-7702, and said application is hereby approved.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before May 1, 19 86.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other:

A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.

This permit is subject to the provisions of Sections 42-205 through 42-210, Idaho Code, restricting the sale, transfer, assignment or mortgage of this permit. Failure to comply with these provisions is cause for immediate cancellation of this permit.

This project shall be operated in a manner that will not conflict or interfere with the future diversion of water for irrigation or other beneficial consumption.

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

Witness my hand this 13th day of May, 1981.

A. Glen Saxton
Chief, Operations Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AFFIDAVIT OF RESIDENCY OR QUALIFICATION TO DO BUSINESS
IN AND UNDER THE LAWS OF IDAHO

A. Individual Applicant or Individual Members of a Partnership:

I Wayne B. Skeem of Twin Falls, County of
(name) (city)

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

/s/ Wayne B. Skeem

Subscribed and sworn to before me this 12 day of February, 19 81

/s/ Mary A. Hill

Notary Public

Residence Twin Falls, id 83301

My Commission expires life

B. Corporation:

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

_____, State of Idaho, being first duly sworn, depose and say: That I am the designated
registered agent of the _____;
(name of corporation)

that as such I am in charge of the registered office of the said corporation as required by Section 30-1-12, *Idaho*
Code, at _____
(city)

Idaho, wherein are kept the corporate records required by Section 30-1-52, *Idaho Code*: and that _____
_____ is a corporation qualified to do business in the
(name of corporation)

State of Idaho under the laws of the State of Idaho.

/s/ _____

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

/s/ _____

Notary Public

Residence _____

My Commission Expires _____

MICROFILMED

Affidavit of Publication

Nº 9725

STATE OF IDAHO,

COUNTY OF TWIN FALLS }

ss.

I, Ronda Copps McBuire being first duly sworn upo
oath, depose and say that I am Print Clerk of the TIMES-NEWS,
published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of
the notice of advertisement, as per clipping attached, was published in the regular and
entire issue of said newspaper, and not in any supplement thereof, for Two
consecutive Weeks

, commencing with the issue dated
March 12, 19 81, and ending with the issue dated
March 19, 19 81.

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

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

APR 1 1981

Department of Water Resources
Southern District Office

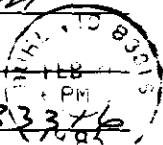
Ronda Copps McBuire
Subscribed and sworn to before me on this 24 day of
March, 19 81
Melba Rowlett Smith

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

DAN C. SKEEM

Rt. #3 Box 219

Buhl, Idaho 83316



RECEIVED

FEB 22 1983

DEPARTMENT OF WATER RESOURCES



IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No. 47-7502
Name(s) of Permit Holder(s): S+S Limited PARTNERSHIP
Post Office Address: Rt. #3 Box 219
Buhl, Idaho 83316 Tel. No. 543-8082

- ☒ I hereby certify that construction of diversion works for the above referenced permit began on Nov. 1981 (date). I understand that I must continue to develop the water system with due diligence to maintain a valid permit.
- ☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:

*Note: A financing difficulty is not an acceptable reason.

10 C & S SEWER Co.

2/18/83
Date

DANE C. SKEREM, General P.
Signature of Permit Holder
S+S LIMITED PARTNERSHIP

DAN C-SKEEM
RT. 3 Box 219
Butte, IDAHO 83316

RECEIVED



Department of Water Resources
Southern District Office

JUN 9 1983

PLACE
STAMP
HERE
RECEIVED

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
-BOISE, IDAHO 83720

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No. 47-7702
Name(s) of Permit Holder(s): S + S Limited Partnership
Post Office Address: R-3 Box 219
Buhl, Ida. 83316 Tel. No. 543-8082

- ☒ I hereby certify that construction of diversion works for the above referenced permit began on Nov. 1981 (date). I understand that I must continue to develop the water system with due diligence to maintain a valid permit.
- ☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:

*Note: A financing difficulty is not an acceptable reason.

10 CFS Sewer Cr.

2-18-83
Date

Dee C. Skrensen General P.
Signature of Permit Holder

S+S Limited Partnership

ZIONS CREDIT CORPORATION

RECEIVED
APR 29 1987

Department of Water Resources

April 27, 1987

Mr. Jim Johnson
Water Right Supervisor
State of Idaho
Department of Water Resources
State House
Boise, Idaho 83720

Re: Permit #47-7700 and #47-7702

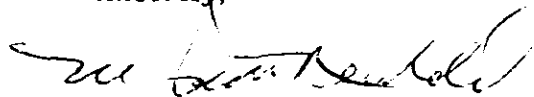
Dear Mr. Johnson:

Enclosed please find the completed Proof of Beneficial Use Forms for Permit #47-7700 and Permit #47-7702. I am also enclosing a check in the amount of \$950.00 to cover the examination fee. It is my understanding that completion of the Proof of Beneficial Use Form and payment of the examination fee complete the requirements in applying for a Proof of Beneficial Use. It is my understanding that now the Department of Water Resources will schedule a field examination at a time suitable to Zions Leasing Company at a point when the water flow is at it's maximum.

I will assume that unless I hear from you, we have complied with all of the requirements necessary to show Proof of Beneficial Use. I will wait to be contacted by your department to schedule a field examination. If for any reason there is anything else that needs to be completed, please contact me immediately. Otherwise, I will assume that everything is satisfactory to your department.

Thank you for your assistance.

Sincerely,



M. Scott Newbold
Assistant Vice President

MICROFILMED

JUL 06 1987

MSN:jm

RECEIVED

APR 29 1987

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Department of Water Resources
PROOF OF BENEFICIAL USE

For Office Use Only
Fee Received 2325
Date 4-30-87
Receipt # 44790
Receipt by 14
Reviewed by _____
Sent to region _____

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

Permit No. 47-7702

Name(s) of Permit Holder: ZIONS LEASING COMPANY

Post Office Address: P. O. Box 180, Salt Lake City, Utah 84110 ✓

Telephone No. (801) 524-4791

Source of Water: Sewer Creek (unnamed stream) ✓

Extent of Use:

Domestic _____ (number of households) Stockwater _____ (number and type of stock)

Irrigation _____ (acres) Other/Remark Hydro generation

Total rate and/or volume for which proof is submitted 10 cfs _____ acre-feet

Show the date water was first diverted and beneficially used under this permit: 9/82

Measuring Device: Required? ☒ Yes ☐ No Fee enclosed \$ 325.00 ✓
Installed? ☒ Yes ☐ No (See License Examination Fee Schedule)

Flow Measurement Port: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☒ No

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

M. SCOTT NEWBOLD

(Name)

(801) 524-4791

(Telephone Number)

P. O. Box 180, Salt Lake City, Utah 84110

(Address)

MICROFILMED

MAY 12 1987

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

ZIONS LEASING COMPANY

BY M. Scott Newbold ✓ M. SCOTT NEWBOLD, ASST. VICE PRES.

Date

Signature of Permit Holder (and title, if appropriate)

ZIONS CREDIT CORPORATION
SERVICING DIVISION

REMITTANCE ADVICE

DETACH BEFORE DEPOSITING

DATE	INVOICE NO.	DESCRIPTION	GROSS AMOUNT	DISC'T OR REDUCT.	NET AMOUNT																				
		Permit No. 47-7702 - \$325.00 Permit #47-7700 600.00																							
		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">ACCT. #</th> <th style="width: 35%;">TITLE</th> <th style="width: 15%;">DR.</th> <th style="width: 35%;">CR.</th> </tr> </thead> <tbody> <tr> <td>4962</td> <td></td> <td>832.50</td> <td></td> </tr> <tr> <td>4964</td> <td></td> <td>92.50</td> <td></td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	ACCT. #	TITLE	DR.	CR.	4962		832.50		4964		92.50												
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4962		832.50																							
4964		92.50																							
COST CENTER		APPROVAL		NO.																					
0771		POSTING																							

MICROFILMED

MAY 12 1981



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

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

March 26, 1987

RE: Permit Nos. 47-7700 & 47-7702

Brian R. Hanson
Holland & Hart, Langroise, Sullivan
P.O. Box 2527
Boise, ID 83701

Dear Mr. Hanson:

The Department is in receipt of assignments of the above referenced permits showing change in ownership from Glaser Land & Livestock, Inc. to Zions Leasing Co.

I understand that said assignments were necessary to clarify any questions on present ownership of these permits.

Normally we would send copies of the permits to the new assignee, however, I believe you already have copies and are aware of the requirements that must be met before the permits can develop into licensed water rights.

I noted that a proof due notice had been sent March 3, 1987 for Permit 47-7700. As of this letter, we have not received the requested information. As the acknowledged owner of the permit, it is appropriate that you respond in order to keep the permit in good standing.

Also, concerning Permit 47-7702, correspondence was sent to you dated February 24, 1987 requesting you to submit either a proof of beneficial use statement or a Request for Extension of Time in which to submit proof of beneficial use. You should follow-up on this also in order to keep Permit 47-7702 in good standing.

If you have any questions concerning this, please let me know.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

cc: Michael H. Felton (File #4720)

INDEXED

APR 14 1987



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

March 26, 1987

RE: Permit Nos. 47-7700 & 47-7702

Brian R. Hanson
Holland & Hart, Langroise, Sullivan
P.O. Box 2527
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If you have any questions concerning this, please let me know.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

MICROFILMED

APR 14 1987

DENVER OFFICE
SUITE 2900
555 SEVENTEENTH STREET
DENVER, COLORADO 80202
TELEPHONE (303) 295-8000
TELECOPIER (303) 295-8261

S. E. DENVER OFFICE
SUITE 1250
7887 EAST BELLEVUE AVENUE
ENGLEWOOD, COLORADO 80111
TELEPHONE (303) 741-1226

ASPEN OFFICE
600 EAST MAIN STREET
ASPEN, COLORADO 81611
TELEPHONE (303) 925-3476

BRIAN R. HANSON

HOLLAND & HART,
LANGROISE, SULLIVAN
ATTORNEYS AT LAW

SUITE 1400
IDAHO FIRST PLAZA
BOISE, IDAHO
MAILING ADDRESS
P. O. BOX 2527
BOISE, IDAHO 83701
TELEPHONE (208) 343-3676
TELECOPIER (208) 343-8869

WASHINGTON, D. C. OFFICE
SUITE 1200
1875 EYE STREET, N. W.
WASHINGTON, D. C. 20006
TELEPHONE (202) 466-7340
TELECOPIER (202) 466-7354

WYOMING OFFICE
SUITE 505
2020 CAREY AVENUE
CHEYENNE, WYOMING 82001
TELEPHONE (307) 632-2160
TELECOPIER (307) 778-8175

MONTANA OFFICE
SUITE 1400
175 NORTH 27TH STREET
BILLINGS, MONTANA 59101
TELEPHONE (406) 252-2166
TELECOPIER (406) 252-1669

March 5, 1987

Hand Delivered

Mr. Gary Spackman
Department of Water Resources
450 West State Street
Boise, ID 83702

RECEIVED

MAR 05 1987

3:12

Department of Water Resources

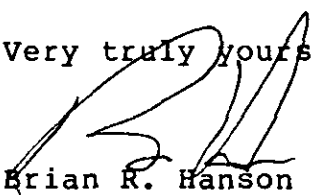
RE: Water Permit Nos. 47-7700 and 47-7702

Dear Gary:

As we discussed this afternoon, I enclose for your review and file Assignments of the above-referenced Water Permits. As we discussed, we return the originals to our client and submit copies for your files.

Of course, if you need additional documentation or if we can provide assistance in addressing questions or comments about these Assignments or this matter generally, please do not hesitate to call. Thank you again for your consideration and patience in this matter.

Very truly yours,


Brian R. Hanson

for HOLLAND & HART,
LANGROISE, SULLIVAN

BRH/dks
Enclosures

cc: Mr. M. Scott Newbold, w/o encs.

RECORDED

APR 14 1987

DENVER OFFICE
SUITE 2900
555 SEVENTEENTH STREET
DENVER, COLORADO 80202
TELEPHONE (303) 295-8000
TELECOPIER (303) 295-8261

S. E. DENVER OFFICE
SUITE 1250
7887 EAST BELLEVUE AVENUE
ENGLEWOOD, COLORADO 80111
TELEPHONE (303) 741-1226

ASPEN OFFICE
600 EAST MAIN STREET
ASPEN, COLORADO 81611
TELEPHONE (303) 925-3476

BRIAN R. HANSON

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MONTANA OFFICE
SUITE 1400
175 NORTH 27TH STREET
BILLINGS, MONTANA 59101
TELEPHONE (406) 252-2166
TELECOPIER (406) 252-1669

February 20, 1987

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FEB 24 1987

Mr. Gary Spackman
State of Idaho
Department of Water Resources
Statehouse
Boise, Idaho 83720

Department of Water Resources

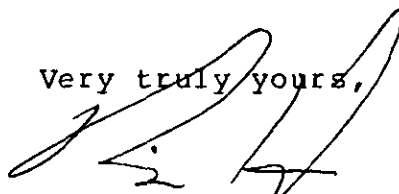
RE: Water Permit Nos. 47-7700, 47-7702, and 47-7705

Dear Gary:

As we discussed this morning, I enclose for your review and file a copy of the Agreement of Sale of Real Property (the Glaser, Campbell, and Zions settlement agreement) and Decree of Foreclosure. The Sheriff has not yet issued the deed, but as the enclosed January 16 letter from Mike Felton to the Twin Falls County Sheriff's Office indicates, a formal request for the deed has been made.] SEE FILE 47-7700 FOR DOCUMENTS

If you have any questions or comments about the enclosed documents or this matter generally, please do not hesitate to call. Otherwise, I understand that you will send us proof forms early next week so that we can proceed with proving the beneficial use of waters appropriated under the above-referenced permits.

Very truly yours,



Brian R. Hanson

for HOLLAND & HART,
LANGROISE, SULLIVAN

MICROFILMED

APR 14 1987

BRH/cd
Enclosures
cc: Mr. M. Scott Newbold



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

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

February 24, 1987

Zions Leasing Company
c/o Brian Hanson, Attorney at Law
P.O. Box 2523
Boise, ID 83701

Re: Permit to Appropriate Water No. 47-7702 & 47-7705

Dear Mr. Hanson:

Ownership of Permits to Appropriate Water Nos. 47-7702 & 47-7705 has been clouded by litigation and negotiation. As of this date, the Department is uncertain who owns the permits.

Proof of Beneficial Use for Permit No. 47-7702⁷ was due May 1, 1986. A Proof Due Notice was mailed to Wayne Skeem and Dan Skeem, and no Proof of Beneficial Use was filed.

Proof was due on Permit No. 47-7705 on January 3, 1986 by Order of the Department of Water Resources. Proof was not filed on Permit No. 47-7702⁵.

On May 1, 1986, Brian Hanson, attorney for Zions Leasing Company, requested, by letter, that the Department grant an extension of time until title to the permits could be established. The Department did not effectively respond to his request. The purpose of this letter is to grant an additional sixty (60) days within which Proof of Beneficial Use or a proper extension of time should be filed on the above mentioned permits. The filings should be accompanied by proof showing ownership of the permit for which an Extension of Time or Proof of Beneficial Use is being filed. If the proper documents are not filed by May 1, 1987, the permits will lapse, and the Department will proceed to remove the permits from our files.

APR 14 1987

Enclosed are an Extension of Time and Proof of Beneficial Use forms. The owner of the permits should file either the Extension of Time or the Proof of Beneficial Use in complete form.

Sincerely,



GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

Enclosures

CC: Southern Region

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APR 14 1981



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

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

February 24, 1987

Donald K. Campbell
First Ascent Fish Farms
2297 East 3300 South
Jerome, ID 83338

Re: Permit to Appropriate Water No. 47-7702 & 47-7705

Dear Mr. Campbell:

Ownership of Permits to Appropriate Water Nos. 47-7702 & 47-7705 has been clouded by litigation and negotiation. As of this date, the Department is uncertain who owns the permits.

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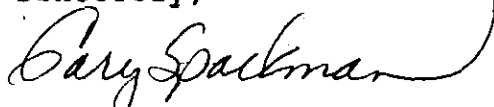
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INDEXED

APR 14 1987

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Sincerely,



GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

Enclosures

CC: Southern Region

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APR 14 1987



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

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

February 24, 1987

Glaser Land & Livestock, Inc.

Halleck, NV 89824

Re: Permit to Appropriate Water No. 47-7702 & 47-7705

Dear Sirs:

Ownership of Permits to Appropriate Water Nos. 47-7702 & 47-7705 has been clouded by litigation and negotiation. As of this date, the Department is uncertain who owns the permits.

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APR 14 1987

Enclosed are an Extension of Time and Proof of Beneficial Use forms. The owner of the permits should file either the Extension of Time or the Proof of Beneficial Use in complete form.

Sincerely,



GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

Enclosures

CC: Southern Region
Mike Felton, Attorney at Law

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APR 14 1987



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

MEMORANDUM

TO: File

FROM: Gary Spackman *G.S.*

DATE: December 31, 1986

RE: Permit Nos. 47-7700, 47-7702, 47-7705, & 47-7562

In mid December, Rita Fleck discussed the status of the above files with me. At the conclusion of our discussion, we decided that the following action should be taken:

Permit No. 47-7700. A Proof Due Notice must be sent to the permit holder because proof is due on February 1, 1987.

Permit No. 47-7700 does not need special treatment because the source is from Mud Creek, and does not directly impact the critical groundwater area.

Project complete - no action of priority

Permit No. 47-7702. A Proof Due Notice was mailed to Wayne Skeem and Dan Skeem in the spring of 1986, but was returned to the Department unclaimed. Proof was due on May 1, 1986. A Lapse Notice must be sent to the permit holder. No special treatment is required because the source is from Sewer Creek, and does not impact the critical groundwater area.

Permit No. 47-7705 & Permit No. 47-7562. By Order of the Department on December 4, 1985, proof was due on the above numbered permits in approximately January, 1986. Proof of Beneficial Use has not been received. The apparent way in which the permits should be canceled is by an Order of Cancellation. Both of these permits name groundwater as their source, and both impact the critical groundwater area.

By Memorandum Decision dated April 9, 1986, Daniel B. Meehl, District Judge in the 5th Judicial District, State of Idaho, held that Permits Nos. 47-7700, 47-7702, and 47-7705 were real property, and Glaser Land & Livestock had the right to foreclose on the water rights as part of the real real estate. In conversation with a Mr. Nungester, Attorney at Law, Buhl, Idaho, he revealed that Glaser Land & Livestock obtained a Judgement of Foreclosure, but that just prior to the sheriff sale, Zions Leasing, Donald Campbell, and a third party agreed to purchase the property in question. Glaser purchased the property at the sheriff sale, and subsequently sold it to the three interested parties. I requested that Mr. Nungester send me a copy of the Judgement of Foreclosure, the Sheriffs Deed, and the subsequent land sales contract, mortgages, deeds of trust, or any other pertinent document. These documents should establish the ownership. Once ownership is established, proper notification can be given to the parties regarding Departmental action. Mr. Nungester indicated that he would associate, Mike Felton, Attorney at Law, to forward the copies of the documents to me.

INDEXED

APR 14 1987



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

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

Woyd Webb
December 2, 1986

Donald K. Campbell
First Ascent Fish Farms
2297 East 3300 South
Jerome, ID 83338

RE: Permits 47-7562, 47-7700, ~~47-7002~~, 47-7005
47-7702 47-7705

Dear Mr. Campbell:

(See 47-7562)
I have reviewed your letter of November 17, 1986 requesting the status of the above referenced permits relative to the additional development described in your letter. The permits provide for:

47-7000

Date Filed - February 10, 1981

Source - Mud Creek

Amount - 50 cfs

Purpose - Hydropower, year around use

Diversion Point - SESE 15, SWNW 14, T. 9S, R. 14E

Place of Use - SWNW, NWNW, Sec. 14, T. 9S, R. 14E

Proof Due - February 1, 1987

Ownership - Assigned 5/30/86 to Zion's Leasing Co. by Wayne Skeem

Awarded 4/9/86 to Glaser Land and Livestock by

judgment of Fifth Judicial District.

47-7002 (47-7702)

Date Filed - February 10, 1981

Source - Sewer Creek

Amount - 10 cfs

Purpose - Hydropower, year around use

Diversion Point - NENW, SENW, Sec. 23, T. 9S, R. 14E

Place of Use - SWNW, Sec. 14, T. 9S, R. 14E

Proof Due - May 1, 1986 (Proof has not been received)

Ownership - Same competitive situation as permit 47-7700

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December 2, 1986

47-7005 (47-7705)

Date Filed - February 10, 1981

Source - Ground water

Amount & Purpose - 25 cfs for recreation
25 cfs for hydropower
25 cfs for fish propagation
10 cfs for heating
.38 cfs for domestic

All uses year around

Diversion Point - NWNW, SENW, NWSW, SWSW, SWNW, Sec. 14, T. 9S, R. 14E

Place of Use - Same as point of diversion

Proof Due - May 1, 1987 but modified by order of December 4, 1985 to 30 days after service of order.

Ownership - Same competitive situation as 47-770047-7562 (47-7562)

Date Filed - August 21, 1979

Source - Ground water

Amount & Purpose - 5 cfs for fish production 10/1 to 5/1
1 cfs for heating year around
5 cfs for recreation year around

Diversion Point - SWNW, Sec. 14, T. 9S, R. 14E

Place of Use - W1/2NW1/4, Sec. 14, T. 9S, R. 14E

Proof Due - October 1, 1984 (Extended to 10/1/86) (Proof has not been received. Proof due date modified by order of 12/4/85)

Ownership - Assigned 3/28/86 to Glaser Land and Livestock Inc.

The department is concerned about the apparent overdraft of thermal water within the area presently designated as the Banbury Ground Water Management Area. The December 4, 1985 order issued by the department (copy enclosed) terminated further development under existing permits and required immediate filing of proof of beneficial use. Subsequent to the order some permit holders were allowed to complete projects found to be underway before the order was issued. I consider the December 4, 1985 order as final relative to permits 47-7005 and 47-7562. Proof of beneficial use needs to be filed to allow licensing of diversion and usage completed at the time of the order. These two permits, as well as permit 47-7002, will have a lapse order issued in the near future for failure to submit proof of beneficial use.

The ownership of permits 47-7700, 47-7002, and 47-7005 also seems to be an issue. Enclosed is a letter the department has attempted to deliver to clarify assignments made on 47-7005. Perhaps you will be able to clarify this issue by getting assignments or agreements from all parties. A concern also exists that the permits for hydropower use have been jeopardized by failure to comply with Section 42-207 Idaho Code.

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APR 14 1987

Donald K. Campbell

3

December 2, 1986

The use for fish propagation proposed in your letter appears to be much more extensive than that covered by the permits. Any additional use beyond that in existence prior to the 12/4/85 order should be covered by making new applications on both the ground water and surface water sources you plan to use. Without additional data to show that additional thermal ground water can be diverted without injury to other rights, it is not likely that applications to divert thermal ground water will be approved that increase the rate and annual volume diverted from that which is ultimately licensed under the existing permits.

Applications will also need to be filed to allow approval of exchanges with other rights and changes in points of diversion or places of use.

I hope this information is useful to you as you plan your project. Don't hesitate to contact me or Loren Holmes at our Twin Falls office if we can assist you in any way.

Sincerely,



NORMAN C. YOUNG
Administrator
Resource Administration Division

NCY:alw

Encls.

cc: Loren Holmes

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APR 14 1987

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NOV 19 1986

Department of Water Resources

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APR 10 1986
Hepworth, Nungester and Felton

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

GLASER LAND & LIVESTOCK,
INC., a Nevada
corporation,

Plaintiff,

vs.

DANIEL C. SKEEM and DARLENE
SKEEM, husband and wife; and
WAYNE B. SKEEM, ARLENE SKEEM,
and DANIEL C. SKEEM dba
S & S LIMITED PARTNERSHIP,
and ZIONS LEASING CORPORATION,
a Utah corporation,

Defendants.

Case No. 37669

MEMORANDUM OPINION GRANT-
ING IN PART AND DENYING
IN PART PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

Glaser Land & Livestock, Inc. has moved this court for summary judgment against Zions Leasing Company. Zions survives as the only remaining defendant inasmuch as default judgments and a decree quieting title in the plaintiff has been granted against all other defendants.

Glaser's motion for summary judgment is one for the right to foreclose on approximately 158 acres of land. Said property is the subject of an installment land sale contract, including amendments, entered into between plaintiff and defendants Daniel and Darlene Skeem. The

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Skeems have defaulted on the contract. Plaintiff wants to to foreclose on the underlying real property, as well as water permits, a power sale agreement, a FERC exception, as well as equipment and improvements.

Zions contend they are able to compel plaintiff to sell them that property, within the 158 acres, in which they claim they had a "secured interest." Said interest arises by virtue of having financed the construction and operation of a hydroelectric plant.

DISCUSSION OF LEGAL ISSUES

Basic contract principles must be considered by the court in determining the merits of both parties' contentions.

There is no doubt the underlying land sale contract is enforceable. The contract between Glaser and Skeems was complete and definite in all its material terms and, therefore, is enforceable. Wood v. Simonsen, 108 Idaho 699, 701 P.2d 317 (Ct. App. 1985). A land sale contract whereunder prospective vendors agree to sell the land in question and prospective purchasers obligated themselves to pay by a down payment and an agreement to pay the remaining balance, together with interest, in annual installments meets the requirement for "mutuality of obligation." McCandless v. Schick, 85 Idaho 509, 380 P.2d 893 (1963). In order to ascertain the intent of the parties to a contract, the contract as a whole must be construed. Wing v. Martin,

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107 Idaho 267, 688 P.2d 1172 (1984). Whether a contract is ambiguous is a question of law. Wood v. Simonsen, supra, at 701. The Glaser-Skeem contract is not ambiguous. The interpretation and legal effect of an unambiguous contract are questions of law to be resolved by the court. Luzar v. Western Sur. Co., 107 Idaho 693, 692 P.2d 337 (1984).

In order to be able to compel performance under a contract, one must be in "privity." Privity refers to those who exchange contractual promissory words or those to whom promissory words are directed. Wing v. Martin, supra at 272. Zions is not a party to the contract entered into between Glaser and Skeem. Zions is not in privity with the vendor and, therefore, cannot sue to enforce performance pursuant to the terms of the underlying contract.

A party must look to the person with whom he is in a direct contractual relationship for relief, in the event his expectations under the contract are not met. Id.

Therefore, Glaser cannot compel Zions performance to be substituted for Skeems. Nor can Zions compel Glaser to perform under the terms of the contract. Zions cannot compel Glaser to sell Zions that portion of the total 158-acre parcel in which Zions claims an interest.

Further, Zions cannot be construed as a third-party beneficiary to the Glaser-Skeem contract. Obviously, the land sale contract was not entered into to directly benefit Zions. I.C. Sec. 29-10

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Absent fraud or overreaching, a court cannot modify express terms of an agreement lawfully entered into by two competent persons. Knoke v. Charlebois, 107 Idaho 427, 690 P.2d 392 (Ct. App. 1984).

The court is without jurisdiction to make a contract between Glaser and Zions. Minidoka County For Use and Benefit of Detweiler Bros., Inc. v. Krieger, 88 Idaho 395, 399 P.2d 962 (1964).

While a party to a contract may agree to accept the performance different in form from that recited in the contract, there is not evidence to support a finding by this court that the Glasers agreed to accept Zions' performance of the land sale contract.

Glaser's only remedy is against the defaulting buyers. Glasers cannot insist Zions pay the full balance due and owing under the contract, nor can Zions, not a party or a third-party beneficiary of the contract, insist on Glaser's performance under the partial release provisions of the contract.

In concluding the discussion as to the land itself, there is no doubt Glasers validly asked this court to treat the installment land sale contract as a mortgage and allow the vendors to foreclose.¹

¹By asking the court to treat this contract as a

(Footnote Continued)
REPRODUCTION

APR 14 1987

Given that the Glasers can proceed to foreclose on the real property, the next question for this court concerns Zions' asserted rights, via assignment by Skeems, in the water rights, a power contract and a FERC permit exemption.

A. Water Rights.

The Skeems applied for and obtained water permits no. 47-7700, 47-7702 and 47-7705.

The Skeems have until various dates in 1987 to submit proof of application of the water to a beneficial use to the Department of Water Resources. There is evidence to support a finding by this court that the water has, in fact, been put to beneficial use.

In regard to water permit 47-7700, Skeems had until on or before February 1, 1987, to submit proof of application of beneficial use. Water permit 47-7702, Skeems had until on or before May 1, 1987, to submit proof. Water permit 47-7705, Skeems had until on or before May 1, 1987, to submit proof. This "outside" time frame does not preclude the Skeems from submitting proof earlier. Nor does it preclude the Department of Water Resources itself from being requested by Glaser to make such a finding.

These water rights are not adjudicated, licensed or unadjudicated "constitutional" rights. Nor is this mere

(Footnote Continued)
mortgage, the Skeems obviously have a statutory right to redeem. I.C. Sec. 11-402.

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APR 14 1987

initiation of the statutory process by the filing of an application for an appropriation permit. See Matter of Hidden Springs Trout Ranch, Inc. v. Allred, 102 Idaho 623, 636 P.2d 745 (1981). Skeems have already procured water appropriation permits. The defendants cite Big Wood Canal Co. v. Chapman, 45 Idaho 380, 263 P. 45 (1921), as precedent for characterizing Skeems' permits as inchoate rights and, therefore, not real property. However, Big Wood Canal Co. also stands for the proposition that substantial compliance with the statutory conditions in regard to proof of application to beneficial use will suffice.

"The purpose and object for requiring proof of completion of works is to ascertain whether or not they conform to the terms of the application and permit, and are capable of diverting the amount of water intended. Substantial conformity with such application and permit is all that is required." Big Wood Canal Co. v. Chapman, supra at 394-395.

It appears from the record that Skeem has diverted and put the water to beneficial use. This court finds Skeem has substantially complied with the statutory mandates and, therefore, the water rights must be considered as having vested in the Skeems. Case law indicates that this court has jurisdiction to make such a finding by considering the entire record. See Glendale Ranches, Inc. v. Schaub, 94 Idaho 585, 494 P.2d 1029 (1972). By virtue of the rights

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APR 14 1987

having vested, the rights are appurtenant to the property to which the water has been beneficially applied. Clearly, water rights are within the definition of real property. I.C. Sec. 55-101 and cases cited under "Ditches and Water Rights".

Therefore, Glaser can proceed to foreclose upon the water permits.

B. The FERC Exemption and the Idaho Power Contract.

The FERC exemption is federal authorization to operate the "Mud Creek Project." The "project" involves some parcels of land not subject to, nor which can ever be subject to Glaser's foreclosure action. The exemption is appurtenant to the entire three parcels of land on which the project is located.

An essential element of a license or a license coupled with an interest is the right to use land in the possession of another. Shultz v. Atkins, 97 Idaho 770, 554 P.2d (1976). The FERC exemption is analogous to a license. The court agrees with Zions that the exemption should be characterized as a general intangible. Glaser cannot foreclose on the FERC exemption.

The Idaho Power contract is an agreement to sell power produced from the Mud Creek Project. The rights under the contract have been validly assigned to Zions. Contract

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APR 14 1987

rights are also general intangibles and, therefore, Glaser cannot foreclose on the power sales contract.

C. Other Improvements, Etc.

The record is insufficient as to other improvements, related equipment, structures, etc. for this court to make a determination of whether any of the aforementioned are subject to foreclosure. Therefore, summary judgment is denied, pending augmentation of the record so as to put enough evidence before this court with which to make a competent decision.

EMINENT DOMAIN

The question of whether Zions can succeed with an action for eminent domain is not before this court. However, the court notes that it agrees with Zions' position that Zions does not have to have an ownership interest in the water rights, which supply the source of energy for the Mud Creek Project, prior to being able to go forward with an action for eminent domain. Bassett v. Swenson, 51 Idaho 256, 5 P.2d 722 (1931).

Therefore, summary judgment will be granted to plaintiff as to the underlying real property and the water permits.

Summary judgment is denied as to the FERC exemption and the Idaho Power contract.

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Summary judgment is denied as to the related equipment, improvements, etc. pending augmentation of the record.

Counsel for plaintiff is asked to prepare an order of partial summary judgment.

DATED this 9th day of April, 1986.

Daniel B. Meehl
DANIEL B. MEEHL
District Judge

CERTIFICATE OF MAILING

The undersigned certifies that on the 9 day of April, 1986, she caused to be mailed a copy of the foregoing memorandum opinion to:

Holland & Hart, Langroise, Sullivan
Attorneys at Law
P. O. Box 2527
Boise, Idaho 83701

Hepworth, Nungester & Felton
Attorneys at Law
P. O. Box 589
Buhl, Idaho 83316

Sandra Topham

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APR 14 1987

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NOV 19 1986

November 17, 1986

Donald K. Campbell
First Ascent Fish Farms — 543-6407 —
2297 East 3300 South
Jerome, ID 83338

Department of Water Resources

Mr. Norman Young
Idaho Department of Water Resources
450 W. State St.
(Third Floor)
Boise, ID 83720

Dear Norm,

As per our conversation of last Thursday, November 13, I am sending you a copy of my "proposed" facility plan for developing the water resources on the Glaser Bros. property (previously owned by Dan Skeem) in Twin Falls county (T 9S, R 14E: S1/2NW1/4, W1/2SW1/4), an explanation of my plan, and a copy of the District Court judgement regarding this property. I am currently in the final negotiations of a purchase of the property.

As you can see from the plan, the facility will be extensive. It is modelled after Fish Breeder's of Idaho, where I have been employed as production manager for the past 8 years and general manager for the last three. Leo Ray's Fish Breeders of Idaho, is the "state of the art" raceway facility for warm water fish culture. At Fish Breeder's of Idaho, we are currently using our water 17 times and raising 50000 pounds per CFS or the equivalent of 1 million pounds of fish per surface acre. However, we have learned a considerable amount regarding water and fish management and feel as though we could increase our production, given the same water, 50% or possibly higher. This design incorporates this new knowledge. I want to point out that as our expertise continues to grow, I will want to alter my design to do likewise. Although Leo Ray is not a business partner in First Ascent Fish Farms, he and I will continue to work together and develop new, better and more efficient methods of using water. Fish farming is entering a very dynamic period: new ideas, new species, increased demand in the market place. This farm will be dynamic as well.

The farm is being designed to utilize all of the geothermal water that may be available with the 4 wells east of Mud Creek. However, I am basing my operation cash flow projections on only 3 of the wells (Nos. 1, 2, & 4). I feel this will ensure a viable operation should the farm reduces water consumption. Cold water will be

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APR 14 1987

sources: Mud Creek and Sewer (City) Creek. The Buhl sewage treatment lagoon outflow water comprises the largest share of the waters of Sewer (City) Creek during 3 months of the year. The fecal coliform count in this water precludes it's use for fish. As this will not always be the case, I will want to use Sewer (City) Creek as a back-up cold water source now and possibly a primary source several years down the road or when the City of Buhl changes it's treatment practices.

Once the water from the fish farm has been run through a total flow settling resevoir for settlable solids, I will run all of the water back to the hydroelectric facilities. Although, some generating potential is lost by allowing the water to be used for aquacultural purposes, we gain a much more beneficial return by incorporating fish production with power production. It has been estimated that at this site, each CFS of water through the first hydroelectric facility will generate about \$3000 per year. The same amount of water used for fish production will generate about \$40000 (this does not include the additional benefits that are derived from processing and marketing--estimated to equal production). Once the water has been used for fish production it will then be used to generate power at the No. 2 power plant.

I have currently worked out a verbal agreement with Al Collins, owner of Kanaka Rapids Ranch, to exchange cold water from Sewer (City) Creek for the use of pressure on his hot water well. Besides space heating, he is currently using his hot well for irrigation. It can be argued that this is neither a good use of the hot water and pressure, nor is it good for crops. However, the cold water from Sewer (City) Creek can be put into a pipeline on my property (Glaser's) and tied into the Collins irrigation system on the lower portion of their ranch. Because of the elevation at which the cold water can be picked up, the Kanaka Rapids Ranch will realize both a gain in pressure and better water utilization. I see this as a beneficial trade for the persons involved and the resources.

Norm, I realize that this is but a hasty sketch of what I have envisioned. This project has been three years in planning and will require 7-10 years to complete. If you have any questions please give me a call. I look forward to your response.

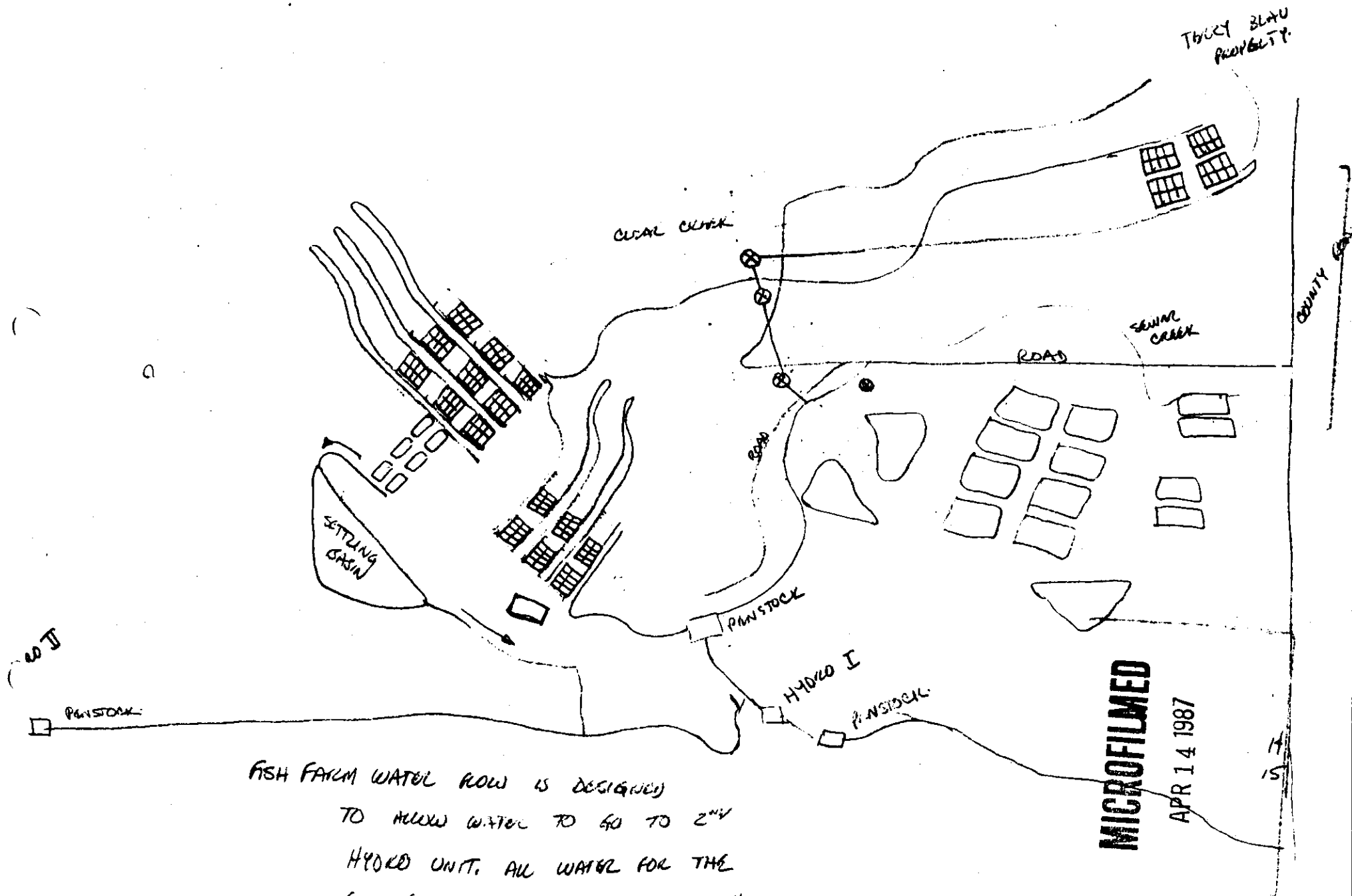
Sincerely,

Donald K. Campbell

Donald K. Campbell
543-6407 (Business)

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APR 14 1981



FISH FARM WATER FLOW IS DESIGNED
 TO ALLOW WATER TO GO TO 2ND
 HYDRO UNIT. ALL WATER FOR THE
 FISH FARM WILL BE DIVERTED SUCH
 THAT IT WILL NOT GO INTO HYDRO I.

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APR 14 1987

H 15

PROPOSED Fish Production Facility:

SPECIES

FISH
TILAPIA
PADDLEFISH
STURGEON
PERCH
CARP

ALLIGATORS
FROGS
SHRIMP
AQUARIUM FISH

6 DIRT RACEWAYS

22 RACEWAYS (CONCRETE)

8 SECTIONS PER RACEWAY

EACH SECTION 10' X 32' X 4' 7 1/2, 31 1/2 ft

15 BROODPONDS

.25 - .5 ACRES EACH

HATCHERY BUILDING AND FRY PONDS

32 TROUGHS

10 NURSERY PONDS 5 X 50 X 3

ASSOCIATED WATER DELIVERY STRUCTURES AND DITCHES

WATER SOURCES:

HOT WATER -- 5 WELLS 9 CFS

COLD WATER -- CLEAR CREEK 5 CFS

SEWER CREEK 6 CFS

MUD CREEK 5 CFS

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APR 14 1987



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

June 12, 1986

RE: Permit Nos. 47-7700/7702/7705

Brian R. Hanson — *for*
Holland & Hart
Box 2527
Boise, ID 83701

Dear Mr. Hanson:

We are in receipt of assignments of the above referenced permits. Before these assignments can be officially recognized by the Department as changing ownership of the permits from S & S Limited Partnership to Zion Leasing Co., we must have the enclosed affidavit returned stating that Zion Leasing Co. is established and authorized to do business in the State of Idaho.

If you have any questions, please let me know.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

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APR 14 1987

DENVER OFFICE
SUITE 2900
555 SEVENTEENTH STREET
DENVER, COLORADO 80202
TELEPHONE (303) 295-8000
TELECOPIER (303) 295-8261

S. E. DENVER OFFICE
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TELEPHONE (303) 741-1226

ASPEN OFFICE
600 EAST MAIN STREET
ASPEN, COLORADO 81611
TELEPHONE (303) 925-3476

BRIAN R. HANSON

**HOLLAND & HART,
LANGROISE, SULLIVAN**
ATTORNEYS AT LAW

SUITE 1400
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WASHINGTON, D. C. OFFICE
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TELECOPIER (202) 466-7354

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TELECOPIER (307) 778-8175

MONTANA OFFICE
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BILLINGS, MONTANA 59101
TELEPHONE (406) 252-2166
TELECOPIER (406) 252-1669

June 2, 1986

RECEIVED
JUN 2 1986

HAND DELIVERED

Department of Water Resources

Mr. L. Glen Saxton
Operations Bureau Chief
Department of Water Resources
State of Idaho
450 West State Street
Boise, Idaho 83702

Re: Idaho Water Permit Nos. 47-7700, 47-7702, and
47-7705

Dear Mr. Saxton:

I enclose for your review and file the assignments that we discussed last week of the above-referenced water permits. As we discussed, the assignments identify expressly the individual water permit numbers. We hereby request that the Department of Water Resources recognize and approve these assignments of the above-referenced water permits. If you have questions or comments about the assignments, please do not hesitate to call.

As you know, our May 1 request for extension of time in which to submit proof of construction of works and application of water to beneficial use remains pending before the Department. Upon approval of the assignments of Water Permit Nos. 47-7702 and 47-7705, we request that the Department grant the requested extensions. Of course, we will be glad to provide additional information at the Department's request.

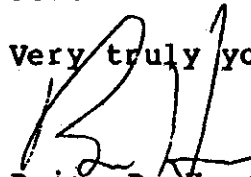
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APR 14 1987

Mr. L. Glen Saxton
June 2, 1986
Page 2

We appreciate your consideration of these matters, and will do all we can to facilitate the Department's review of the assignments and extension request.

Very truly yours,



Brian R. Hanson

for HOLLAND & HART,
LANGROISE, SULLIVAN

BRH/cd

Enclosures

cc: Mr. M. Scott Newbold (w/encl.)

MICROFILMED

APR 14 1987

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BRIAN R. HANSON

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May 30, 1986

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JUN 2 1986

Mr. L. Glen Saxton
Operations Bureau Chief
Department of Water Resources
State of Idaho
450 W. State Street
Boise, Idaho 83702

Department of Water Resources

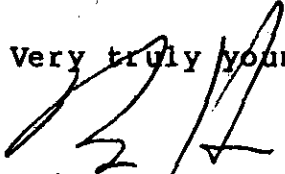
RE: Idaho Water Permit Nos. 47-7700, 47-7702, and
47-7705

Dear Mr. Saxton:

This letter confirms our telephone conversation today in which I informed you that Zions Leasing Company intended to file the assignments of the above-referenced permits executed by the permit holder. We anticipate filing the assignments on Monday, June 2. We appreciate your forbearance in this matter, and look forward to resolving this matter promptly.

If we can answer any questions about the above-referenced permits or Zions Leasing Company's position generally, please do not hesitate to call.

Very truly yours,


Brian R. Hanson

for HOLLAND & HART,
LANGROISE, SULLIVAN

BRH/eag
cc: Mr. Scott Newbold

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APR 14 1987

HOLLAND & HART,
LANGROISE, SULLIVAN
ATTORNEYS AT LAW

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May 1, 1986

RECEIVED
MAY 1 1986

HAND DELIVERED

Mr. L. Glen Saxton
Chief, Operations Bureau
Department of Water Resources
State of Idaho
450 West State Street
Boise, Idaho 83702

Department of Water Resources

RE: Idaho Water Permit Nos. 47-7702
and 47-7705

Dear Mr. Saxton:

As set forth in greater detail in a letter dated and hand delivered to you on May 1, 1986, ~~a copy of which is attached hereto~~, Zions Leasing Company is the assignee of S & S Limited Partnership's interest in the above-referenced permits. The attached letter contains Zions' request for approval of the assignment. Upon approval of the assignment, Zions will submit proof of beneficial use of the water acquired pursuant to the above-referenced permits. However, Permit No. 47-7702 sets May 1, 1986, as the date upon which proof of construction of works and application of water to beneficial use must be submitted to the Department of Water Resources. Additionally, Permit No. 47-7705 appears subject to an order issued by the Department that requires early proof of construction of works and application of water to beneficial use.

Zions hereby requests an extension of the time in which to submit proof of construction of works and application of water to beneficial use to the Department. This extension request is based on the need for the Department's approval of the assignment before Zions is authorized to submit proof of beneficial use. Presently, Zions informs us that ~~the~~ the permits is being used for hydroelectric generation when the

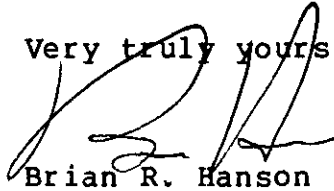
APR 14 1987

Mr. L. Glen Saxton
May 1, 1986
Page 2

assignment is approved, Zions will promptly provide proof of beneficial use.

If we can answer any questions or provide additional information, please do not hesitate to call.

Very truly yours,



Brian R. Hanson

for HOLLAND & HART,
LANGROISE, SULLIVAN

BRH/cd

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APR 14 1987

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TELEPHONE (406) 252-2166
TELECOPIER (406) 252-1669

May 1, 1986

RECEIVED
MAY 1 1986

HAND DELIVERED

Mr. L. Glen Saxton
Chief, Operations Bureau
Department of Water Resources
State of Idaho
450 West State Street
Boise, Idaho 83702

Department of Water Resources

RE: Idaho Water Permit Nos. 47-7700,
47-7702, and 47-7705

Dear Mr. Saxton:

We represent Zions Leasing Company, the owner of the Mud Creek hydroelectric facility where water acquired pursuant to the above-referenced permits is utilized. The permits originally were issued to S & S Limited Partnership and/or its partners, Dan C. Skeem and/or Wayne B. Skeem. Copies of the permits are enclosed for your convenience. S & S Limited Partnership leased the hydroelectric facility and related equipment from Zions. On or about November 25, 1981, the partnership entered into an Assignment for Security and an Addendum with Zions (copies attached). The Assignment and Addendum were intended to provide Zions with additional security for its leasing the hydroelectric facility and related equipment to the partnership.

Pursuant to the Assignment for Security and Addendum, upon default of S & S Limited Partnership's obligations to Zions or failure to perform terms and conditions contained in the equipment lease agreements, Zions acquired the right and an irrevocable license and easement to enter into and upon the Mud Creek hydroelectric facility to operate the facility. S & S Limited Partnership defaulted in its obligations to Zions, and Zions was compelled to enter into and upon the

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APR 14 1987

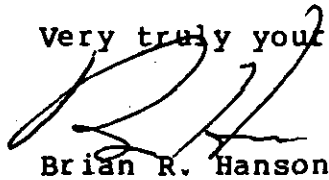
Mr. L. Glen Saxton
May 1, 1986
Page 2

facility. Since the default, Zions has utilized the water acquired under the above-referenced permits and operated the Mud Creek hydroelectric facility.

Since the water acquired under the above-referenced permits is essential to operation of the facility, Zions hereby requests that the Department of Water Resources recognize and approve the assignment of the above-referenced water permits by S & S Limited Partnership to Zions. 2

If we can answer any questions or provide additional information, please do not hesitate to call.

Very truly yours,



Brian R. Hanson

for HOLLAND & HART,
LANGROISE, SULLIVAN

BRH/cd

Enclosures

MICROFILMED

APR 14 1987

INTER-DEPARTMENT MEMO — 1

FROM

Reta Fleck

DATE

4-4-86

TO

File 47-7702

SUBJECT

Returned B/h Notice

The Twin Falls County Assessor has an address of Rt. 3, Buhl, Id for Dean Skeem. I returning the notice to the same address.

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APR 14 1987

SIGNATURE

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Statehouse
Boise, Idaho 83720

REASON CHECKED
Unclaimed ☒ Refused
Address unknown
Incorrect address
Incorrect street number
No post office in street
Do not return in this envelope



APR 14 1986

MICROFILMED

RECEIVED

MAR 26 1986

FWD

Department of Water Resources

CERTIFIED MAIL

NO. 138871

Skeem
824 12th N
Boise Idaho 83316

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

- - - - -

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
FEBRUARY 28, 1986

138871

S & S LIMITED PARTNERSHIP
RT. 3
BUHL, ID 83316

PROOF DUE NOTICE

RE: PERMIT NO. 47-7702

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF THE ABOVE REFERENCED WATER PERMIT WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE MAY 1, 1986. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST.) ENCLOSED IS A FORM WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH MIGHT BRING TITLE TO THE WATER IN QUESTION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER A COMPLETED PROOF OF BENEFICIAL USE FORM OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

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APR 14 1987



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

ACCORDING TO OUR RECORDS, YOU ARE THE HOLDER OF A WATER PERMIT ON WHICH PROOF OF BENEFICIAL USE OF WATER WAS NOT SUBMITTED BEFORE JULY 1, 1985, WHICH INDICATES YOUR PROJECT IS NOT COMPLETE. THEREFORE, YOU NEED TO BE AWARE OF CHANGES IN IDAHO LAW, EFFECTIVE JULY 1, 1985, WHICH IMPACT ALL WATER PERMITS ISSUED BY THIS DEPARTMENT.

SPECIFICALLY, PURSUANT TO SECTION 42-203D, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NO COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-203D, WHICH READS AS FOLLOWS:

42-203D. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT.

(2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

YOU MAY OBTAIN PROOF OF BENEFICIAL USE FORMS FROM THE DEPARTMENT. IF YOU HAVE ANY QUESTIONS, PLEASE LET US KNOW.

SINCERELY,

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

MICROFILMED

APR 14 1987

S T E O F I D A H O
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

S & S LIMITED PARTNERSHIP
RT. 3
BUHL, ID 83316

MAY 20, 1981

RE: PERMIT NO. 47-7702

DEAR PERMIT HOLDER:

ENCLOSED IS A COPY OF YOUR APPROVED APPLICATION FOR PERMIT. WE DIRECT YOUR ATTENTION TO THE CONDITIONS OF APPROVAL ON THE FOURTH PAGE.

BE SURE TO NOTE THE SPECIAL CONDITION REQUIRING YOU TO INSTALL AND MAINTAIN A MEASURING DEVICE AT YOUR POINT OF DIVERSION. WE HAVE ENCLOSED A DESCRIPTION OF THE DIFFERENT TYPES OF MEASURING DEVICES ACCEPTED BY THIS OFFICE.

WE HAVE ENCLOSED A FORM ENTITLED "MAKING PROOF OF BENEFICIAL USE". PLEASE READ THE INSTRUCTIONS CAREFULLY SINCE YOU MUST TAKE FURTHER ACTION TO DEVELOP THIS PERMIT INTO A LICENSE.

SINCERELY,

DAVID R. TUTHILL, JR., P.E.
SUPERVISOR, WATER ALLOCATION SECTION

ENCLOSURE

Power Calculations for 47-7702

$$P = \text{Kw} \quad (\text{hp} \times .74)$$

$$Q = \text{cfs}$$

$$H = \text{ft}$$

$$e = \text{efficiency}$$

proposed
69.56

10.0 cfs

100 ft

50% & 70%

Based on 50%

$$P = \frac{QHe}{11.8} = \frac{10 \times 100 \times .5}{11.8} = \frac{500}{11.8} = 42.37 \text{ Kw}$$

$$Q = \frac{P(11.8)}{He} = \frac{69.56(11.8)}{100 \times .5} = \frac{820.808}{50} = 16.41 \text{ cfs}$$

Based on 70%

$$P = \frac{QHe}{11.8} = \frac{10 \times 100 \times .7}{11.8} = \frac{700}{11.8} = 59.32 \text{ Kw}$$

$$Q = \frac{P(11.8)}{He} = \frac{69.56(11.8)}{100 \times .7} = \frac{820.808}{70} = 11.73 \text{ cfs}$$

Conclusion - based on the above calculation w/ 50% & 70% efficiency, the proposed project must have 70%+ (plus) efficiency to produce the proposed Kws

~~7/1~~ 4/21/81

INTER-DEPARTMENT MEMO — 1

DATE March 4, 1981

FROM Gary L. Funderburg

TO File

SUBJECT 47-7702 - Pre-surface Water Exam

On March 3, 1981 I met with applicant at the proposed point of diversion and place of use. There are other users above and below applicants' point of diversion. At this time there was only approximately 5 cfs in the stream.

GLE: _____
SIGNATURE



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

C. Stephen Allred
Director

February 24, 1981

Mr. Bob Bell, Regional Fisheries Biologist
Idaho Fish & Game Department
Region #4
P. O. Box 428
Jerome, Idaho 83338

Re: Application for Permit No. 47-7702, 47-7701, 47-7700

Dear Mr. Bell:

Please find enclosed a copy of the above referenced application for permit for your information and files.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

42-2202-

S & S LIMITED PARTNERSHIP

RT. 3, BUHL, ID 83316

Source: UNNAMED STREAM tributary to MUD CREEK

Date Filed: 02/10/1981

Amount: 10.00 CFS

Diversion Point: NENW SENW Sec 23 T 09S R 14E, TWIN FALLS Co.

Use: POWER (10.00 CFS) from 01/01 to 12/31

Place of Use: SWNW Sec 14 T 09S R 14E

Diversion Means: CONCRETE DIVERSION, PENSTOCK & TURBINE.

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before MARCH 30, 1981.

C. STEPHEN ALLRED

Director

Published 3/12 & 3/19/81.

RECORDED

ok
marcpa
3/9/81

47-7782
S & S LIMITED PART-
NERSHIP
RT. 3, BUHL, ID 83318
Source: UNNAMED
STREAM tributary to MUD
CREEK
Date Filed: 02/10/1981
Amount: 10.00 CFS
Diversion Point: NENW
SENW Sec 23 T 09S R 14E,
TWIN FALLS Co.
Use: POWER (10.00 CFS)
from 01/01 to 12/31
Place of Use: SWNW Sec 14
T 09S R 14E
Diversion Means: CON-
CRETE DIVERSION,
PENSTOCK & TURBINE

47-7782

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd N.
Twin Falls, Idaho 83301
(208) 734-3578

FEBRUARY 25, 1981

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

Gentlemen:

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

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

Please send the affidavit of publication and publication billing to this office before MARCH 30, 1981.

Yours truly,

Mary R. Hill
Secretary

Encl.

MICROFILMED